

Application No:	2009/467	Application Type:	Full
Proposal:	Change of use from residential home for care of 8 children to residential home for 10 people as a specialist alcohol therapeutic facility	Location:	Deansford, Dean Road, Haslingden
Report of:	Development Control Team Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	9 November 2009
Applicant:	Shardale Ltd	Determination Expiry Date:	30 November 2009
Agent:	Building Design and Planning Consultancy		

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights: -

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

APPLICATION DETAILS

1 The Site

- 1.1 This application relates to an existing residential care home on Dean Road (formerly known as Cherry Tree).
- 1.2 This 1-storey building occupies a site on the north side of Dean Road that is broadly square in shape and of approximately 0.1 hectares in area with amenity space surrounding the building and a hard surfaced parking area. Vehicular access to its parking area is from an un-adopted road running between the site and 26 Dean Road, this roadway serving other houses in the terrace and two residential properties to the rear. The bungalow and its grounds are largely screened from public view by 4+m high conifer hedges.

- 1.3 The site is located within a residential area of Haslingden, comprising a mix of forms of housing, including 1 and 2-storey housing and, is immediately to the west of the 3-storey building at Helmcroft Court that provides sheltered accommodation.

2. Relevant Planning History

- 2.1 **1985/520 - Change of use of bungalow to old persons residential home**
On 12/12/85 permission was granted for the change of use proposed, subject to conditions. Condition 2 stated that, whilst permission was granted for the proposed use, the premises could not be used for any other purpose falling within the same use class.

- 2.2 **2002/99 - Change of use of residential care home for the elderly to residential home for the care of 8 children**

On 5/6/02 permission was granted for the change of use proposed, subject to conditions. Condition 2 reads as follows:

Notwithstanding the provisions of the Town and Country Planning [Use Classes] Order 1987 [or any order revoking or re-enacting that Order] the building which is subject of this permission shall be used solely for the purposes of a residential home for the care of eight children and shall not be used for any other purpose including any other use contained within use class C2 of the above mentioned Order.

Reason: In the interests of residential amenity and highway safety.

- 2.3 **2009/306 - Change of use from residential home for the care of 8 children to residential institution for specialist alcohol therapeutic facility**

This application sought permission to change the use of the building so as to provide residential accommodation for up to 15 people recovering from alcohol dependence. It was indicated that there would be staff supervision 24 hours a day on 7 days a week, numbering up to 5 during the day, when therapy would be given for residents. It was intended to provide 5 off-street parking spaces in total, including 2 dedicated disabled spaces.

On 8/9/09 Officers refused permission for this proposal on the grounds that, by reason of intensification of the use, it would result in over-development of the site and would cause harm to the amenity of neighbouring residents, provide insufficient amenity space to the detriment of the residents of the facility, and would be detrimental to highway safety, contrary to national and development plan policies.

3. The Proposal

- 3.1 Permission is now sought to change the use of the building so as to provide residential accommodation for up to 10 people (rather than 15 people, as previously proposed) recovering from alcohol dependence. The submitted Floor

Plan shows there will be within the building: 10 bedrooms; 2 bathrooms; a kitchen; 3 lounge/dining-rooms; a laundry/store-room; & an office. It is indicated that there would be staff supervision 24 hours a day on 7 days a week, numbering up to 5 during the day, when therapy would be given for residents.

3.2 It is not proposed to alter the external appearance of the building. It is intended to utilise an existing area of hardstanding to provide 5 off-street parking spaces (including 2 dedicated disabled spaces) and space for bin-storage, which are to be accessed from the un-adopted road running to the east side of the premises by removal of part of a low boundary wall.

