

Officers Report

Planning Application No: 141736

PROPOSAL: Planning application for change of use of existing care facility to 4no. bed House in Multiple Occupation (HMO)

LOCATION: 51 Station Road Bardney Lincoln LN3 5UD

WARD: Bardney

WARD MEMBER(S): Cllr Fleetwood

APPLICANT NAME: Mr H DeSavary

TARGET DECISION DATE: 23/11/2020

DEVELOPMENT TYPE: Change of Use

CASE OFFICER: Vicky Maplethorpe

RECOMMENDED DECISION: Grant permission

This application is referred to the Planning Committee, following objections from the Parish Council and other third parties, which are considered to be both relevant and balanced planning matters.

Description:

The application site forms a large, vacant, detached house at 51 Station Road set back from the road and with a large garden to the rear. The site has its own access from Station Road and there is a large area to the front and side of the property currently used for parking cars. The property is well screened with high mature hedges and trees along its boundary with 49 Station Road (a residential property) giving a good degree of privacy and separation between the two properties. Station Road is characterised by similar dwellings. To the rear of the garden is public footpath BARD/132/1 beyond which is a field. Bardney Meadows SNCI is approximately 150 metres to the North West of the site.

The application site forms part of The Hawthorns which is home to people with learning difficulties operating under a C2 use class (residential institution) granted planning permission in early 2012 and subsequently extended through the erection of buildings in the rear garden creating accommodation for 17 individuals along with a change of use of no.51 to office accommodation ancillary to the care home.

This application seeks permission to change the use of no. 51 Station Road to a four bedroom House in Multiple Occupation (use class C4) in association with the existing care home. Residents have moved in to the building.

Relevant history:

138551– Application for non-material amendment to planning permission 134668 granted 16/09/2016 to re-positioning of windows and doors to side and rear elevations, G, 15/11/18.

134668 - Planning application for change of use from office-B1 to care home facility-C2, and erection of extension to the rear to facilitate the creation of 2 additional bed spaces, GC, 19/6/16.

132095 – Planning application for the erection of building to provide 6No. additional bedrooms to serve The Hawthorns care home with change of use of existing house to provide ancillary office, administration and storage to serve the site. GC, 16/1/15.

Representations:

Chairman/Ward member(s): None received

Bardney Group Parish Council: *'Bardney Group Parish Council would like to object to the planning application on two main grounds;*

a) protection of the vulnerable residents who will be housed at the site

b) the material considerations of the application.

BGPC are very disappointed that the planning application has been submitted after the work has been completed. Residents have already been moved in and BGPC have received complaints over the noise and conduct from 51 Station Rd.

Protection of the residents.

****Redacted*** This proposed development will be outside the remit of the Care Quality Commission (CQC) which raises safeguarding concerns. Home From Home Care claim on their website that;*

Our learning disability care homes reflect our belief and experience that individuals respond to a warm and homely atmosphere. The homes offer spacious, communal environments for social interaction, balanced with privacy and personal space for each individual. All the homes are located in villages with access to a good range of local amenities.

The application states; This application seeks to change the use from the C3 use to a 4 bed HMO. Whilst under the same operation as the adjoining Care Facility, the care requirement and staffing for these occupants will be substantially reduced. As the occupants will have the ability to lock their own doors to their bedrooms, and providing a greater sense of self support, the change of use to and HMO is necessary. However the Directors Report in the Home From Home Care Annual Accounts published Sept 2020 states; Future Developments. The rolling redevelopment process of existing Homes into apartments is a race against time as we no longer get referrals for previous types of placements. This redevelopment and repurposing strategy is not only essential for the group's survival, but it is anticipated to generate a commercial return and ultimately return the company to profit. The statement appears to indicate that the referrals received for their services are coming from those with the most complex needs however in order to reduce costs, the organisation is looking to move to an operational model that requires less staff. Therefore BGPC have serious concerns over the safety and the protection of the vulnerable adults at the site.

Material Considerations

Parking; Parking has been a major issue at the site since its inception in 2004. Over the years BGPC have received regular complaints from residents both near the home and those living on side streets. Planning permission for 134668 (2016) stated that sufficient parking should be provided for staff at the site, however this condition was never complied with. This proposal will actually require more parking spaces due to families visiting residents in the HMO, whilst the number of available spaces will be reduced, as vehicles have previously been parked at the rear of 51 Station Rd,

however this has been made into a garden. Despite claims in previous application Design and Access Statements, staff at the site must drive as Bardney has very poor public transport links. Parking outside the premises has created a highways safety issue as the Care Home is situated at the main road through the village and visibility is an issue.

