

APPLICATION NO	PA/2017/1963
APPLICANT	Mr Steve Deeks, Absolute Children's Services
DEVELOPMENT	Planning permission to retain change of use from dwellinghouse (C3) to children's home (C2)
LOCATION	The Old Barn, Owston Ferry Road, Low Burnham, Haxey DN9 1DB
PARISH	Haxey
WARD	Axholme South
CASE OFFICER	Andrew Willerton
SUMMARY RECOMMENDATION	Grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Objection by Haxey Parish Council Member 'call in' (Cllr David Rose – significant public interest)

POLICIES

National Planning Policy Framework: Paragraph 14 states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking. For decision taking, this means approving proposals that accord with the development plan without delay or where the development plan is absent, silent or out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the framework taken as a whole or where specific policies in the framework indicate development should be restricted.

Paragraph 19 states that significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 56 states that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.

Paragraph 58 states that development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Development should also respond to the local character and reflect the identity of local surroundings and materials and should be visually attractive and use appropriate landscaping.

Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 69 states the planning decisions should promote opportunities for meetings between members of the community who might not otherwise come into contact with each

other, create safe and accessible environments where crime and disorder do not undermine the quality of life or community cohesion and safe and accessible developments.

Paragraph 70 states that planning decisions should plan positively for the provision of local services to enhance the sustainability of communities and residential environments and ensure that an integrated approach is taken when considering the location of community facilities and services.

Paragraph 123 states that planning decisions mitigate and reduce to a minimum noise and other adverse impacts upon quality of life through the use of conditions whilst recognising that development will often create some noise.

Paragraph 129 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. This assessment should be taken into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 196 states that planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise and that the National Planning Policy Framework forms a material consideration.

Paragraph 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

North Lincolnshire Core Strategy:

CS1 – Spatial Strategy for North Lincolnshire

CS2 – Delivering More Sustainable Development

CS3 – Development Limits

CS5 – Delivering Quality Design in North Lincolnshire

CS6 – Historic Environment

CS22 – Community Facilities and Services

Housing and Employment Land Allocation DPD:

Inset Map for Low Burnham

North Lincolnshire Local Plan:

H16 – Nursing and Rest Homes

HE5 – Development affecting Listed Buildings

LC14 – Area of Historic Landscape Interest

T1 – Location of Development

T2 – Access to Development

DS1 – General Requirements

DS3 – Designing Out Crime

DS4 – Changes of Use in Residential Areas

Interim Planning Policy for Residential Care Homes/Institutions

CONSULTATIONS

Highways: Advises a condition to secure a formal car park management plan and subsequent implementation.

Drainage: No comments received.

Social Care: No comments received.

Conservation: Notes the Old Barn has historically been classed as being curtilage listed in association with the adjacent grade II listed Hall Farm. As no alterations are proposed to the barn regarding the change of use there is no negative impact on the character of the Old Barn or the setting of the adjacent listed building and has no objection to the proposal.

Historic Environment Record: Notes the proposal is within the Area of Historic Landscape Interest but does not consider the proposal would adversely affect the historic landscape character and has no objection.

Spatial Planning: No comments received.

Environmental Health: Notes that the proposal was dismissed at appeal on grounds of noise and disturbance from the car park; however, in the absence of evidence to support this, the department has no comments to make.

PARISH COUNCIL

Haxey Parish Council has been consulted and strongly objects to the proposal. The comments received from the parish council are as follows:

“This is a contentious application and while it is a planning application the law around such applications is confused and the welfare of the children we believe has to be considered. The hamlet of Low Burnham is isolated and has a largely elderly population. It has no provision for young people, has no shops or other facilities found in the larger villages and consequently the children have to be ferried to facilities or walk along the busy and recognised dangerous section of the A161. We agree with all the previous comments by local residents and in particular the summary of the points recently made by Mr Bowmer. Policing of the area is limited and remains over stretched, the fire service is part time and ambulances have to travel from Scunthorpe/Doncaster.

Anecdotal evidence indicates calls for service to the police and ambulance service is higher than would normally be found in properties within Low Burnham, placing increased pressure on limited resources. It also begs the question how it appears to get such a positive OFSTED rating when clearly the staff are requesting police services presumably

for the control of the children. It also brings into question why children or staff require emergency aid.

