

2 DCSE2003/3794/F - USE OF DWELLING FOR ACCOMMODATION OF YOUNG PEOPLE AND SUPERVISORY STAFF FAIRVIEW, FOY, NR ROSS-ON-WYE, HEREFORDSHIRE

For: Solutions Ltd per Paul Smith Associates, Chase View House, Merrivale Road, Ross-on-Wye, Herefordshire HR9 5JX

Date Received: 18th December 2003 Ward: Old Gore Grid Ref: 60016, 28912

Expiry Date: 12th February 2004

Local Member: Councillor J W Edwards

1. Site Description and Proposal

- 1.1 Fairview is located some 190 metres, alongside an unmade road, to the north of the unclassified no-through road which serves Foy. It is a detached two-storey building, that may originally have been a pair, that is rendered in a salmon pink colour and with a tiled roof. Its curtilage extends to some 0.1ha. The access road skirts to south and east sides and from this is an access to a large parking/manoeuvring area. The remainder of the curtilage is essentially lawn and there are hedgerows to the boundary. To the rear of the building is a single-storey flat roofed building that has recently been converted from a garage to offices/playroom. The property is on rising ground some 10m above the level of the unclassified road. It is within the Area of Outstanding Natural Beauty and the Area of Great Landscape Value.
- 1.2 The unmade road runs past the site further to the north and serves other property. Immediately to the north is Hillcrest, a property operated by PGL as an activity centre and beyond that some housing and a farm. To the south adjacent to the junction are seven dwellings.
- 1.3 This proposal is to change the use of the building from C3 dwelling house to C2 use to provide accommodation for young people and supervisory staff.

2. Policies

2.1 Planning Policy Guidance

- PPG.1 - General Policy and Principles
- PPG.3 - Housing
- PPG.7 - The Countryside – Environmental Quality and Economic and Social Development
- PPS.7 (Draft) Sustainable Development in Rural Areas
- PPG.13 - Transport

2.2 Hereford and Worcester County Structure Plan

- Policy CTC.1 - Areas of Outstanding Natural Beauty
- Policy CTC.2 - Areas of Great Landscape Value

Policy CTC.9 - Development Requirements

2.3 South Herefordshire District Local Plan

Policy GD.1 - General Development Criteria
 Policy C.1 - Development within Open Countryside
 Policy C.5 - Development within Area of Outstanding Natural Beauty
 Policy C.8 - Development within Area of Great Landscape Value
 Policy CF.4 - Residential Homes
 Policy T.3 - Highway Safety Requirements
 Policy T.1A - Environmental Sustainability and Transport

2.4 Unitary Development Plan

Policy S.1 - Sustainable Development
 Policy S.2 - Development Requirements
 Policy DR.2 - Land Use and Activity
 Policy LA.1 - Areas of Outstanding Natural Beauty
 Policy LA.2 - Landscape Character and Areas Least Resilient to Change
 Policy CF.7 - Residential Nursing and Care Homes

3. Planning History

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|-----|---------------|---|---|---|
| 3.1 | SH170/80 | Erection of double garage | - | Approved 17.03.80 |
| | SH681/80 | Erection of porch | - | Approved 22.08.80 |
| | SE2003/3158/V | Use of dwelling for accommodation of young people under supervision | - | Lawful Use Certificate Refused 02.12.03 |

4. Consultation Summary

Statutory Consultations

- 4.1 No statutory or non-statutory consultations required.

Internal Council Advice

- 4.2 Head of Engineering and Transportation has no objection.
- 4.3 Head of Strategic Housing Services advises that the property could be construed as a house in multiple occupation.
- 4.4 Head of Social Care's advice is awaited.

5. Representations

- 5.1 In support of the proposal the agent suggests there is little difference in the occupancy of the property to that of a single family and is no less sustainable than as a dwelling. Reference is made to an appeal at The Haven, Hardwicke and the Inspector's conclusion with regard to residents' fear and the behaviour of those people to be accommodated. The agent suggests that the home at Fairview has been in operation for over six months and there is no convincing evidence of harm with regard to the use.

In addition, a letter has been received from the applicants outlining the use and this is attached as an Appendix.

5.2 Foy Parish Council state:

"Written evidence from Clifford Parish Council at Hay makes it very clear that the security risk and nuisance implications from noise, vehicle access problems and security lights would prejudice the amenity value of local properties with the consequent appeals for reduction in Council Tax.

When PGL were given permission for their last expansion plan at Foy, Hereford Council Planning Committee clearly stated there should be no further commercial development in Foy, which would generate more traffic. The present irregular use of this property indicates this proposal would be in direct contradiction of this restriction and the Brampton Abbots and Foy Parish Council are unanimous that this application should be refused."

