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## Appeal Decision

Site visit made on 22 July 2015

**by Michael Moffoot DipTP MRTPI Dip Mgt MCMI**

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

**Decision date: 13 August 2015**

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**Appeal Ref: APP/N2739/W/15/3009833**

**The Lodge, 10 Westfield Lane, South Milford LS25 5AP**

- 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 Action for Care Limited against the decision of Selby District Council.
  - The application Ref: 2014/0741/COU, dated 1 July 2014, was refused by notice dated 15 January 2015.
  - The development proposed is alterations to garage to form 2 bedrooms, extension to garage to form internal link to house and change of use of house from C3(b) to C2 (8 residents).
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### Decision

1. The appeal is allowed and planning permission is granted for alterations to garage to form 2 bedrooms, extension to garage to form internal link to house and change of use of house from C3(b) to C2 (8 residents) at The Lodge, 10 Westfield Lane, South Milford LS25 5AP, in accordance with the terms of the application Ref: 2014/0741/COU dated 1 July 2014, and subject to the following conditions:
  1. The development hereby permitted shall begin not later than three years from the date of this decision.
  2. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building in colour and texture.
  3. Before the first occupation of the extension hereby permitted the windows on the front (south) elevation shall be fitted with obscure glazing and shall be permanently retained in that condition thereafter.
  4. The development hereby permitted shall be carried out in accordance with the following approved plans: (i) LOC01; (ii) 100; and (iii) 101.

### Procedural Matter

2. The appellant submits that the increase in the number of residents to be accommodated at the care home does not amount to a material change of use. However, as the application includes a proposed change of use and has been refused it is for me to determine the subsequent appeal.

## **Application for Costs**

3. An application for costs was made by Action for Care Limited against Selby District Council. This application is the subject of a separate Decision.

## **Main Issues**

4. The main issues in this case are:
  - (i) the effect of the proposed development on the living conditions of nearby residents, with particular reference to noise and disturbance, overlooking and light pollution; and
  - (ii) the effect of the proposal on highway and pedestrian safety.

## **Reasons**

### *The proposal and policy background*

5. The Lodge comprises a three-storey, split level building set on a sizeable plot located within a predominantly residential part of South Milford. From its junction with School Lane, the section of Westfield Lane running north-eastwards is for the most part a single track road with a few informal passing places, a partial footway and a turning head opposite the appeal site. The carriageway terminates about 30m beyond the site and reduces to a footpath leading to Low Street.
6. The building currently operates as a registered care home for up to six residents between the ages of 18 and 65 years who have learning difficulties. They live as one household with shared facilities and receive 24 hour care from visiting staff comprising six in attendance at any one time (including 1/1.5 'permanent core staff members'). There is a brief increase in staff numbers at the property when the shift changeover occurs at lunchtime.
7. The existing attached garage would be converted to form two additional bedrooms with en-suite facilities, and would be connected to the main building by the construction of a small corridor extension to the front elevation. An additional window would be inserted into the rear elevation of the garage to serve one of the new bedrooms. The design and materials employed would match the existing building.
8. Saved policy ENV1 of the *Selby District Local Plan (2005)* states that proposals will be permitted where a good quality of development will be achieved taking into account various factors, including the effect on the amenity of adjoining occupiers. Policy ENV2 indicates that development proposals will not be permitted where, amongst other things, they would give rise to unacceptable levels of noise, nuisance or other environmental pollution unless satisfactory remedial or preventative measures can be incorporated in the scheme. These objectives are consistent with one of the core planning principles of the *National Planning Policy Framework* which requires that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
9. To prevent detriment to highway safety, policies ENV1, T1 and T2 of the Local Plan require adequate road capacity and satisfactory parking provision to serve new development.

10. Policy SP19 of the *Selby District Core Strategy (2013)* sets out key requirements for design quality in new development, including preventing it from contributing to unacceptable risk from unacceptable levels of noise or light pollution. The document is subject to legal challenge which reduces the weight that can be accorded to its policies. Nevertheless, it is a material consideration in my decision.

*Living conditions*

11. The proposal would increase the number of residents in the care home from six to eight. It is argued that this would generate additional comings and goings by staff, doctors and other specialist visitors as well as delivery drivers, family and friends, creating noise and disturbance that would be detrimental to local residents' amenities.
12. The appellant advises that the number of staff would remain the same. Although this is disputed by the Council and some local residents, I have seen no substantive evidence to show that the proposal would require increased staff numbers. Even if it did, any increase would be modest and noise levels associated with staff activity on the site and their associated comings and goings would not be significantly higher than at present. The proposal is likely to increase the number of social and, occasionally, professional visitors, but it would be relatively small scale and would not intensify noise on the site or the surrounding area to an appreciable degree. I see no reason why the proposal would result in a material increase in service vehicles visiting the site and generating additional noise and disturbance.
13. It is submitted that noise from residents within the care home and its garden is intrusive and would increase as a result of the development. However, I consider that any such increase would not be measurably greater than existing noise levels at The Lodge. In this respect, I note that the Council's Environmental Health Officer advises that they have not historically received complaints regarding noise from the care home and offers no objections to the appeal proposal.
14. Turning to concerns regarding privacy for neighbouring occupiers, the appellant indicates that the windows in the proposed extension would be obscure glazed. Overlooking of the properties to the south would not therefore occur. Although the two windows in the rear elevation of the new bedrooms may increase overlooking of surrounding properties to some extent it would not justify dismissal of the appeal on these grounds.
15. The impact of light pollution on local residents' amenity has also been raised. However, I see no necessity for additional outside lighting as a result of the development, and light from the additional windows would be insignificant given the existing number of window openings in the building.
16. For these reasons, I conclude on the first issue that the appeal proposal would not result in material harm to the living conditions of nearby residents. As such, I find no conflict with policies ENV1 and ENV2 of the Local Plan.