It is argued that Low Burnham is a quiet tranquil place and this is beneficial to the children's well-being; however, children, by their nature, are lively and volatile and these children are said to suffer from what is described as emotional behavioural difficulties, a somewhat bland description which could mean anything in terms of control problems and is likely to require far more than a tranquil environment in what is a predominantly residential area with no facilities other than a very limited bus service. It is our view that NLC interim planning policy for residential homes excludes hamlets such as Low Burnham for these very reasons and recognises the needs of vulnerable children. While this is not a material planning consideration, it does follow that it should be a planning consideration and the planning committee should follow the advice of its own council policy on residential care planning.

While parking is an issue we do not feel the solutions offered will be sufficient or enforceable to mitigate the problems to Hall Farm once granted. The car parking is designed for a capacity of 15 cars. By their own admission there are up to 10 trips to and from school and other educational facilities and other activities. A further 8 journeys to and from the site for careers managers and therapists. This could hardly be described as similar to a dwelling of comparable size. Moreover, it is clear that this amount of activity will mean a substantial movement of vehicles to and from the site and can only impact on the amenity of other properties. We are unaware of any impact assessment having been carried out; moreover, road traffic accidents involving staff from the house have been reported.

When considering all the arguments our view is that this application does not fulfil any identified local need as there are no local children or from the North Lincolnshire area being catered for; moreover, the location of such a facility in this location is completely inappropriate. Moreover, the inhabitants located in Low Burnham are from other local authorities and the operation is being run on a purely financial basis. We believe this is a material consideration under section CS1 and CS3 of the local plan."

PUBLICITY

The application has been advertised by site notice and within the local press for a period of not less than 21 days prior to the writing of this report. Three letters of objection have been received raising the following concerns:

- The site has been run without the correct licences and has had permissions refused previously by the Council.
- Low Burnham is not suitable for this type of use and lacks the facilities needed for the children which has been highlighted by local residents on previous applications and should be located in a settlement with key facilities and services.
- The applicant states that they desire for the children to integrate into the local community but no attempts have been made to do so. Questions were also raised in relation to the suitability of the Low Burnham demographic in terms of potential community integration.
- The A161 is a dangerous road for the children to walk alongside and cross in order to get to school.

- An accident has occurred involving a member of the applicant's staff when navigating a blind bend within Low Burnham.
- Noise and disturbance generated as a result of traffic and general activity of a C2 institution.
- Lack of sufficient buffer to Hall Croft House and the effects of noise, disturbance and loss of privacy.
- Negative affect of a change in character of the residential area.

ASSESSMENT

The application site is The Old Barn, Owston Ferry Road, Low Burnham. Planning permission is sought to retain the change of use from dwellinghouse (C3) to a children's home (C2).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the development plan consists of the North Lincolnshire Local Plan (NLLP) which was adopted in May 2003 and the North Lincolnshire Core Strategy (NLCS) which was adopted in June 2011. The Interim Planning Policy for Residential Care Homes/Institutions forms local guidance for the assessment of proposals for residential care homes/institutions. Material considerations exist in the form of national planning policy and guidance contained within the National Planning Policy Framework (NPPF) and the suite of documents comprising National Planning Practice Guidance (NPPG).

An application, under PA/2014/1094, was made in September 2014 to the Authority to determine whether the proposed use of the site was lawful falling within Class C3(b) of the Town and Country Planning (Use Classes) Order (1987) which was considered to not be lawful. This decision was subsequently appealed by the applicant and the appeal was dismissed by a Planning Inspector in October 2016 who deemed that material change of use had occurred at the site and that the activities being undertaken at the site fell under a C2 use and not C3(b). The Inspector does not determine the appropriateness of a C2 Residential Institution and concludes that planning permission is required but not granted.

PA/2016/1836 was submitted to the planning authority in November 2016 and sought permission to retain the change of use of the Old Barn to a C2 children's home. This application was refused by the local planning authority in March 2017 for the following reason:

"The retention of the facility, which is not located in the Scunthorpe and Bottesford urban area, Barton upon Humber or Brigg, represent an unsustainable use as it is not readily accessible to school or other local facilities. Furthermore, the proposal will have an adverse impact on the character of the area by the introduction of a commercial enterprise in an area which is predominantly residential in character and is considered to be detrimental to residential amenity through noise and disturbance. The proposal is therefore considered to be contrary to the provision of policies H16 and DS1 of the North Lincolnshire Local Plan. Policies CS1, CS2 and CS5 of the North Lincolnshire Core Strategy and guidance contained within the Interim Planning Policy for Residential Care Homes/Institutions".