5.3 Sellack Parish Council state: "Unsuitable and remote site for teenagers."

5.4 National Care Standards Commission have no objections. They have additionally advised that they registered the site for occupation by one person on 21st August, 2003.

5.5 West Mercia Constabulary have not responded.

5.6 Nineteen letters raising objections have been received. These can be summarised as follows:

- it is questioned why an application has been made as they were previously advised that permission was not required
- the use has been in operation for some time
- it is a remote location unsuitable for such a use
- the area lacks the necessary services, amenities and public transport
- there is a potential to house three 16 year olds
- the use will cause noise and disturbance
- problems have occurred at similar homes elsewhere (specific instances are referred to)
- the site is remote with the access roads unsuitable and liable to flood
- the use should be in a town rather than the countryside
- it is difficult to obtain from the relevant bodies actual evidence of problems at similar establishments
- it is inappropriate to locate it adjacent to a childrens activity centre
- the children will not integrate into the local community
- there will be a risk of crime and property damage
- a family home has been lost
- the garden has largely been altered to provide parking
- the traffic of between 2 - 12 vehicles causes damage to the access track
- the suitability of the septic tank system is questioned
- the poor quality of the access track causes problems with water, debris and dust
- emergency services are remote.

The full text of these letters can be inspected at Southern Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

6. Officers Appraisal

- 6.1 It is considered appropriate initially to outline the background to the application and the requirement for planning permission. The property has historically been occupied as a dwellinghouse (it appears to have originally been a pair of houses). Such a use would fall within Class C3 of the Town and Country Planning (Use Classes) Order 1987, which is defined as:-

“Use as a dwellinghouse (whether or not as a sole or main residence –

- (a) by a single person or by people living together as a family, or
- (b) by not more than 6 residents living together as a single household (including a household where care is provided for residents).”

The implications of this are that small care and support homes fall within the definition of a dwellinghouse and as such there would not be a change of use. There has nationally been a number of appeal cases on this issue with the most relevant being North Devon District Council v The Secretary of State (2003). The general conclusion from the various cases is that where there is a small home with the residents living together as a single household and where the carer is also a resident then the use would normally fall within Class C3.

- 6.2 The potential use of this property has been the subject of lengthy correspondence with the local community since 2002. Much of the concern was expressed as supposition as to how the property would be used. The Council’s position was that until any use actually commenced an assessment of whether it fell within Class C3 could not be undertaken. Following the commencement of the use the applicant’s submitted an application seeking a Certificate of Lawful Use. From the information submitted with that application it was apparent that with regard to carers there would be a rota system, and whilst there would be an overnight presence, the use did not fall within Class C3. The application was refused. The use would therefore appropriately fall within Use Class C2 which is defined as:-

“Use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3 (dwellinghouses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.”

Following that decision, this application has resulted. It is clear however that as a matter of fact and degree that there is a fine dividing line on the difference between Class C2 and C3 uses.

- 6.3 The application however should be determined on its merits. The starting point for this is the policies of the development plan. The plan contains no specific policies with regard to children’s homes. However Local Plan Policy CF.4 deals with residential homes and states permission will be granted for such uses subject to the meeting of certain criteria. In addition, Unitary Development Plan Policy CF.7 deals with residential nursing and care homes and, subject to meeting certain criteria, states that such uses will be permitted in areas where new residential development is acceptable or where they involve the environmentally acceptable conversion of buildings.

6.4 From this policy context the following two broad issues can be identified –

- whether this is a suitable location for a residential institution, and
- the impact of the use on the amenities of nearby properties

6.5 Whether this is a suitable location for a residential institution

The site is within open countryside where planning permission would not normally be granted for new development. This proposal is however for the change in use of an existing building. Local Plan Policy CF.4 does not include a locational constraint, as such, for residential homes and neither does UDP Policy CF.7, in terms of the conversion of an existing building. Fairview is a four bedroomed house with a curtilage of some 0.1ha. The applicants advise that the maximum number of residents will be four (Appendix 1. Three children and one staff member). The former garage has been converted to provide offices/classroom (this work at the time it was undertaken was permitted development). The whole property has been refurbished and will provide a reasonable level of accommodation and physically the site is suitable.

Foy is a hamlet scattered alongside the unclassified road and other than the church it contains no local services or facilities. The nearest schools are located in Bridstow and Ross-on-Wye, and it is the latter, some four miles away, that also provides the concentration and range of community services and facilities. It is clear therefore that the occupants, as currently do all the existing local residents, will have to travel to obtain all the basic services and facilities. However, there are throughout the county a number of other similar establishments (either Class C3(b) or Class C2 uses) which are in the more rural areas with similar travel distances for access to services. It is considered that the use in this location would not be so disadvantaged in terms of access to these services such that it is unacceptable.