Noise; Noise from the property has been a cause of contention with neighbouring residents for many years. Noise not only emanates from the residents but also from the conduct and behaviour of staff. WLDC Environmental Protection dept regularly have to attend to monitor noise levels. Several residents have stated that the incessant noise has affected their mental wellbeing. This history of complaints should be taken into account, as the NPPF states; "170. Planning policies and decisions should contribute to and enhance the natural and local environment by:....

(e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability." The Planning Practice Guidance states; "How can noise impacts be determined? Plan-making and decision making need to take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.

In line with the Explanatory note of the noise policy statement for England, this would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation. As noise is a complex technical issue, it may be appropriate to seek experienced specialist assistance when applying this policy. Paragraph: 003 Reference ID: 30-003-20190722 What are the observed effect levels? Significant observed adverse effect level: This is the level of noise exposure above which significant adverse effects on health and quality of life occur. Lowest observed adverse effect level: this is the level of noise exposure above which adverse effects on health and quality of life can be detected. No observed effect level: this is the level of noise exposure below which no effect at all on health or quality of life can be detected. Although the word 'level' is used here, this does not mean that the effects can only be defined in terms of a single value of noise exposure. In some circumstances adverse effects are defined in terms of a combination of more than one factor such as noise exposure, the number of occurrences of the noise in a given time period, the duration of the noise and the time of day the noise occurs. See the noise policy statement for England for further information. Paragraph: 004 Reference ID: 30-004-20190722 The Noise Exposure Hierarchy Table states; RESPONSE Present and very disruptive EXAMPLES OF OUTCOMES Extensive and regular changes in behaviour, attitude or other physiological response and/or an inability to mitigate effect of noise leading to psychological stress, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory. INCREASING EFFECT LEVEL Unacceptable Adverse Effect ACTION Prevent Over the years the extent of the complaints registered with WLDC, police, social services and BGPC indicate that the noise level emanating from the Care home has had a detrimental impact on the quality of life of local residents. As a result of the past and present history of noise levels it is clear to see that the level is already at 'Present and Very Disruptive'. LP26; BGPC are aware that WLDC Planning Committee has recently

rejected a planning application for a similar HMO in Sudbrooke. The grounds for the rejection of the application were based primarily on LP26 Amenity Considerations; m. Compatibility with neighbouring land uses (51 Station Rd is surround properties are residential homes). r. adverse noise and vibration (see above). LP 26 goes on to state 'Similarly, proposals for development adjacent to, or in the vicinity of, existing 'bad neighbour' uses will need to demonstrate that both the ongoing use of the neighbouring site is not compromised, and that the amenity of occupiers of the new development will be satisfactory with the ongoing normal use of the neighbouring site, taking account of criteria m to u above.

S106. To date there has been no s106 levy placed on any of the granted planning permissions at the site. However the development of the site has increased the number of residents in Bardney and due to the increase in complex needs of the residents, the demands on the doctors surgery in Bardney has increased greater than with a normal residential development of the same size. Residents of the care home do make use of the current play park in the village, therefore if this application was granted s106 contributions should be made to both the playpark and medical facilities in Bardney.

In summary, Bardney Group Parish Council object to this proposal due to safeguarding concerns for the new residents as it would remove the protection of the Care Quality Commission for the most vulnerable in our community. Also in relation to material considerations of the application which primarily relates to the quality of life for those who live in the vicinity.'

Local residents: Objections received from 42, 44, 48, 49, 50, 52, 54 and 78 Station Road. The concerns raised mainly relate to:

- Parking and highway safety
- Noise and disturbance from residents, staff and vehicles
- Size of facility now too big for the village
- Disruption during building works
- Detriment effect on residential amenity
- Impact on neighbours mental wellbeing
- Management of refuse – environmental nuisance
- Fire hazard for residents
- Inaccuracies within the application
- Residents already living in the property

LCC Highways: No objections

Environmental Protection: No objections

Archaeology: None received

Relevant Planning Policies:

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Here, the Development Plan comprises the provisions of the Central Lincolnshire Local Plan (adopted in April 2017) the Lincolnshire Minerals and Waste Local Plan (adopted June 2016).