The applicant appealed the decision made by the local planning authority under APP/Y2003/W/17/3175601. This appeal was dismissed by the appointed Inspector. The Inspector considered there were three main issues in relation to the determination of the appeal comprising the following:

- the effect on the living conditions of residents of adjacent properties and the wider area, with particular reference to noise, disturbance and odour
- the effect on the predominantly residential character of the area, and
- whether the site is in a sustainable location with regard to services and facilities.

The Inspector did not consider that the change of use of the dwelling to a children's home would harm the predominantly residential character of the area and found no conflict in this regard to NLLP policies H16 and DS1 or NLCS policies CS1, CS2 and CS5 or with the Interim Planning Policy for Residential Care Homes/Institutions.

The Inspector also did not consider that the proposal would represent an unsustainable use of the site due to the nature and scale of the development and the 'fallback' use of the site as a dwelling. The Inspector found no conflict with NLLP policies H16 and DS1 or NLCS policies CS1, CS2 and CS15 or with the Interim Planning Policy for Residential Care Homes/Institution in respect of the location of the development and access to services and facilities. The Inspector considered that the proposal complied with the NPPF in relation to delivering a sustainable pattern of development.

The Inspector did, however, find that the proposal would result in harm to living conditions of neighbouring properties. The Inspector highlights the issue as being the harm caused to residents of the adjacent Hall Farm in respect of noise and disturbance arising from vehicles movements and associated activity within the car park, particularly at night. It was stated that the proposal conflicted with NLLP policies H15 and DS1, NLCS policy CS5 and the advice within the Interim Planning Policy for Residential Care Homes/Institutions in this regard.

The Inspector concluded that the appeal be dismissed on the grounds that the proposal would harm the living conditions of residents of Hall Farm due to noise and disturbance arising from the car park. It is noted within the concluding remarks that although there are issues in relation to the wider area and the location of development, these would not count against the proposal and there were some benefits to the development. These were not sufficient to outweigh the harm identified.

The main issues with regard to the determination of this application are: whether the principle of development of a children's home is acceptable within Low Burnham with regard to sustainability; whether the proposal would be to the detriment of the predominantly residential character of the area, and; whether the change of use to a children's home would result in harm upon the living conditions to neighbouring properties.

Principle and sustainability

The application site is partly located within the development limit for Low Burnham as HELA DPD. The application site is within flood zone 1 as identified by the North

Lincolnshire Strategic Flood Risk Assessment and thus poses no concerns with regard to flood risk issues.

The building known as the 'Old Barn' is wholly sited within the limit whereas the associated outdoor space is not. Thus, the majority of the application site, outlined in red on the submitted plan, is outside of the development limit. However, there is in principle an element of sustainability to any proposed development in this location, given that the building is within the development limit and indeed that the settlement of Low Burnham has a development limit. It is, therefore, paramount to consider the level of facilities and amenities that Low Burnham offers with regard to the proposed use and the scale of the development proposed in order to assess whether the development is sustainable.

The North Lincolnshire Settlement survey ranks Low Burnham 67th out of the 79 settlements scored within the survey, these being settlements which have 20 dwellings or more. Low Burnham is classified as a smaller rural settlement and received a total settlement score of 9 as shown in the Settlement Survey Profile Table below:

Overall Settlement Hierarchy Position		67
Total Settlement Score		9
Key Facilities and Services (Max: 7)		1
Category (maximum available score)	Score	Hierarchy Position
Conveniences (18)	2	58
Community Services (22)	2	64
Health and Education (17)	0	-
Transport & Access to Employment (15)	5	21
Living Environment & Community Safety (6)	0	n/a
Tourism (3)	0	n/a

The Interim Planning Policy for Residential Care Homes/Institutions criterion a) requires that conversions of residential properties to residential care homes/institutions or the erection of new ones will only be permitted provided that they are located in sustainable locations with good access to key facilities such as shops, schools, health, leisure and other community facilities. This criterion points towards policies CS1, CS2, CS22 of the NLCS and H16 and T1 of the NLLP. These policies together set out the spatial strategy for North Lincolnshire which steer development to the most sustainable locations and indeed H16 specifically indicates that residential care home should be sited in the larger, more sustainable settlements of which Low Burnham is not.

The local planning authority has previously considered the proposal under PA/2016/1836. It was considered by the authority that that site was unsustainable for the development of a residential care home as it was not located within an urban area with access to key facilities and services. Objection has also been received from the local community and the parish

council on grounds the site is unsustainable as Low Burnham lacks the key facilities and services required for the children's welfare.

