



# Appeal Decision

Site visit made on 11 June 2010

by **Malcolm Rivett BA (Hons) MSc MRTPI**

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

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**Decision date:**  
**24 June 2010**

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## Appeal Ref: APP/B2355/A/10/2125594

### 2 Rising Bridge Road, Haslingden, Rossendale, BB4 5BL

- 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 Mrs S Mason against the decision of Rossendale Borough Council.
- The application Ref 2010/0052, dated 27 January 2010, was refused by notice dated 24 March 2010.
- The development proposed is change of use from a dwelling to a residential home (planning use C2) for up to and including 13 elderly residents as a home for the elderly and up to and including six children as a children's home.

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### Application for costs

1. An application for costs was made by Mrs S Mason against Rossendale Borough Council. This application is the subject of a separate Decision.

### Preliminary matters

2. Despite the description of the development set out above, the submitted information makes clear that permission is sought for either a home for the elderly or a children's home and I have determined the appeal on this basis.
3. I understand that the property lies in the Green Belt, although the Council does not contend that the reuse of the building (taking account of the parking provision and need for bin storage) would materially harm the openness of the Green Belt or that the scheme is inappropriate development as defined by *Planning Policy Guidance 2: Green Belts*. I have no reason to disagree.
4. A number of residents refer to fencing which has recently been erected at the site. This does not form part of the application I am considering.

### Decision

5. I allow the appeal, and grant planning permission for change of use from a dwelling to a residential home (planning use C2) for up to and including 13 elderly residents as a home for the elderly or up to and including six children as a children's home at 2 Rising Bridge Road, Haslingden, Rossendale, BB4 5BL in accordance with the terms of the application, Ref 2010/0052, dated 27 January 2010, subject to the conditions set out in the attached Schedule.
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## **Main issue**

6. The main issue of the appeal is the effect of the proposals on the living conditions of neighbouring residents, having particular regard to privacy and noise/disturbance.

## **Reasons**

7. From the back garden of the appeal property there are views, at a raised level, towards the rear windows of 4 Rising Bridge Road and also, at an angle, towards the courtyard of Glebe Cottages. There is also a more direct view towards the courtyard and some of the windows of Glebe Cottages from an upstairs corridor window of no 2. Use of the currently vacant appeal property would thus lead to some potential for overlooking of no 4 and the Glebe Cottages courtyard and a degree of loss of privacy for these dwellings' residents. Any noise made in no 2's garden (such as loud talking, shouting or the playing of games) would also be likely to be heard in the courtyard and neighbouring gardens or in the neighbouring properties themselves if their windows were open.
8. However, the property's currently permitted use is as a dwelling house and its reuse as such appears to me to be likely if this appeal were to be dismissed. Consequently, the key issue is whether a significantly greater level of disturbance and loss of privacy would be caused to the neighbouring residents by either of the proposed uses than by the property's use as a dwelling house.
9. The property is a large one and I agree with the appellant that, as a single dwelling house, it would be likely to be attractive to a large family, possibly with five or six children. In such circumstances use of the garden, and the potential for any disturbance and loss of privacy arising from it, would be likely to be the same as with the proposal for a residential home for up to six children; potentially more if the parents of the family also frequently used the garden for leisure and entertaining. Similarly, I consider that the potential for loss of privacy from the upstairs corridor window of the property would not be significantly greater with the children's home use than with its occupation by a large single family.
10. The Council argues that if friends of the children's home residents were to be invited to the property many more than six children could play in the garden and I accept that this would be likely to cause significant disturbance. However, it is to my mind unlikely that this would happen on a frequent basis (the home's residents would be just as likely to visit their friends' houses) and, in any case, such a situation could also occur with the property's occupation by a large single family.
11. Concerns are raised about the likely behaviour of a children's home's residents although I have seen nothing which convinces me that they are likely to be noisier or more badly behaved than any other children. Some neighbours state that the home would be for unruly children or ones with behavioural difficulties although I have read nothing to support this. Moreover, such children can and do live in traditional family dwellings. I have noted the details of the crime which a neighbour has attributed to a resident of an existing children's home. However, whilst unfortunate, this is one incident and I have seen no evidence

