The Planning Inspectorate

Appeal Decision

Site visit made on 6 July 2015

by J Flack BA Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 August 2015

Appeal Ref: APP/A2525/W/15/3011299
Halmer Grange Elderly Persons Home, Grange Drive, Spalding, Lincolnshire PE11 2DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Market Homes Limited against the decision of South Holland District Council.
- The application Ref H 16-1083-13, dated 15 December 2013, was refused by notice dated 1 April 2015.
- The development proposed is conversion of existing residential care home to residential flats.

Decision

1. The appeal is allowed and planning permission is granted for conversion of existing residential care home to residential flats at Halmer Grange Elderly Persons Home, Grange Drive, Spalding, Lincolnshire PE11 2DX in accordance with the terms of the application, Ref H 16-1083-13, dated 15 December 2013, subject to the conditions set out in the Schedule to this decision.

Preliminary matters

2. The application submitted to the Council proposed three pairs of semidetached houses in addition to the conversion of the residential care home. However, the houses were deleted in the course of the Council's consideration of the application. The description of development given above reflects this, and my assessment is of the amended proposal and the plans considered by the Council when it determined the application.

Main Issues

3. The main issues are the effect of the proposal on the living conditions of adjoining residents and future occupiers of the proposal, and whether the proposal should make a contribution to affordable housing.

Reasons

Background and context

4. Grange Drive is a pleasant suburban street comprising a mixture of houses and bungalows. It is located quite close to the centre of Spalding. The appeal site is located to the rear of the dwellings in Grange Drive, accessed by a short private drive between two of these dwellings.

5. I understand that the existing care home, a substantial building appearing to date from around the 1960s, was closed some years ago. The proposal would convert the building into flats. The Council accepts that it cannot demonstrate the five year supply of housing land required by Section 6 of the National Planning Policy Framework (the Framework), and does not deny the appellant's statement that supply is at present very substantially below this.

6. Whilst paragraph 49 of the Framework states that, in the absence of a five year supply, policies for the supply of housing must be considered out of date, the Council did not rely on such policies in refusing the application. Nevertheless, the lack of a five year supply, and the support given by paragraph 51 of the Framework to the bringing back into residential use of empty housing and buildings, means that the provision of new housing through the re-use and conversion of the existing care home building is a significant benefit which weighs in favour of the proposal. However, the proposal must also be assessed in the context of other relevant planning considerations.

Living conditions

7. The proposal would provide one parking space for each of the flats together with several visitor parking spaces. There is no indication in the evidence before me that the Council's planning policies impose any minimum parking standards, and the highway authority has not objected to the level of parking proposed. The proposal would comprise mainly one bedroom flats, with a small number of two bedroom units. The Council and local residents consider that the parking proposed would be inadequate, the Council pointing to the possibility of 34 vehicles entering and leaving the site on a daily basis. However, this is based on assumptions of an average of two persons occupying each flat and each owning a car, and no evidence is provided to support these assumptions.

8. There is nevertheless some uncertainty as to whether the proposed on site parking spaces would accommodate all of the parking requirements of the proposal, and consequently some possibility that parking would at times be displaced onto Grange Drive. However, there is an indication in the representations of local residents that this occurred, albeit to a limited extent, when the care home was in operation. Moreover, I saw on my visit that the existing dwellings have the benefit of garages and driveways, and the representations of residents suggest that they do not generally need to park on the highway. I observed that the footways are generally very broad, and whilst the width of the carriageway is not particularly generous, it is sufficient to allow two vehicles to pass. Given these circumstances, whilst the proposal may lead to some increase in on street parking compared to the former care home use, Grange Drive has sufficient capacity to absorb it without significant detriment to the living conditions of its residents through obstruction and the inconvenience of negotiating parked vehicles.

9. No detailed evidence is before me of the vehicle movements generated by the former care home or those likely to be generated by the proposal. It appears very unlikely that the residents of the care home used cars, although a care home use would not exclude residents able to do so. Moreover such a use would in any case generate vehicle movements through the comings and goings of staff and visitors. There would also have been movements generated by deliveries and service vehicles, together with visits by medical staff and ambulances. Some of these would have taken place during the night, whereas

the pattern of movements generated by the proposed flats would be more likely to generally follow that of the existing dwellings in Grange Drive, although this would depend on the lifestyles of individual residents.

10. I also note that the circumstances of the site relevant to traffic movements would remain unchanged in some respects, in that many of the parking spaces would continue to be close to the boundary of the site with the rear gardens of dwellings in Grange Drive, and all movements arising from the proposal would current access drive. Moreover, the proposed widening of the access along most of its length would make it less likely that a vehicle entering the access drive would need to stop and reverse on meeting an oncoming vehicle. Whilst residents state that larger vehicles have experienced difficulty in using the access drive in the past, the proposed widening would alleviate this problem and reduce the possibility of larger vehicles needing to manoeuvre within the highway in order to negotiate the access drive. The widening of the access drive would thus be likely to result a reduction in the noise, disturbance and inconvenience generated by some of the movements into and out of the drive. Taking this and the other foregoing matters into account, whilst I consider that it is likely that the proposal would result in some increase in vehicle movements compared to the former care home use, this would not be of such a degree as to cause unacceptable harm to the living conditions of adjacent residents. I also accept that there might well be some increase in pedestrian movements into and out of the site, but such movements are of their nature generally unlikely to give rise to significant noise and disturbance and there is no obvious reason why that should not be the case here.