Within the subsequent appeal, the Inspector found that the proposal would represent a sustainable use of the site. The Inspector acknowledges the fact that there are limited facilities and services within Low Burnham. However, given the scale of operation and the 'fallback' use of the site as a dwelling, it was concluded that the proposal was a sustainable use of the site in this instance. On this basis, it is not considered that this proposal would constitute unsustainable development on the basis that a condition could be imposed to restrict the number of children resident at the site to four and to restrict alternative uses within the C2 use class.

Impact on residential character

Objection has been received on the grounds that the children's home as a commercial enterprise has a negative effect on the predominantly residential character of the area. The children's home has a land use class of C2 as a residential institution. The children's home operates within a broader 'C' residential land use class. The Inspector previously found that the proposal would not be out of character with the residential nature of Low Burnham subject to conditions to restrict the number of children resident at the site to four and to restrict alternative uses within the C2 use class. The Inspector noted that whilst coming and goings from the site are increased as a result of the material change of use from C3 dwellinghouse to C2 residential institution, these would not lead to a fundamental change in residential character of Low Burnham. It was considered that the parking area is well screened and the increase in the number of vehicles parked at the site will not be readily apparent. The effect of increased traffic through Low Burnham was not considered to be significant compared to general traffic movements. On this basis, it is not considered that the development would impact the predominant residential character of the area and is a compatible land use within it.

Impact on living conditions

The applicant, within the submitted planning statement, states that the children's home has a maximum of four children residing at the facility at any one time and that the children reside at the property for at least 18 months. It is stated that care is provided by resident carers who stay overnight at the property and non-resident carers. It is stated that the children's home does not operate like a standard residential institution but seeks to replicate a family unit where children and their carers live together and share facilities. It is stated that there are up to 10 trips from the property each day associated with the transportation of the children to educational facilities and other activities. In addition, a further 8 trips a day are carried out by carers, therapists and other management staff.

The Interim Planning Policy for Residential Care Homes/Institutions continues to discuss through other criteria to require: that satisfactory access, parking and servicing facilities are provided; that the development should be safe and accessible for all; that the development should not result in an adverse impact upon neighbouring residential properties through increased noise and disturbance or have an adverse effect upon the character of the area; and should not require substantial alteration or extension and be served by an appropriate level of amenity space. These matters form material considerations and are further required through other local planning policies within the NLCS and NLLP.

The shift pattern, as submitted with PA/2016/1836, illustrated that a minimum of two and a maximum of four staff stay overnight at the premises but in the majority of cases three staff stay overnight at any one time. Staff movements would occur at the beginning and end of shifts which are shown as being 8am, 11am, 3pm, 4pm, 11pm and midnight. Both the local planning authority and the Inspector in their decisions considered that the noise and disturbance generated by these movements would impact residential amenity.

The harm the Inspector found was in relation to the noise and disturbance from vehicular movements within the car park adjacent to Hall Farm. It was noted that there were upper floor windows overlooking the car park which were considered likely to serve bedrooms. The Inspector found harm as a result of the light night and early morning traffic movements as a result of staff changeover. The Inspector is clear in his report that this forms the reason for the dismissal of the appeal.

The Inspector considered whether proposed conditions would address this issue or whether an alternative staff shift pattern could be provided. It was noted, however, that no evidence was presented to the Inspector that the home could operate on an alternative shift pattern and it was not considered that the proposed conditions to control the intensity of the use would address this harm.

The applicant now proposes to amend the shift pattern so that there are no shift changeovers and associated vehicle movements late at night. The shift pattern now proposed results the earliest movement taking place at 8am and the latest at 9pm. It is also apparent that there will only be one member of staff arriving/leaving at these times. Furthermore, the applicant has stated that a car park management plan can be provided to ensure those staff arriving at 8am and departing at 9pm use car parking spaces away from the eastern boundary with Hall Farm. It is considered that the measures taken by the applicant to address the concerns found by the Inspector are sufficient and the proposal would not result in harm to living conditions provided these measures are secured by imposition of planning condition.

Objection has been received from other properties in relation to noise and disturbance from the facility in addition to odour and other amenity issues. The Inspector within the report did not find significant harm on living conditions as a result of these issues. On the basis that the harm identified by the Inspector on living conditions on Hall Farm has been addressed and conditions can be imposed to secure the measures to be taken, it is considered that the proposal would not adversely affect the living conditions of neighbouring properties.

Other matters

A number of objections have been raised concerning this matter and further concerns have been raised in relation to the level of parking at the site. Objection has been received that the number of vehicular movements taking place at the site are not comparable to that of a dwelling. This fact is not disputed and is the reason why an Inspector deemed previously that the development did not constitute a C3(b) use but was a C2 use.