- which indicates that criminal behaviour by residents of children's homes in the area is a significant problem.
12. The Council indicates that it has no objections to the use of the property as a home for up to 13 elderly people. Although more than double the number of residents proposed for the children's home, having regard to the fact that they would be likely to make quieter use of the garden than children, I have no reason to disagree with the Council's stance. I am not persuaded the property's use as a home for the elderly would place an unacceptable burden on neighbours to look after its residents or result in any other significant harm.
  13. I therefore conclude that neither proposal would be likely to result in significantly more disturbance or loss of privacy for, and therefore harm to the living conditions of, neighbouring residents than the property's currently permitted use as a dwelling house. Thus, the proposals have no conflict with policy DC1 of the adopted *Rosendale District Local Plan* which indicates that development should not be detrimental to existing conditions in the surrounding area.
  14. Reference is made to the decision of an Inspector in relation to a previous appeal at the site concerning a proposal for unrestricted Class C2 care home use of the building. Whilst concluding that unrestricted use could lead to unacceptable loss of privacy and disturbance, he indicated that, having regard to the potential capacity of the property, many types of Class C2 use would not cause such problems. As set out above I have identified that a home for up to 13 elderly residents and a home for up to six children are such C2 uses.
  15. I am satisfied that the car parking arrangements are satisfactory and that neither proposal would be likely to result in any significant road safety/congestion problems. There is also adequate space to accommodate cycle parking and a bin storage area, both of which can be secured by condition. I have carefully considered all the matters raised in objection to the scheme, including the size of the property, drainage, light pollution, effects on property values, the presence of existing care homes in the area, the motives of the applicant, the possible implementation of the scheme by another organisation and the previous application and appeal. However, I have seen nothing which convinces me that permission for the proposals should not be granted. Nor, for the reasons set out above, am I persuaded that the proposals would result in violation of the Human Rights of any of the neighbouring residents.
  16. I recognise that a subsequent application could be made to increase the number of residents at the home although I am satisfied that the Council could successfully resist such a proposal if it were shown to be likely to cause demonstrable harm.
  17. For the above reasons I conclude that the appeal should be allowed. In addition to the standard implementation condition, a condition is necessary to define the plans with which the development shall accord for the avoidance of doubt. For the same reason, and to prevent harm to the living conditions of neighbouring residents, it is also necessary to define by condition the permitted uses of the property. Whilst I have noted the comments of the appellant I consider that conditions concerning parking provision, boundary treatments

and bin storage are also necessary to minimise on-street parking and highway safety problems and to ensure the satisfactory appearance of the front of the building. Whilst I recognise that the proposals are not inherently noisy uses the internal arrangements of the property and the use of rooms would be likely to differ from that of a traditional dwelling house. A condition concerning noise insulation is therefore required to protect the occupants of no 4 from unacceptable disturbance from within no 2, although I consider it impractical and unnecessary to insulate no 4 against noises generated outside the adjoining building. Any construction work taking place outside the hours listed in the condition suggested by the Council would be likely to cause unacceptable disturbance to neighbouring residents and thus this condition is also necessary.

*Malcolm Rivett*

INSPECTOR

## **Schedule**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Unless otherwise required by the conditions below, the development hereby permitted shall be implemented in accordance with the plans submitted with the planning application and appeal.
- 3) The premises shall be used as a home for the elderly for up to and including 13 elderly persons or as a children's home for up to and including six children 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 with or without modification).
- 4) The development hereby permitted shall not commence until details of a sound insulation scheme between 2 and 4 Rising Bridge Road have been submitted to, and approved in writing by, the Local Planning Authority. The acoustic assessment shall include measurements taken from within 4 Rising Bridge Road from noise sources within no 2 and shall ensure that noise levels within no 4 shall not exceed 39 dB(A) during night time hours. The approved scheme shall be implemented prior to first occupation of the development.
- 5) The development hereby permitted shall not commence until full details of the arrangements to be made for the parking and turning of vehicles and cycle parking provision within the curtilage of the site have been submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be implemented prior to first occupation of the development and thereafter retained for their intended purpose.
- 6) The development hereby permitted shall not commence until details of a suitably screened area making provision for the storage, prior to disposal, of refuse and other waste materials have been submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be implemented prior to first occupation of the development and shall thereafter be retained. There shall be no storage of refuse and/or other waste in areas of the site other than where approved.
- 7) The development hereby permitted shall not be occupied until full details of boundary treatments have been submitted to, and approved in writing by, the Local Planning Authority. The details shall indicate the existing fences, walls, gates, trees and shrubs on the site and boundary treatments to be retained and those to be provided. The approved details shall be implemented prior to first occupation of the development unless otherwise agreed in writing by the Local Planning Authority.
- 8) Any construction works associated with the development hereby permitted shall not take place except between the hours of 08:00 and 19:00 Mondays to Fridays and 08:00 and 13:00 on Saturdays. No construction works shall take place on Sundays or any Bank Holidays.