*Highway and pedestrian safety*

17. Although not an issue raised by the Council or highway authority, local residents' concerns include the implications of the proposal for the safety of road users and pedestrians in the vicinity of the appeal site.

18. The forecourt to The Lodge can accommodate about three or four vehicles and the garage is used for storage rather than parking. Although the proposal would result in loss of the garaging facility, the new extension is small and would not reduce the functional parking space available on the forecourt. Given the restricted width of the carriageway and the numerous accesses to properties on Westfield Lane, most overspill staff and visitor parking connected with the present care home operation takes place on surrounding streets, and this would continue upon completion of the development.
19. Beech Drive, Beech Close and Maple Close serve an estate of modern single-storey dwellings and larger family houses. The great majority of properties have off-street parking on driveways and in garages. Whilst on-street parking levels were low during my mid-afternoon site visit, I appreciate they will be higher at evenings and weekends when more people are likely to be at home and friends and family may visit. Nevertheless, the capacity and width of these roads are adequate to accommodate parked vehicles, including those belonging to staff at the care home.
20. Staff levels would not increase as a result of the proposal, and the amount of overspill staff parking on surrounding streets would therefore remain essentially the same. Even if the number of staff did increase slightly, any additional demand for on-street parking would not be so significant that highway safety would be appreciably compromised.
21. Although visits by maintenance people are unlikely to increase as a consequence of the proposal, it would lead to some additional on-street parking by family and friends visiting the care home and occasional attendance by doctors or other specialists. Any extra parking demand would be modest, however, and could be accommodated on Beech Drive or other roads on the estate without creating undue hazards for road users or pedestrians. It is unlikely that visitors parking on these roads would knowingly obstruct a driveway access, but if it were to occur as a result of the proposal it is a matter for the police to resolve.
22. Some parking space is available at the junction of Westfield Lane and School Lane. It is highly unlikely, however, that visitors would park on the section of Westfield Lane leading to the appeal site and obstruct pedestrians, car-borne residents or emergency vehicles seeking to access properties. Furthermore, it would be open to the Council in conjunction with the highway authority to consider parking restrictions or other measures if they deemed them necessary and appropriate on Westfield Lane, Beech Drive or other streets in the vicinity.
23. Service vehicles such as post, grocery and courier vans, taxis and refuse and domestic fuel lorries already visit the appeal site and other properties in Westfield Lane, inevitably causing brief obstruction for other road users. Local residents claim that some of these vehicles also use Beech Drive when visiting the site. The proposal would not, however, increase the number and duration of such visits to any measurable degree, and users of these roads would not suffer greater inconvenience than presently occurs. I appreciate that in an emergency those attending The Lodge may park on Westfield Lane if the forecourt is occupied, but such instances would be relatively rare. Reference has been made to a sewage tanker visiting the appeal site and obstructing the lane, which the appellant advises was a response to an emergency and is not a

regular occurrence, although this is disputed by local residents. I deal with the matter of the adequacy of sewerage system below.

24. I therefore conclude on the second issue that the proposal would not materially harm highway and pedestrian safety, and thus would not conflict with those parts of policies ENV1, T1 and T2 of the Local Plan which are concerned with such matters.

### **Other Matters**

25. The appeal proposal has generated a significant amount of local concern, including matters additional to those forming the main issues in this case. The authorised use of The Lodge as a care home for up to six residents is not an issue for me to consider in the context of this appeal, nor is its licensing/ registration or the ratio of staff to residents. Some residents assert that the care home presently employs some 15-20 staff but no evidence has been provided to substantiate this.
26. Reference has been made to instances of security breaches at the home and the fear of some local residents for their personal safety. However, the appellant advises that the building is secured internally, and given the ratio of staff to residents I see no grounds to believe that such breaches would increase as a consequence of the development.
27. It is contended that the sewerage system is unable to satisfactorily serve the existing care home resulting in effluent discharging on to adjacent properties, which would be exacerbated by the proposed development. However, I have seen no information regarding the capacity of the existing system or technical evidence to show that it is incapable of accommodating the additional discharge from the proposed development. The storage of clinical and other waste is a matter for other legislation to deal with. The design of the proposed extension and alterations to the garage would respect the host building and the character and appearance of the surrounding area. The proposal would not demonstrably increase wear and tear on Westfield Lane and the condition of the carriageway and footways is for the highway authority to manage.
28. As to the creation of a precedent if the appeal were to succeed, the established planning principle that a development proposal should be determined on its individual merits is applicable in this case. Some concerns relate to public consultation and engagement during the pre-application and application stages, the role of Council officers and the conduct and protocol followed at the site visit and Planning Committee meetings. However, these relate to procedural matters and do not affect my consideration of the planning merits of the case.
29. General reference has been made to respecting the human rights of people in nearby properties. However, for the reasons given, allowing the appeal would not interfere with the home and family life of those living locally under Article 8 of the European Convention on Human Rights. In addition, there would be no interference with the peaceful enjoyment of their properties in compliance with the requirements of Article 1. Other issues raised in representations concern matters unrelated to this particular appeal.

### **Conditions and Conclusion**

30. In the interest of visual amenity I shall require matching materials to be used for the exterior of the extension. Obscure glazing should be installed and retained to the windows to the front of the extension to safeguard the privacy of those using the room and occupiers of surrounding properties. To facilitate minor material amendments, a condition listing the approved plans should also be imposed.
31. For the reasons set out above, and having regard to all other matters raised, I conclude that the proposal is acceptable and the appeal should succeed.

*Michael Moffoot*

Inspector