The Highways team has been consulted and has not raised any objection to the proposal. The applicant has submitted a plan which demonstrates that the site can sufficiently accommodate the 15 vehicles. This level of car parking is considered to be more than sufficient with regard to the scale of children's home that this application seeks to regularise. The Highways team has recommended a condition to secure the submission of a formal car park management plan which is to include measures to be taken to ensure

staff and visitors to the facility park within the areas within the curtilage of the site and not on the public highway. Given the response by the Highways team it is considered that, whilst the development will result in an increase in traffic movements, the total number of movements per day is not considered to be significant and that this increase would be to the detriment of highway safety.

The Old Barn is adjacent to a listed building and is within an area of Historic Landscape Interest subject to NLLP policy LC14. The Historic Environment Record has been consulted and both the Conservation Officer and Archaeologist have been consulted and have raised no objections to the proposals. It is therefore considered that the proposed development will not adversely impact the setting of the adjacent listed building or the area of historic landscape interest. The Inspector, within his report did not disagree with this view.

A number of objections have questioned the credibility of the company given that it has placed children into the home without the appropriate planning consent. Such matters do not form material considerations for planning although it is noted that the company has submitted within the associated planning statement an Ofsted Report from June 2015 in which it was stated children's home provision was outstanding.

Objection has also been received on the grounds that the application is retrospective and has operated unauthorised for three years and has had numerous applications refused by the local planning authority and appeals dismissed by the planning inspectorate. The Town and Country Planning Act allows for retrospective applications to be made to regularise breaches in planning control. It is acknowledged that the site has had a challenging planning history and the applicant has taken steps to address the concerns raised by the planning authority and the planning inspectorate to regularise the situation. The fact that the application was previously refused is not a reason for refusal and consideration must be given towards the merits of the case that is presented in light of the previous reason for refusal.

Conclusion

On the basis of the Inspector's findings, it is considered that the proposal represents a sustainable use of the site, subject to the imposition of a condition to limit the number of children resident at the facility to four, and would not harm the predominantly residential character of the area. It is considered that the applicant has addressed the harm found by the Inspector previously through a change in staff shift pattern and alternative car parking arrangements. In conclusion, it is the recommendation of this report to grant planning permission subject to conditions.

RECOMMENDATION Grant permission subject to the following conditions:

1.

The development hereby permitted shall be retained in accordance with the following approved plans: PA/2017/1963/01

Reason

For the avoidance of doubt and in the interests of proper planning.

2.

The use hereby permitted shall be limited to that of a children's home whereby only four children are in residence at the facility at any one time and shall not be used for any other purposes within the C2 Use Class as defined by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2015.

Reason

To define the terms of the permission and the proposal is only justified as being acceptable with regard to the Interim Planning Policy for Residential Care Homes/Institutions, policy CS2 of the North Lincolnshire Core Strategy (2011) and saved policy H16 of the North Lincolnshire Local Plan (2003) on sustainability grounds on the basis of no more than four children being in residence at the facility and to prevent the uncontrolled expansion of the children's home or change to any other C2 Residential Institutional use without the prior assessment of its associated impacts by the local planning authority.

3.

Within three months of the grant of permission, a formal car park management plan shall be submitted for approval in writing by the local planning authority. The plan shall demonstrate:

- how all staff and visitors will be catered for within the curtilage of the site;
- measures to be taken to ensure staff arriving at the facility at 8am and departing at 9pm use parking spaces away from the boundary with Hall Farm.

Once approved, the car park management plan shall be implemented in accordance with the approved details and the vehicle parking facilities within it shall be retained thereafter.

Reason

To ensure that the development is served by an acceptable level of parking in accordance with saved policy T19 of the North Lincolnshire Local Plan (2003) and does not result in an adverse effect upon the living conditions of neighbouring properties in accordance with policy CS5 of the North Lincolnshire Core Strategy and policies H16 and DS1 of the North Lincolnshire Local Plan.

4.

The children's home facility shall at all times be operated strictly in accordance with the approved staff shift pattern as described within Appendix 6 of the submitted Planning Statement unless the express written consent of the local planning authority has been given for variation in an exceptional circumstance.

Reason

To ensure that the development does not result in an adverse effect on residential amenity afforded to neighbouring properties by virtue of staff vehicular movements at and within the site in accordance with policy CS5 of the North Lincolnshire Core Strategy and policies H16 and DS1 of the North Lincolnshire Local Plan.

Informative

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