11. Residents have raised concerns as to noise and disturbance likely to arise from the occupation of the flats. However, the building possesses an acceptable degree of separation from adjoining dwellings in the context of a suburban residential area, and although the street appears quiet, some noise and disturbance from nearby residential activities is to be expected in a built up urban area. Whilst I acknowledge that the proposed use of the building for flats would be more intensive than a care home use, the latter use would nevertheless involve residential occupation and day to day residential activities, including recreational use of communal outside areas. Whilst therefore the use of the proposed flats and communal areas would be likely to cause some increase in the noise and disturbance experienced by adjacent residents, I do not consider that it would be so severe as to unacceptably harm their living conditions.

12. Some residents have raised concerns as to overlooking arising from the proposal. However, given that the appeal building already exists and its lawful use involves residential occupation, opportunities for overlooking would not be materially different. I saw on my visit that inter-looking between the upper levels of the appeal building and adjoining dwellings is restricted by high trees and shrubs along substantial lengths of the boundary between the site and these dwellings. However, this is not a significant matter given that there is no evidence to suggest that the removal of such of this vegetation as is within the site would be subject to planning control, and separation distances would be adequate if it were not present. The provision of appropriate boundary treatments to prevent overlooking at lower levels could be satisfactorily controlled by condition.

13. I saw that the present refuse storage area serving the building is located adjacent to the building, some distance from the site boundaries. This contrasts with the proposal, which includes a refuse and recycling storage enclosure adjoining the site access drive. However, there is no evidence indicating that its capacity would be insufficient to serve the proposed flats, and the possibility of smells and odours could be sufficiently obviated by a condition requiring a management scheme.

14. Concerns have been raised as to the standard of accommodation offered by the proposal. However, whilst the flats are quite small, there is no evidence to suggest that the accommodation provided would be so deficient as to be harmful to the living conditions of their future occupants. Whilst only limited external amenity space is proposed, this is not untypical of flats and therefore not unacceptable.

15. Given my assessment of all the above matters, I have concluded that the proposal would not cause unacceptable harm to the living conditions of adjoining residents or future occupiers of the proposed flats. The proposal would therefore sufficiently comply with Policy SG14 of the Local Plan[1], which requires in particular that the effect of development on the amenity of nearby residents be taken into consideration, and the requirement of Policy SG17 that development must not cause material harm to residential amenity. The Council has referred to Section 7 of the Framework, which deals with the requirement of good design. This makes no specific reference to effect of development on living conditions. However, the core planning principles at paragraph 17 include that planning should always seek to ensure a good standard of amenity for all existing and future occupants of land and buildings. Given the conclusions I have reached above, I consider that the proposal would sufficiently conform to this principle.

Affordable housing

16. Policy HS8 of the Local Plan requires that a residential development of the scale of the appeal proposal provide a minimum of one third of the units as affordable housing, unless evidence prepared by the applicant demonstrates that the requirement cannot be met without impairing the viability of the scheme. At appeal the Council has accepted the conclusions of the viability report submitted with the application that the scheme would not be viable were any affordable housing to be provided. There is no reason for me to disagree. The Council nevertheless considers that a planning obligation or condition would be appropriate to claw back a contribution to affordable housing in the event that a greater profit than expected is realised. I do not concur, given that the Council provides no detailed explanation of why it considers this scenario likely to arise, and that this is not a major scheme which is likely to take a very long period to build out. I conclude that it is not necessary for the proposal to make any contribution to affordable housing.

Other matters

17. Local residents have raised concerns about the safety of the proposed access, and in particular its use as a shared surface by both pedestrians and vehicles. However, the access would be widened along most of its length, the highway authority has no objected to the proposal on the grounds of highway safety,

[1] South Holland Local Plan Written Statement, adopted July 2006

and I concur with its judgement that the vehicle movements likely to arise from the proposal are not so high as to render the shared use of the access unacceptable.

18. A number of residents have drawn attention to drainage problems in the locality, and some photographs are before me. However, this is a conversion of an existing building, and there is no substantial evidence to suggest that the proposal would make matters significantly worse than they are at present: the disposal of surface water is therefore a matter which could be satisfactorily addressed by condition. I also observe that the flood risk assessment submitted by the appellant has been considered by the Environment Agency, and it does not object to the proposal provided that flood resilient measures are incorporated in the conversion works. This could be secured by the condition it suggests.

