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Planning Appeal Statement

87B and 87C High Street

Barwell

LE9 8DS

Prepared for Vexford Homes Limited

August 2024

Philip M Coyne MA MRTPI

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1. Background

- 1.1 This appeal relates to the refusal of Planning Application no 24/00476/FUL by Hinckley and Bosworth Borough Council. The application was in full, and sought consent for the conversion of two dwellinghouses Class C3 to a Childrens Care Home Class C2.
- 1.2 The application was submitted to the Council on the 14th May 2024 and validated on the same day. It was presented to the Planning Committee on the 30th July, having been 'called in' by an elected member.
- 1.3 The Officer Recommendation to the Planning Committee was for approval subject to conditions. However, the Committee refused the application unanimously.
- 1.4 A Decision Notice was issued by the Council on the 2nd August 2024 confirming the refusal. A copy of this Decision Notice along with the Officer Report to the Committee, is included with this appeal documentation.

2. The Site

- 2.1 The appeal site comprises two properties, a terrace and an end terrace constructed as part of a group of four properties in 2023. Both appeal properties are two storey and two bedroom. The combined floorspace of the properties is 668sqm.
- 2.2 The properties are within the identified settlement area of Barwell and within Barwell High Street Conservation Area. The surrounding area comprises a mix of two storey residential properties along with a variety of commercial and retail premises in the immediate vicinity and further along Barwell High Street.



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- 2.3 Whilst there are some parking restrictions, there is still a good amount of on street parking along Barwell High Street and the roads near to the application site. It is also served by the No 158 Bus Route which goes between Leicester City Centre and Nuneaton.

3. The Proposal

- 3.1 The proposal was supported by a Design Statement and a set of plans including elevations, proposed internal layouts and 3D Visuals. These are all included as part the appeal documentation but are included below for context.



4. Planning History

- 4.1 The only planning history relating to the site is the 2019 application which sought approval for the demolition of the buildings which previously occupied the site, and the construction of the four terraced properties of which the appeal site forms part. This can be found under reference 19/00049/FUL.

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5. Planning Policy

- 5.1 The Officers report highlighted to the Committee the areas which from a professional perspective were appropriate policy considerations. These were:

Core Strategy 2009 Development in Barwell (para 7.1)

Site Allocations and Development Management Policies DPD 2016

(para 7.2)

Policy DM1: Presumption in Favour of Sustainable Development

Policy DM7: Preventing Pollution and Flooding

Policy DM10: Development and Design

Policy DM11: Protecting and Enhancing the Historic Environment

Policy DM12: Heritage Assets

Policy DM13: Preserving the Borough's Archaeology

Policy DM17: Highways and Transportation

Policy DM18: Vehicle Parking Standards

Earl Shilton and Barwell AAP 2006-26 (para 7.3)

Policy 22: Development and Design

National Planning Policy and Guidance (para 7.4)

National Planning Policy Framework (Dec 2020)

Planning Practice Guidance (2020)

National Design Guide (2019)

Other Relevant Guidance (para 7.5)

Barwell High Street Conservation Appraisal (2010)

Good Design Guide (2020)

Leicestershire Highway Design Guide (2022)

Technical Housing Standards -Nationally Described Space Standards (2015)

- 5.2 In the context of the policy areas above, the Officer Report goes on to confirm that the 'key issues of the application are:

Principle of Development. Which having assessed the relevant policy base in para's 8.1 - 8.5 advises the Committee at para 8.5 that *'the development is acceptable in principle, subject to the assessment of all other material consideration'*.

Design and Impact Upon the Character of the Area and the Historic Environment. Which provides a narrative of the relevant policy base at paras 8.6 -8.8 and goes onto advise the Committee. Para 8.9 *'it is not considered that the change of use of two residential properties to one residential institution of the same capacity is likely to result in any significant adverse impacts to the character of the surrounding area'*. It concludes at para 8.10 that *'There are no external changes proposed to 87B and 87C High Street, Barwell. Therefore, the development is considered to have a neutral impact upon the character of the area and the Barwell High Street Conservation Area, which subsequently preserves its character, appearance, and thus significance. Given the above, the development complies with Policies DM10, DM11, and DM12 of the SADMP'*.