With regard to accessibility and traffic issues, Foy is relatively isolated and is served by an unclassified road. The nearest major road, the A40, is some 3 miles to the south west. The A40 additionally provides the nearest route for public transport. The access to the site from the public highway is an unmade track but this does serve other uses beyond the site, notably the PGL activity site. The occupancy in terms of numbers of people can be equated with that of a dwellinghouse but it is likely that the traffic generated may exceed that which could reasonably be expected from use as a dwellinghouse. The occupants will be obliged to use the single road access. This road is occasionally blocked by floodwater from the nearby River Wye. All access will involve the use of private vehicles as there is no public transport. However this situation currently exists for local residents. It is considered that the traffic generated by the use will not be at a level such that there would be an unacceptable increase on the road network resulting in an adverse impact on highway safety. Within the site itself there is an acceptable provision for car parking. The Head of Engineering and Transportation has no objection.

In conclusion on this issue it is considered that the site is a suitable location.

6.6 The impact of the use on the amenities of nearby properties

It is clear that the residents of the home will require continuing professional care and support. Local Plan Policy CF.4 and UDP Policy CF.7 seek to ensure that residential care homes do not adversely affect the amenities of neighbouring properties. This is an issue of significant concern to local residents and it has been raised during the

consideration of other similar proposals both in the county and nationally. It has been confirmed that a fear of the behaviour from the occupants of residential care homes can be a material planning consideration. However in order to carry significant, and determining, weight such concerns need to be accompanied by convincing evidence that the assertions made will result.

Firstly it is considered that from the level of occupation intended the operation of the use within the site itself, in terms particularly of noise and disturbance, is unlikely to have an unacceptable impact on the amenities of nearby dwellings. The nearest dwellings are some 150m to the south. It is likely that the operation of the use will generate additional traffic but again it is considered that this is unlikely to cause unacceptable harm to residential amenity.

With regard to the broader issue the expressed fears (in the representations) are that the use will cause problems in the community with crime and anti-social behaviour, and that the occupants will not be suited to the rural environment or integrate. A number of the representations refer to, and provide details of, problems that have occurred at other similar homes, including those operated by the applicants. It is acknowledged that due to the nature of the use the provision of precise details of any particular occurrences from the statutory agencies is difficult to obtain.

The applicants have stated that the situation would not arise where a young person was in the home (day or night) without a member of staff being in attendance, and that they will seek to operate the home as close as possible to a normal home.

It is accepted that the children accommodated are likely to be in a completely different environment to that which they are used to. In addition it is not doubted that problems do arise at other similar homes. However these will arise whether the home is in the town or country. A number of the objections suggest that the home will be more appropriate in a town with the implication that any problems would be easier to deal with in such a location. However wherever a home is located if problems with behaviour arise they do need to be dealt with. Restricting such uses to towns will not remove this issue. It is noted that the National Care Standards Commission (the regulatory authority) do not object to this proposal. Whilst the details submitted with the representations do point to a level of unacceptable behaviour it cannot be assumed that such behaviour will inevitably result from this proposal. The evidence provided, it is suggested, is not compelling that any degree of risk arising elsewhere means the proposal would inevitably result in similar incidents. The suggestion, that the examples given and the perceived fears, could be advanced in any location, towns and countryside, to resist such proposals. The effect of this would be to prejudice the provision of residential homes of this nature. If problems do arise then the regulatory authorities have the powers to deal with them. It is necessary to also be mindful of the advice in PPG.3 which promotes the concept of mixed and inclusive communities, including meeting the housing needs of specific groups.

In conclusion on this issue it is considered that the proposal would not result in an unacceptable impact on the amenities of residential property in the area.

- 6.7 The site is within the Wye Valley Area of Outstanding Natural Beauty and the Area of Great Landscape Value. It is considered that the nature of the proposal is such that harm will not be caused to the landscape character of the area.

6.8 Conclusion

The introduction of such uses into any location is usually accompanied by concerns from the local community. In this case having regard to the policies of the development plan it is considered that the proposal is acceptable. With regard to other material considerations, whilst the concerns of the local community are understood they do not represent, in planning terms, a clear justification to refuse the application.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. The occupation of the property shall be limited to a maximum number of three children.**

Reason: In order to define the terms under which this permission is granted.

- 2. At all times when children are present in the property a minimum of one care staff shall also be present.**

Reason: In order to ensure that continued residential care is available to children.

Informative(s):

- 1. N15 - Reason(s) for the Grant of Planning Permission**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.