3.3 In support of the proposal the Applicant advises that:

- The premises are situated in a predominantly residential area that benefits from good accessibility and, accordingly, is well suited for the intended use.
- No external alteration/extension of the building is required and its grounds can accommodate adequate off-street parking. The remainder of the site will continue to be used by residents as private garden (ie for quiet enjoyment).
- They have long-standing experience of operating with the intended client group at other facilities.
- There is a clear need for a specialist treatment facility exclusively for persons affected by alcohol dependence; within Lancashire there are presently no such exclusive facilities, existing establishments taking people with a variety of dependencies (eg drug addiction).
- The premises will offer treatments to persons affected by alcohol dependency NOT general drug dependencies, the residents to stay between 3 months and 18 months.
- The site would be a 'secondary' facility, any necessary medical intervention having first taken place elsewhere; clients would be abstinent from alcohol and the site alcohol-free.
- The site will be managed by a maximum of 4 or 5 members of staff on site at any one time with a staff presence 24 hours a day, 7 days a week. It is proposed that therapy would run all week from 9.00am until 4.00pm and also on Saturday morning.
- Clients will not use their own private vehicles whilst at the facility; instead there will be a mini-bus available for arranged trips. Vehicle movements will be limited to staff, visits from external professionals and (by appointment) occasional visits from family.
- The proposed facility will require registration with the Care Quality Commission, which will provide continuing statutory oversight.
- The building is of a size suitable for registration by the Commission for 10 adults recovering from alcohol dependency. This would represent less usage of the building than when a care home for 14 older people and likely to have less traffic movements/need for parking than either the elderly persons home or more recent childrens home.

4 Policy Context

National Planning Policy

PPS1 Delivering Sustainable Development
PPS3 Housing
PPG13 Transport

Regional Spatial Strategy for the North West of England (2008)

DP1-9 Spatial Principles
RDF1 Spatial Priorities
L1 Health, Sport, Recreation, Cultural & Educational Services Provision
L4 Regional Housing Provision
RT2 Managing Travel Demand
RT4 Management of the Highway Network
EM1 Environmental Assets

Rossendale District Local Plan (1995)

DS1 Urban Boundary
DC1 Development Criteria

Other Material Planning Considerations

4NW Draft Partial Review of the RSS
LCC Parking Standards
RBC Core Strategy
RBC Interim Housing Policy Statement (July 2008)

5. CONSULTATIONS

LCC(Highways)

No objections; a concern it raised in respect of Application 2009/306 has been addressed.

RBC Environmental Health

There are no comments / objections in relation to the above application.

6. REPRESENTATIONS

- 6.1 To accord with the General Development Procedure Order, a site notice was posted on 3/10/09 and 69 neighbouring properties were notified by letter on 5/10/09.

Letters have been received from 26 local residents, and a petition signed by 21 residents of Helmcroft Court, objecting to the application for the following reasons :

- **There are elderly people and children in the vicinity.**
- **The site has caused trouble in the past when used as children's home.**
- **The people using the facility will cause nuisance problems and disruption to neighbouring residents.**
- **Increased traffic generation and parking.**
- **Insufficient outdoor space within the site.**

- **Increased noise and disturbance.**
- **The proposal will have a cumulative impact on all residents.**
- **Existing parking and traffic problems in surrounding area.**
- **Inappropriate location to site facility close to elderly, children and public house.**
- **Affect on council tax banding.**
- **Fear of crime rate and reduced safety.**
- **Internal and external layout is inadequate for proposed number of occupants.**
- **Increased noise disturbance through the day and night.**
- **Inadequate privacy for residents.**
- **Loss of privacy to adjacent dwellings.**
- **Inadequate access for emergency services.**
- **Other more suitable properties.**
- **Impact on the community.**
- **Facility would attract unwanted persons.**
- **Access and parking problems.**
- **Dean Road is a residential street used by children to play.**

7 ASSESSMENT

7.1 The lawful use of the building (by virtue of Planning Permission 2002/99) is as a childrens home, which falls within the definition of the T&CP (Use Classes) Order of being a Class C2 Residential Institution, as too does the previous use of the building as an elderly persons home.

7.2 The Applicant wishes to use the building as a care home for people recovering from addiction to alcohol. This too is a use which falls within the definition of a Class C2 Residential Institution. Ordinarily to change the use of premises from one use to another use within the same Use Class does not require submission of an application for planning permission.

7.3 However, permission needs to be obtained in this instance as Condition 2 of Planning Permission 2002/99 states that, notwithstanding the Use Classes Order, the use then being permitted was restricted to that as a childrens' home for no more than 8; the reason given for this condition restricting the nature of the residential institution and the intensity of use refers to residential amenity and highway safety.