Impact upon Residential Amenity. This section again takes members through the relevant policy base and confirms that because there are no physical works proposed to the exterior of the properties *'the development does not increase any potential impacts of overlooking, loss of light, loss of privacy, or any overbearing impacts to neighbouring residential properties'*. (para 8.13). The section goes on to advise members that the likely occupation of the properties will be no greater than if they were in conventional residential use under Class C3 and that the children would only leave the premises under adult supervision.

- 5.3 Paras 8.18 and 8.19 advise the Committee that whilst the outdoor amenity space for the two properties is less than that detailed in the good design guide, this had already been agreed via planning application 19/00049/FUL and notes the sites proximity (500m) to Boston Park. Para 8.19 concludes that *'the under provision in private outdoor amenity space is not considered to result in a significant adverse impact to the residential amenity of the future occupants of the scheme in these site-specific circumstances.* And para 8.20 goes on to confirm to the Committee that *' the proposal is not considered to result in any significant adverse impacts to the residential amenity of neighbouring residents, nor the future occupiers of the scheme in accordance with Policy DM10 of the SADMP and Policy 22 of the ESBAAP'*.

Impact upon Parking Provision and Highway Safety. Para's 8.21 -8.23 of the Officer Report provide the committee with an overview of highways policy and at para 8.23 confirms that the access arrangements agreed as part of planning application 19/00049/FUL had been confirmed by the Local Highway Authority (LHA) to be adequate for the proposed change of use. Para 8.25 advises that the LHA consider that according to policy (Leicestershire Highway Design Guide) the development requires one additional parking space (two are provided). However, para 8.26 confirms that *'in light of the existing approved use of the site, the nature of the proposed development, and the existing parking restrictions on High Street, the LHA do not consider the shortage of one parking space to lead to an increase in indiscriminate parking in the vicinity of the site in these specific circumstances.* In concluding this section,

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para 8.27 confirms to the Committee that '*By virtue of these factors, the proposal does not create an unacceptable impact on highway safety or the road network in accordance with Policies DM17 and DM18 of the SADMP, and the LHDG*'.

6. The Decision

- 6.1 It was clear at the Committee that views had been formed before the meeting commenced and that the decision was to a large degree pre-determined. Indeed, the first speaker opened the debate with a description of a Children's Care Home in his own ward which he described as a 'nightmare' as a result of parking issues.
- 6.2 The second speaker moved that the application be refused on the basis of insufficient amenity space and parking, and again cited a similar facility of which he was aware, at which the levels of support required by the occupants gave rise more parking than had been envisaged.
- 6.3 A third speaker made reference to the 'sort of children' who would occupy the facility, implying that 'behavioural issues' would result in higher care needs and closed his commentary with the view that there 'should be good planning reasons' to refuse the application.
- 6.4 Further speakers went on to highlight concerns around amenity space and car parking, and whilst a discrepancy was highlighted in the staffing numbers between the application and the presentation on the evening, the appellants agent, who was seated at the table, was offered no opportunity to clarify this for the Committee. The agents 'script' for the meeting is included within the documents accompanying this appeal.
- 6.5 At the close of the debate, and despite suggestions from officers that 1, the application could be conditioned to remove garden fencing between the two properties to maximise amenity space and 2, that in the context of concerns around parking the application site was in a sustainable location and within a 100m of bus stops, the Committee voted unanimously to refuse the application.
- 6.6 The Reasons for Refusal, as they appear in the Decision Notices issued by the Council on the 2nd August 2024, are set out below.:

