

REFERENCE: P/21/412/RLX
APPLICANT: Mr & Mrs N Heard c/o John Matthews
LOCATION: 66 Grove Road, Bridgend CF31 3EF
PROPOSAL: Remove conditions 1 and 4 of P/20/301/FUL
RECEIVED: 4 May 2021

APPLICATION/SITE DESCRIPTION

Planning permission was granted by the DC Committee on 23 July 2020 for the change of use of the dwellinghouse (Use Class C3(a)) to a residential care home for 2 children (Use Class C2) (P/20/301/FUL refers).

The consent was subject to the following conditions:-

1. The use hereby permitted shall be discontinued on or before 31 December 2022.

Reason: To enable the Local Planning Authority to assess the impact the development has on the amenities of the area and to enable the matter to be reviewed at the end of the period of the temporary consent.

2. The premises shall be used as a residential care home for a maximum of two children as specified in the application details and for no other purpose including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: To enable the Local Planning Authority to retain effective control over the use of the premises in the interests of safeguarding the general amenities of the area.

3. The use hereby approved shall not operate until space has been laid out in permanent materials at the rear of/within the curtilage of the site for two cars to be parked. This area shall be retained for parking purposes for two cars in perpetuity.

Reason: To ensure adequate off street parking is provided in the interests of highway safety.

4. An up to date register shall be kept at the residential care home (use class C2) premises from the first beneficial C2 occupation of the property. The register shall be made available for inspection by the Local Planning Authority upon request. The register shall contain details of the names and occupations of all visitors to the property, the date, the time of arrival and the time of departure from the property.

Reason: To inform the Local Planning Authority of the use of the property at the end of the temporary period.

The current proposal seeks to remove conditions 1 and 4 on the basis that *the conditions are neither reasonable nor necessary as indicated in a recent appeal decision (ref. APP/F6915/A/21/3266841) relating to 10 Woodside Avenue, Bridgend.*

RELEVANT HISTORY

Application Reference	Description	Decision	Date
P/20/301/FUL	Change of use from dwellinghouse (Use Class C3(a)) to the residential care of 2 children (Use Class C2)	Approved with conditions	23 July 2020

REPRESENTATIONS RECEIVED

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations/publicity expired on 11 June 2021.

Councillor Voisey comments:-

The portal does not have the application details, however i sat on committee for the original application, and conditions were discussed at length.

Whilst the applicant has the right to request removal of conditions, it makes a mockery of planning.

I must insist that as the original application went to full committee, any changes so soon after approval, requesting a change must also be decided on by full committee.

Councillor Walters advises *I object to this application and am not happy for the conditions 1 and 4 to be removed. However, I am aware of a similar application and am happy for officers to use there delegated powers to decide the best course of action.*

Objections have been received from 57 Grove Road which reiterate their objections to P/20/301/FUL and comment that condition 1 should remain so that the use can be reviewed and discontinued if problems are identified by local residents.

The occupier of 41 Merthyr Mawr Road comments:-

There was a change of use from a dwelling house to Residential home for two children. this property is now being rented privately and according to neighbours there is an older couple there with the male occupant not in good health.

Condition No4 of the planning consent was to keep a register of occupants, visitors etc. has the Planning Department had sight of this document?

It is my opinion that if these conditions are removed you will see an increase in disturbance, anti social behaviour and comings and goings.

I feel there has been a deliberate attempt to hoodwink the Planning Committee and this application needs to be rejected and the owner taken to task.

COMMENTS ON REPRESENTATIONS RECEIVED

The objections to the change of use per se are not material to this application however, the objections to the removal of the conditions are relevant.

The current claimed use of the property is not a material change of use from that as a single dwelling and as such, the comments regarding condition 4 is not relevant.

The Planning system does not exist to punish people.

APPRAISAL

The application is reported to Committee at the request of the Ward Member for Oldcastle.

As referenced by the reason for the request to remove the conditions, a recent application for the removal of the same conditions as those under consideration here was refused by this Local Planning Authority under planning application P/20/652/RLX. This relates to a property in Litchard again involving a change of use from a house to a care home for 2 looked after children.

The application was refused for the following reason:-

1. The conditions relate to a temporary grant of planning permission and removal of conditions 1 and 3 of P/20/299/FUL would result in a lack of control, evidence and information being available to enable the Local Planning Authority to adequately review the impact the development on the amenities reasonably expected to be enjoyed by occupiers of nearby residential properties and the area at the end of the period of temporary consent. As such the proposal is contrary to Policy SP2 (12) of the Local Development Plan and the Council's Supplementary Planning Guidance SPG02: Householder Development."