Principle of Development

7.4 In the adopted Local Plan the application site lies within the Urban Boundary of Haslingden and is reasonably accessible by public transport. To this extent the proposal accords with Policy DS1 of the Rossendale District Local Plan.

7.5 Given that the principle of the use of the site as a residential care facility is long established, and the surrounding area is residential in character, it is considered that the continued use of the site as a Class C2 residential institution is acceptable in principle.

7.6 How the intensification of the use, and operation of the site, will impact on residential amenity and highway safety are dealt with below.

Housing Policy

7.7 In accordance with Government guidance on housing policy (contained in PPS3), the policies of the Regional Spatial Strategy seek to ensure not only an adequate number of housing units but also provision for all members of the community, including specialist and affordable housing.

7.8 Policy L1 of the Regional Spatial Strategy seeks to ensure the provision of community facilities for all members of the community for locally based community health facilities. However, in doing so proposals and schemes must take account of the views of local communities. In promoting sustainable communities Policy DP2 seeks to ensure community cohesion, equality, be sensitive to the environment and provide a high quality of life.

7.9 The Council's Interim Housing Policy Statement (July 2008) amplifies upon the housing policies of PPS3, the Regional Spatial Strategy and the Council's LDF Core Strategy. It does not preclude residential development within the Urban Boundary of Haslingden, it being considered a Main Development Location. However, it seeks to ensure that proposals for residential development in this location are assessed against the following criteria:

1. It uses existing buildings/previously developed land or is for replacement dwelling(s); and
2. It makes an essential contribution to the supply of affordable housing; and
3. It is built at a density between 30 and 50 dwellings per hectare; or
4. It is a proposal for solely affordable and/or special needs housing.

It is appropriate to consider the application site in relation to these criteria:

1. The proposal relates to change of use of an existing building.
2. The IHPS indicates that affordable housing will not be required of schemes creating less than 15 dwelling units.
3. It is considered that the proposal would be of appropriate density.
4. The proposal is solely for special needs housing and I have no reason to doubt that there is a need for it.

7.10 It is therefore considered that the application conforms to and is acceptable in terms of the Interim Housing Policy Statement (July 2008).

Neighbour Amenity

7.11 It is noted that a significant number of the concerns from neighbouring residents relates to the perception of harm and fear of safety, noise and disturbance emanating from the use of the site and nature of residents.

7.12 With regard to whether the public fear of harm is a material consideration, it is noted that Paragraph 92 of Circular 11/95 states that the identity of occupiers of a property is irrelevant to planning control and strongly militates against

refusals based on fears that the new residents would indulge in illegal or disorderly activities.

- 7.13 However, the *West Midlands Probation Committee v SOS and Walsall Metropolitan Borough Council* (1998) case specifically dealt with the public's fear of crime linked to the operation of a bail hostel. In this case sufficient evidence was provided to support the fear of increased disturbance and criminal activity likely to result and the Inspector defined the test for the materiality as *"such harmful effects would be capable of being a material consideration provided, of course that there were reasonable grounds for entertaining them; unsubstantial fears – even keenly felt - would not warrant such a consideration, in my view"*.
- 7.14 *The distinction needs to be drawn between a 'fear' that may not be realised and a 'fear' with a strong likelihood that it will occur or is occurring.*
- 7.15 In this case no detailed evidence has been submitted to indicate that residential homes for those with alcohol dependency result in significant levels of crime, disorder, noise and disturbance. The facility would be limited in size and to those with alcohol dependency alone, and not those being housed directly as a result of criminal behaviour or drug dependency. Furthermore, the residents would have already undergone detoxification programme before choosing to undergo the second stage of rehabilitation. In addition the management of the facility and its staff would have to accord with the standards, and legislation regulated by the Care Quality Commission. Therefore, it is not considered in this case that the public fear of crime and disorder is sufficient to warrant refusal of the application.
- 7.16 With respect to other matters raised by neighbours, it is noted that there would be no external alterations to the building or site (other than removal of a length of low wall bounding the un-adopted road to the east side).
- 7.17 The site is surrounded on all sides by residential properties of differing forms and scale with varying types of households including the elderly and families of all ages. The site is 5 metres from the sheltered apartments at Helmcroft Court; 8 metres from the front of the dwelling at the Bungalow, Dean Road to the north; 7.5 metres from the side of no. 26 Dean Road to the east; and between 12 – 15 metres from the front of residential properties along the south side of Dean Road.
- 7.18 It is noted that from the letters received from neighbouring residents the care home for 8 children resulted in a number of incidents causing disturbance to neighbouring residents.
- 7.19 With regard to the provision of outdoor space for the use of residents, it is noted that the property has a relatively small area of garden in the north-west corner of the site, and a narrow grassed strip along the frontage to Dean Road. It is noted that the area to the front of the site is currently heavily enclosed by mature trees and hedgerows, and that the area to the rear of the site is reasonably well screened, but only between 5 and 8 metres from first floor windows at the adjacent Sheltered Housing building Helmcroft Court.