Development Plan

- **Central Lincolnshire Local Plan 2012-2036 (CLLP)**

Relevant policies of the CLLP include:

<https://www.n-kesteven.gov.uk/central-lincolnshire/local-plan/>

LP1: A Presumption in Favour of Sustainable Development

LP2: The Spatial Strategy and Settlement Hierarchy

LP4: Growth in Villages

LP5: Delivering Prosperity and Jobs (Expansion of Existing Businesses - p25)

LP10: Meeting Accommodation Needs

LP13: Accessibility and Transport

LP14: Managing Water Resources and Flood Risk

LP17: Landscape, Townscape and Views

LP26: Design and Amenity

- **Lincolnshire Minerals and Waste Local Plan (LMWLP)**

<https://www.lincolnshire.gov.uk/residents/environment-and-planning/planning-and-development/minerals-and-waste/minerals-and-waste/88170.article>

The site is not within a Minerals Safeguarding Area, Minerals or Waste site / area.

National policy & guidance (Material Consideration)

- **National Planning Policy Framework (NPPF)**

<https://www.gov.uk/government/collections/planning-practice-guidance>

The NPPF sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions.

The most recent iteration of the NPPF was published in February 2019. Paragraph 213 states:

"Existing [development plan] policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

- **National Planning Practice Guidance**
- **National Design Guide (2019)**

Draft Local Plan / Neighbourhood Plan (Material Consideration)

NPPF paragraph 48 states that Local planning authorities may give weight to relevant policies in emerging plans according to:

(a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

(b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

(c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

- ***Draft Bardney, Southrey, Stainfield and Apley Neighbourhood Plan***

West Lindsey District Council has approved the application by Bardney Group Parish Council to have the parishes of Bardney, Southrey, Stainfield and Apley designated as a neighbourhood area, for the purposes of producing a neighbourhood plan.

However, to date a draft Plan has not been published, that may otherwise be taken into account as a material consideration.

Main issues

- Principle of change of use
- Impact on residential amenity
- Impact on highway safety
- Other matters

This application considers only the land use implications for a change of use to a use class C4 house in multiple occupation. Whilst the concerns of the Parish Council in regard to the future management of the premises are noted, these are matters outside the remit of a planning application.

Assessment:

Principle

The premises is sited within a residential area of Bardney, policy LP2 designates Bardney as a large village (tier 4), stating:

'To maintain and enhance their role as large villages which provide housing, employment, retail and key services and facilitates for the local area, the following settlements will be a focus for accommodating an appropriate level of growth. Most of this growth will be via sites allocated in this plan, or appropriate infill, intensification or renewal within the existing developed footprint. In exceptional circumstances, additional growth on non-allocated sites in appropriate location outside of, but immediately adjacent to, the developed footprint of these large villages might be considered favourably, though these are unlikely to be of a scale over 25 dwellings/1 ha per site.'

The proposal is for the conversion of an existing building which is set within the existing care home complex. The appearance of the building will be unchanged. The building was previously a dwellinghouse (use class C3) which was then used as an office in connection with the care home facility (use class C2). This application seeks permission to use it as a small HMO for 4 residents (use class C4).

Policy LP10 states that “residential care accommodation, which is designed to accommodate those who need some form of on-site assistance, should be located in a settlement in levels 1 to 4 of the settlement hierarchy”. Bardney is tier 4 (large village) and is therefore a location in which care facilities are directed to, by the Development Plan.

It is concluded therefore that in principle this would be a suitable site for the intensification of a site within the developed footprint of Bardney which is also an extension of an existing facility in accordance with policies LP2 and LP10 of the CLLP, subject to assessment of the impact on residential and visual amenity.

Impact on residential amenity

The building already benefits from planning permission for a change of use to provide 2 additional bed spaces for residents of the care home (use class C2). This fall back position is a material consideration in the assessment of this application.

It is considered that the provision of 2 more bedrooms, resulting in 4 residents based within the building, will not in itself now result in undue harm to the amenity of the residents sufficient to refuse the planning application. Furthermore the addition of 2 residents within the village of Bardney will not be expected to put a strain on its services and facilities.

It is noted that the Parish Council have raised securing a S106 obligation for financial contributions towards medical facilities and a playpark. However, planning law sets out that planning obligations must only be sought were they meet all of the following tests:

(a) necessary to make the development acceptable in planning terms;

(b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development.

It is not considered that financial contributions towards play parks and medical facilities have been shown to be necessary, and would not be considered to be fairly and reasonably related in scale and kind to the development.