- 1. The development would fail to provide sufficient parking provision for the scheme. The Applicant stated at the Planning Committee on Tuesday 30 July 2024 that the proposal would involve four members of staff on duty during the day, which would detrimentally intensify the demand for on-street parking in the area and result in indiscriminate parking issues in the vicinity of the site. This would in turn increase the risk of people parking in spaces that are not appropriate and would increase vehicle movements seeking to find parking spaces in an area where demand for parking already exceeds the supply. Consequently, these effects would harm the proper functioning of the highway and would increase the risk of pedestrian and vehicle collisions in the area, therefore harming highway safety. Therefore, the proposal is contrary to, and in conflict with, Policy DM18 of the adopted Site Allocations and

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Development Management Policies Development Plan Document (2016), and the National Planning Policy Framework (December 2023) that seeks to create places that are safe, inclusive, and accessible, and which promote health and well-being, with a high standard of amenity.

2. The proposal would result in significant adverse impacts to the residential amenity of the future occupants of the scheme as a result of insufficient private outdoor amenity space. Therefore, the scheme is contrary to, and in conflict with, Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), the Good Design Guide (2020), and the National Planning Policy Framework (December 2023), which seeks to create places

7. The Appeal case

- 7.1 It is the appellants contention that rather than being based on sound planning policy reasons, the refusal of application 24/00476/FUL was pre-determined and based on a lack of understanding in relation to care facilities and an amount of prejudice which it is sadly not uncommon for these applications to receive.
- 7.2 The Officers report provided the Planning Committee with an objective professional assessment of the application balanced against the Council's own planning policies and national planning policies, which they chose to ignore and refused the application.
- 7.3 Moreover, at the Committee, the lead officer attempted to temper the Committee's views with discussion around potential conditioning to deal with amenity space, and suggestions that parking issues might be helped by the sustainability of the location and the availability of public transport facilities. The Committee however, appeared to be of a single mind in not wishing to entertain such a discussion.
- 7.4 In terms of the issues around amenity space, the Officers Report (para 8.19) is clear that the Council accepted the slight under-provision when it granted the original consent under Planning Application 19/00049/FUL and reminds members of the proximity of the site to Boston Park. In presenting the report to the Committee, the lead officer advised members that the proposed occupancy of the premises was not necessarily any greater than it might be if occupied by a family. This fact was reiterated by the appellants agent, who also reminded the Committee that a couple could move into the property(ies) and foster children from the same cohort as those to whom the proposed facility would provide care.
- 7.5 The agent for the appellant also advised the Committee that the children who would reside at the proposed care home would almost without exception, fall into the category of vulnerable, and would under no circumstances leave the premises without adult supervision. Further in the view of the applicant, the properties proposed for conversion were ideal for the proposed use because of their proximity to local shops and other services, as well as public transport and safe pedestrian facilities.

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- 7.6 The appellants view therefore is that in addition to going against the professional recommendation of the Officer, the Committee's decision to refuse the application on the grounds of amenity space and under cover of an alleged conflict with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), the Good Design Guide (2020), and the National Planning Policy Framework (December 2023) is invalid. This is because the level of amenity space provision was sanctioned by the Council under Planning Application 19/00049/FUL. It was this application which balanced the size of the properties against the provision of amenity space, and this matter should now be immaterial to the proposed change of use – which will not change the potential maximum occupancy levels as they would have been in 2019.
- 7.7 On the issue of car parking there was, as stated earlier herein, a discrepancy between the staff number stated at application stage (2 in the day, 1 at night) and that suggested by the applicant's agent at the Committee (4 in the day, 2 at night). Had the applicant's agent been provided with opportunity to comment on this discrepancy, it was effectively a result of using likely minima and likely maxima. It is difficult to establish precise staffing levels at care facilities for children as these are dictated by the specific needs of the occupants at any point in time.
- 7.8 The fact that the Committee effectively 'seized upon' the staffing issue to justify the refusal of the application on parking grounds was as a result some of the very emotive testimony from members of the Committee during the initial debate about their experiences around other care facilities. However, these examples were without context and car parking is ultimately a matter for the Local Highway Authority to determine.
- 7.9 In this case, para 8.29 of the Officer Report confirms that the '*LHA do not consider the shortage of one parking space to lead to an increase in indiscriminate parking in the vicinity of the site in these specific circumstances*'. Notwithstanding the discrepancy in the staffing number, the Officer Report (para 8.5) confirms that the site is in a sustainable location, the Local Highway Authority (para 8.26 Officer Report) is happy that existing parking restrictions on High Street will help to manage indiscriminate parking and the lead officer at the Committee reminded members of both the sustainable location that the site occupies and its proximity to public transport.
- 7.10 The Reason for Refusal as it appears on the decision notice in relation to parking cites directly the four staff members that would be on duty during the day as the basis for refusal. As previously stated, there was no opportunity afforded for clarification of this on the evening, but the reality is that there is parking available elsewhere on High Street and in the surrounding area (within 5 minutes' walk). There is also public transport available, and the Committee could very easily have approved the application with a condition that a travel plan be provided before occupation.
- 7.11 The Reason for Refusal cites 'conflict with, Policy DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and the National Planning Policy Framework (December 2023) that seeks to create places that are safe, inclusive, and accessible, and which promote health and well-being, with a high standard of amenity' This reasoning is based on a notional number of four staff members. However, in all practical terms, if the houses in question, which were granted consent under Planning Application 19/00049/FUL, were