- 7.20 The proposal involves an intensification of use, with up to 10 residents, but adults are less likely to create noise than children when in the garden and less pedestrian/traffic movements may ensue, with less likelihood of competition with existing residents for on-street parking.

Access/Parking

- 7.21 The proposal will not add significantly to the traffic using the local road network, accords with the approved Parking Standards and the Highway Authority has raised no objection.
- 7.22 The proposed parking layout shows 5 parking spaces to be provided where there is presently an area of hardstanding but, in order that the spaces can be accessed independently of each other, part of the low boundary wall along the east boundary of the site is to be removed. This arrangement is not considered likely to result in unacceptable harm or danger for other users of the un-adopted road.

8. SUMMARY REASON FOR APPROVAL

- 8.1 The proposed development is appropriate in principle within the Urban Boundary and, subject to the conditions, would not unduly affect visual and neighbour amenity or highway safety. Therefore, it is considered that the proposed development is in accordance with PPS1 / PPS3 / PPG13, Policies DP1-9 / RDF1 / L1 / L4 / RT2 / RT4 EM1 of the Regional Spatial Strategy, and Policies DS1 / DC1 of the Rossendale District Local Plan.

9. RECOMMENDATION

- 9.1 That permission be granted subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.
1. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or any order amending, revoking or re-enacting that Order, the building which is subject of this permission shall be used solely for the purposes of a residential home for the care of up to 10 people affected by alcohol dependency NOT general drug dependencies, and shall not be used for any other purpose including any other use contained within use class C2 of the above mentioned Order.
Reason: To accord with the Planning Statement accompanying the application and in the interests of residential amenity and highway safety, in accordance with Policy DC1 of the Rossendale District Local Plan.
2. Before the use of the premises hereby permitted is first commenced, the car park and vehicle manoeuvring areas shall be hard-surfaced or paved, drained

and marked out all in accordance with the approved plan. The car park and vehicle manoeuvring areas shall not thereafter be used for any purpose other than the parking of and manoeuvring of vehicles.

Reason: To ensure adequate on site provision of car parking and manoeuvring areas, in accordance with Policy DC1 of the Rossendale District Local Plan.

3. Notwithstanding the details shown on the approved drawings, prior to first use of the building as hereby permitted full details shall be submitted to and approved in writing by the Local Planning Authority in respect of boundary treatment. The scheme shall indicate the existing fences/ walls/ gates/ trees/ shrubs on the site boundaries to be retained and those to be provided.

Reason: In the interests of visual and neighbor amenity and highway safety, in accordance with DC1 of the Rossendale District Local Plan.

4. All existing fences/walls/gates/trees/shrubs to be retained as part of the approved scheme of boundary treatment shall be retained. All fences/walls/ gates to be provided as part of the approved scheme of boundary treatment shall be provided prior to first use of the building as hereby permitted and thereafter retained, and all new planting to be provided as part of the approved scheme of boundary treatment shall be provided in the first planting season thereafter. Any trees or plants in the approved scheme of boundary treatment which within a period of 5 years from the date of first use of the building as hereby permitted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual and neighbor amenity and highway safety, in accordance with DC1 of the Rossendale District Local Plan.

5. Any construction works associated with the development hereby approved shall not take place except between the hours of 7:00 am and 7:00 pm Monday to Friday and 8:00 am and 1:00 pm on Saturdays. No construction shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays.

Reason: To safeguard the amenities of neighbours, in accordance with Policy DC1 of the Rossendale District Local Plan.

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