Concerns have been raised by several residents who live near the site. The concerns raised relate to increase levels of noise from the site including unpredictable behaviour of residents. However, the use of the site as a C2 residential institution is already established and the relationship already exists between the site and the surrounding properties – this application considers only the changes currently being proposed.

It is accepted that the proposed change of use will intensify the use of the site by an additional 2 residents to that previously approved under application 134668, however, given the distance between the dwelling and the surrounding properties it is considered that there will be no undue harm caused to the amenity of the neighbouring occupants as a direct result of the proposed development.

Any future noise disturbance reports could be dealt with by the Council under the provisions of the Environmental Protection Act 1990. Any inappropriate language or behaviour would need to be taken up with the Nursing Home Management, the police or as a civil matter through legal proceedings. It should be noted that Environmental Protection Officers have visited the site on many occasions and have concluded that there is no noise statutory nuisance and therefore have raised no objections to the proposal currently being considered.

The nature of the use as a small HMO (for 4 residents) is not considered to be more intense than a regular family dwelling. The impact of the nature of this use is not considered to result in any conflict with policy LP26.

Impact on highway safety

Policy LP13 requires well designed, safe and convenient access for all and that appropriate vehicle parking provision is made for development users.

The issue of car parking has been raised by local residents regarding the amount of parking on the road for staff and construction vehicles and the obstructing of driveways. Access to the site is available from Station Road and the road at this point is straight with good visibility. 9 parking spaces currently exist at the site and these are to be retained, along with 21 spaces at the adjoining site. Within the Planning Statement it states *'Whilst it is understood that the occupant numbers will rise for this property, from 2 to 4, the care and staffing requirement will be substantially lower, and will require less parking. Therefore the proposed parking arrangement are not to change from the previously approved numbers.'*

However, a further letter from the applicant's agent does acknowledge that *'there has been a longstanding and regular series of development work undertaken in recent years which has led to the Home From Home Care Ltd operation offering the levels and quality of accommodation that it does. This is now coming to an end and the temporary inconveniences that have been endured by the local resident community will not be experienced moving forwards.'*

No objections have been received from Lincolnshire County Council Highways. It is concluded therefore that the impact on highway safety is acceptable in accordance with policy LP13.

Other matters

Public Footpath – PROW Bard/132/1 runs along the rear boundary of the care home complex. The proposed change of use will have no visual or physical impact on the PROW.

Site Management - The Parish Council has raised that *"this proposed development will be outside the remit of the Care Quality Commission (CQC) which raises safeguarding concerns."* Whilst these concerns are noted, the planning application considers only the land use implications of the proposed development. The future management of the site is outside of the parameters of the planning system, and is addressed by other areas of legislation outside of planning legislation.

Construction phase - Concerns have been raised regarding disruption during the construction phase. The application is for a change of use to a HMO. The works have already been carried out and residents are already living in the property. Therefore there will not likely be an increase in the number of construction vehicles at the site from the granting of this planning application.

Fire Safety - Concerns have been raised that the proposal will present a fire hazard for residents - as with any HMO or care facility fire regulations would be dealt with via Building Regulations.

Management of refuse – Concerns have been raised regarding the increase in refuse and that it will become an environmental nuisance. As the HMO is to be under the management of the existing care home, the refuse will be dealt with under the existing waste storage and collection arrangements.

Whilst a number of third parties raise that the change of use has taken place and the application is retrospective, planning law expressly allows for planning permission to be granted for development carried out before the date of the application (s73A of the Town & Country Planning Act 1990).

Conclusion

Converting the existing dwelling into a small HMO accords with policy LP2 as it is within a sustainable location forming part of an existing care home facility and is acceptable in principle. The proposal will result in an acceptable impact on the residential amenities of the occupiers of nearby residents in accordance with policy LP26. The type and level of traffic generated and the access, turning and parking arrangements on site are considered not to harm highway safety and convenience and comply with policy LP13. The proposal is considered to comply with the development plan and NPPF. It is recommended that planning permission is granted.

Recommended conditions:

Conditions which apply or require matters to be agreed before the development commenced:

None

Conditions which apply or require matters to be agreed before the development commenced:

None

Conditions which apply or are to be observed during the course of the development:

1. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with drawings 376.28/PL003A, 376.28/PL006A and 376.28/PL007A. The works shall be carried out in accordance with the details shown on the approved plan and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework and local policies LP1, LP17 and LP26 of the Central Lincolnshire Local Plan.

Conditions which apply or relate to matters which are to be observed following completion of the development:

None

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report.