19. Residents have pointed out that flat development is untypical of the local area, but whilst that appears to be the case, the Council does not seek to argue that the proposal would be harmful to the character and appearance of the area, and I consider that it would not be given that the building already exists. The Council has noted that no specific use of the area of the site which was formerly the site of the proposed houses is indicated by the plans. However, this is not of substantive concern in the context of the current proposal given that any future proposal for development of this area would require a further planning permission.

Conclusions and conditions

20. The matters assessed in the three previous paragraphs do not count materially against the proposals. I have also concluded that it is not necessary for the proposal to make any contribution to affordable housing, and that the proposal would not cause unacceptable harm to the living conditions of adjoining residents or future occupiers of the proposed flats. Any residual concerns that I have in this respect are in any event outweighed by the substantial benefit of the proposal in providing new housing. I have taken account of all other matters raised in the evidence before me, but none is such as to disturb the conclusions I have reached. The appeal is therefore allowed.

21. In arriving at my conclusions I have considered the conditions suggested by the Council and others, together with the appellant's comments on these. I have made some amendments to these conditions in the interests of clarity and consistency. In addition to the standard commencement condition, a condition requiring adherence to approved plans is necessary in the interests of proper planning and for the avoidance of doubt. The Council suggests a condition requiring the submission of a flood risk assessment. However, as I have noted, an assessment has already been submitted and the Environment Agency has suggested a condition requiring the implementation of measures proposed by the assessment. That condition is necessary in the interests of addressing the consequences of flood risk. In addition, for the reasons I have given, a condition requiring the approval of the means of surface water drainage is necessary.

22. The Council suggests conditions requiring a management plan for areas of open space, refuse and recycling collection points, and parking courts. It will be important to the living conditions of future occupiers of the proposal, and those of adjacent residents in relation to the refuse and recycling facilities, that

satisfactory arrangements for the maintenance of these communal facilities are in place before the flats are occupied. I therefore consider the requirements of these conditions necessary, but there is some overlap between them and I have therefore imposed a single condition. In the interests of the living conditions of neighbours, and to secure the satisfactory appearance of the development, conditions are necessary to secure appropriate boundary treatments and landscaping, and for the latter reason a condition is necessary to secure the use of approved materials.

23. The Council suggests a condition requiring the use of renewable energy production, but it has not given a sufficient explanation of why this is necessary given that this is an evolving area in relation to both planning and building control and the Policy it relies on is some years old. The Council also suggests conditions relating to the control of construction works, and I concur that these are necessary in the interests of the living conditions of local residents.

J Flack

INSPECTOR

SCHEDULE

CONDITIONS

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: SE-185 20C, SE-185 21C, SE-185 22F and SE–185 23B .

3) The development hereby permitted shall incorporate the following flood mitigation measures:

   a) the finished floor levels of all flats shall be set a minimum of 150mm above existing ground floor levels of the building;

   b) flood resilient and resistant construction techniques shall be incorporated throughout the development to a minimum height of 1.80m above ground level; and

   c) demountable defences to a height of 600mm above finished floor levels shall be fitted on all ground floor doorways.

4) Before the commencement of the development hereby permitted, full details of the means of surface water disposal including maintenance, shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before the occupation of any of the flats hereby permitted.

5) Before the occupation of any of the flats hereby permitted, a management plan for the areas of open space within the site, refuse/recycling collection facilities and parking areas shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of management responsibilities and maintenance schedules. The management of these areas and facilities shall be carried out in accordance with the approved management plan.

6) Before the commencement of development hereby permitted, details of the proposed boundary treatment, including a schedule of materials, and details of the size and species of any hedging, shall be submitted to and approved in writing by the Local Planning Authority, and the details so approved shall be implemented in full before the occupation of any of the flats hereby permitted.

7) Before development commences a detailed scheme of construction management to minimise disturbance during the construction process through noise, dust, vibration and smoke shall be submitted to and approved in writing by the Local Planning Authority and the construction process shall be carried out in accordance with the scheme so approved.

8) Prior to the commencement of the development hereby permitted, details of proposals for the parking of all vehicles associated with the construction works, including employees' private cars, clear of the highway, shall be submitted to and approved in writing by the Local Planning Authority. Parking shall be restricted in accordance with the details so approved.

9) Before the commencement of the development hereby permitted, details of the hours of working during the construction period shall be submitted to and approved in writing by the Local Planning Authority. Work shall only take place during the hours so approved.

10) Before the commencement of the development hereby permitted, a scheme of landscaping for the site indicating, inter alia, the number, species, heights on planting and positions of all the trees, shrubs and bushes together with details of post-planting maintenance, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety within a period of 12 months beginning with the date on which development is commenced. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the development and during that period all losses shall be made good as and when necessary.

11) Before the commencement of the development hereby permitted a schedule of external materials of construction of buildings and hard surfaced areas shall be submitted to and approved in writing by the Local Planning Authority. Samples shall be provided as may be required by the Local Planning Authority of the materials in the schedule and the use of such samples shall be approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the schedule and samples so approved.