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each occupied by the 'nuclear family' there would in all likelihood be 4 cars plus visitors, and equally, the properties could each be occupied by two 'couple's, with scope for 8 cars plus visitors.

- 7.12 It is therefore the appellants contention that the citation of car parking as reason for refusal to this application is wrong, in the context of both the site location and the principles around occupancy and potential car ownership which were effectively agreed under the 2109 planning consent. The appellant believes that the issue of car parking was sensationalised in the debate at the Committee by the use of analogies from elsewhere which may not have been either appropriate or similar in circumstance. It is therefore the appellants view that this reason for refusal is based on a biased view toward the proposed use of the properties, rather than any tangible evidence that car parking issues would be any different to a number of scenarios under which the properties could be occupied that would be within cover of the 2019 planning approval.

8. Conclusion

- 8.1 Based on the summary provided above and the further detail which is available to the Inspector in the documents which support this appeal, the appellant believes there is a compelling case that the Planning Committee, and thus the Planning Authority, has failed in its presumption in favour of sustainable development, which lies at the Heart of the National Planning Policy Framework.
- 8.2 In addition to acting against the advice of its own professional officers in veering from the Council's own planning policies, it is the appellants view that the Planning Committee also failed in its duties under certain other sections of the National Planning Policy Framework, namely :
- 8.3 Paragraph 8(b), which deals with the NPPF's social objective and advocates the support of strong, vibrant and healthy communities by ensuring that a range of homes can be provided to meet the needs of present and future generations, and,
- 8.4 Paragraph 63, which deals with ensuring the size, type and tenure of housing needed for different groups and specifically includes housing with care and care homes.
- 8.5 In addition to the Planning Committee having failed in regard to its existing planning policy, the appellant believes that the proposal was equally in keeping with important strands of the authorities emerging Local Plan. We would point, inter-alia, to Draft Policy SS01 which deals with sustainable development, Draft Policy PMD07 which encourages developments which promote positive health and well-being and protect people from harm and Draft Policy TDC01 which encourages development that attracts residents to live in centres.
- 8.6 Having, we believe, demonstrated above that the Planning Committee has failed in its adherence to both its own and national planning policy on this occasion, we would close with reference to the Councils wider commitment in its Corporate Plan 2024-2028. In its 'People' section, the Corporate Plan commits to *' help people to stay healthy, happy and active and continue to provide initiatives that support children and young people, older people and our vulnerable residents'.*

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9. Costs

- 9.1 In light of what the applicant believes to be a failure on the part of the Planning Committee on this occasion, we would wish to reserve the right to seek costs for the fees relating to this appeal.

Appendices

Appeal Statement

Planning Application Form

Location and Block Plan

Plans (Existing)

Plans (Proposed)

Design and Access Statement

Decision Notice

Officer Report

Interim Letter from Agent

Agent Script for Committee