However, following an appeal to the Planning Inspectorate, the relaxation was allowed on the basis that the conditions were neither reasonable nor necessary and as such failed to comply with Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management' ('the Circular').

Reproduced below is the Inspector's decision allowing the appeal and the removal of the aforementioned conditions:-

The Council confirms that the principle of the development is acceptable. Given that a residential use would be compatible with the character of the area, I do not disagree. From the Council's officer report and statement it is evident that whilst it was accepted that the development may not result in excessive comings and goings over and above the existing residential character, given the extent of local concerns, and because the business had not been registered with the Care Inspectorate, Condition 1 was considered reasonable to allow an assessment of the impact on residential amenity to be made. Related to this, Condition 3 was considered necessary to enable sufficient information to be available as evidence to support an assessment under Condition 1.

Guidance regarding the imposition of planning conditions is set out in the Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management' ('the Circular'). Paragraph 5.23 advises that it will rarely be necessary to grant temporary permission for development which conforms with the provisions of the development plan. The material considerations to which regard must be had in granting permission are not limited or made different by a decision to make the permission a temporary one. The reason for granting a temporary permission should never be that a time limit is necessary because of the effect of the development on the amenity of the area.

The development is a small care home that would be occupied by up to two children with associated care workers providing 24-hour supervision and care. Given that the appeal property is a family sized dwelling, the intensity of occupation would be similar to a private family household. I concur that the development would result in a greater propensity for visits from various service providers, however, families can also generate delivery and service traffic and are not exempt from visits from care professionals or emergency

services. The scale and occupation level of the care home use would be proportionate to the size of the appeal property, and I consider that the amount of activity associated with either use would not be fundamentally different.

I have had regard to the objections from nearby residents and the reported issues around child supervision and anti-social behaviour. However, these are problems that can equally apply to a family household and, in this case, the development would be regulated by care bodies outside the planning system. Taking account of the small-scale nature of the operation, there is little evidence that general activity from the care home would amount to actual harm to residents' living conditions. Similarly, I have had regard to concerns relating to parking congestion and traffic, but there is no tangible information, such as evidence from the Highway Authority, to demonstrate that the occupancy level of the care home would materially change the volume or flow of traffic to and from the site. The Council does not indicate that any parking standards would be breached and, notwithstanding local concerns, I have no reason to believe that the development would prejudice highway safety interests or cause unacceptable inconvenience to residents.

Having regard to the advice in the Circular, I conclude that Conditions 1 and 3 are not reasonable or necessary. Removing the disputed conditions would not result in any harm to the general amenities of the area, or result in any conflict with Policy SP2 of the Bridgend Local Development Plan which seeks high quality, attractive and sustainable places by, amongst other things, ensuring that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected.

The original permission contained a condition to restrict occupation to a maximum of two children, and I consider that this is necessary to safeguard the amenities of the area. I have therefore reimposed the condition on this permission.

In reaching my decision, I have taken account of the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the Act.

For the above reasons and having regard to all matters raised, the appeal is allowed.

Members are advised that whilst each application is treated on its own merits, the Local Planning Authority must take into account the recent appeal decision which considers that the same conditions imposed on a consent for an identical venture are neither reasonable nor necessary.

CONCLUSION

On the basis of the Planning Inspectorate's recent decision, it is considered that the proposal is reasonable and acceptable in principle. The continued imposition of conditions 1 and 4 of P/20/301/FUL would not be in compliance with the relevant legislation and guidance and, as such, they should be removed.

This decision will be the new Planning permission for the development and therefore, the remaining conditions will be re-imposed.

RECOMMENDATION

(R53) That permission be GRANTED subject to the following condition(s):-

1. The premises shall be used as a residential care home for a maximum of two children as specified in the application details and for no other purpose including any other

purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: To enable the Local Planning Authority to retain effective control over the use of the premises in the interests of safeguarding the general amenities of the area.

2. The use hereby approved shall not operate until space has been laid out in permanent materials at the rear of/within the curtilage of the site for two cars to be parked. This area shall be retained for parking purposes for two cars in perpetuity.

Reason: To ensure adequate off street parking is provided in the interests of highway safety.

Janine Nightingale
CORPORATE DIRECTOR COMMUNITIES

Background Papers
None