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APP/K2420/W/24/3350799

87B and 87C High Street Barwell

Planning Appeal by Mr Hussein Essajee

Appellant Response to Local Planning Authority Written Statement of Case

28th October 2024

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1. Introduction

- 1.1 This response is not meant to repeat the appellant's original appeal statement, but rather, to respond to particular matters raised in the Local Planning Authority's Written Statement, and where appropriate provide context.
- 1.2 In this respect, the response is prepared on a 'subject' basis and where possible 'cross refers' to the Council's written statement and other appropriate documents pertaining to this appeal.

2. Staffing Levels

- 2.1 The Council's statement refers to staffing levels at a number of points, principally in the context of parking provision. At para 2.5, the statement acknowledges that the appeal documents 'make clear that staffing levels of the proposal shall depend on the needs of the service users'. However, at para 6.12, the Council's statement goes on to suggest that the appellant has 'deliberately misinformed the LHA and the LPA prior to the schemes determination at Planning Committee'.
- 2.2 The appellant is deeply disappointed by this suggestion. Para 7.7 of the appellant's statement does indeed confirm that staffing levels would be dependent upon the specific needs of children living at the care home, and also deals with the discrepancy in numbers between the figure given at the Planning Committee and that used in the original application, in terms of the fact these were likely minima and maxima.
- 2.3 In para 6.12, the Council also seek to suggest that the inclusion of the appellant's draft speech to the Planning Committee within the appeal documents is evidence that this attempt to mislead 'was not in error'. However, had the appellant actually wished to mislead the council, the draft speech could have been either altered or excluded from the appeal pack, and the discrepancy attributed to error. Therefore, the appellant would argue that the council is seeking to misrepresent transparency as some form of duplicity.

3. Parking

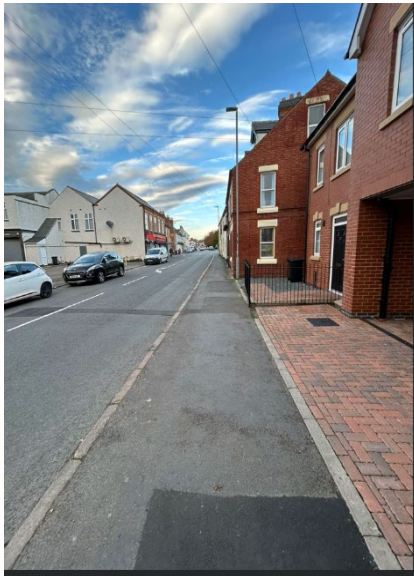
- 3.1 The Council's statement deals with the issue of parking principally in paras 6.6 to 6.20 and relies heavily upon parking standards published by the Local Highway Authority. However, as part of the original planning application (letter dated 11th June 2024) the Highway Authority stated that due to a combination of local factors it was not concerned about a shortage of 1 parking space against



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published standards. This is further confirmed at para 8.26 of the Officer Report relating to the original application.

- 3.2 However, whilst para 6.9 of the Council's statement refers to a Highway Authority response to the appeal process, it is actually referencing again the 11th June response. Moreover, we can find no updated response from the Highway Authority in relation to the appeal process - so it would appear that it has either not been consulted on, or not responded to the appeal. The Council is therefore assuming a Highway Authority position, when the Highway Authority has previously agreed that it was willing to relax its guidance due to local circumstances.
- 3.3 Additionally, and notwithstanding the position as suggested as part of the Council's statement and supporting photographs, the appellant is familiar with the area around the appeal site on a day to day basis and maintains from this experience, that there is generally good availability of on-street parking. In this context, we attach below our own pictorial evidence which was taken on the afternoon of Friday 18th October 2024 in the immediate vicinity of the appeal site.



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- 3.4 The Inspector will wish to confirm the availability or otherwise of on-street parking as part of a site visit, and we would respectfully suggest that this be considered not just in the context of High Street, but also the availability of space in nearby 'side roads' such as Church Street and Blackburn Road. (Image of Church Street taken from Google Maps 15.59pm 28/10/2024).



- 3.5 Finally, on the issue of parking, the appellant would refer again to para 7.11 in their appeal statement, which makes the point under the provisions of Planning Application No 19/00049/FUL, were each of the properties in question to be occupied by a 'nuclear family' there would in likelihood be 4 cars plus visitors. Equally, the properties could each be occupied by 2 couples, which would potentially generate 8 cars plus visitors, or indeed a family with adult children.

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4. Private Outdoor Amenity Space

- 4.1 This issue is dealt with in paras 6.25 to 6.34 of the Council's statement, and para 6.30 confirms that the properties were granted planning consent in 2019 (19/00049/FUL) with a recognised shortfall in amenity space, and that as part of application 24/00476/FUL (which recommended approval), members were reminded that the appeal site is within 500m of a public park.
- 4.2 Paragraph 7.5 of the appeal statement confirmed that the children who would occupy the proposed care home would fall within the category of vulnerable and would under no circumstances leave the premises without adult supervision. However, paras 6.32 and 6.33 of the Council's statement seek to reinterpret this and to suggest that because of their vulnerability, the proximity of the public park does not apply to these children and is therefore immaterial.
- 4.3 The appellant disagrees strongly with the above suggestion by the Council. Para 7.4 of the original appeal statement points out that the lead officer at the Planning Committee reminded members of the fact that the under-provision in amenity space was accepted as part of the 2019 consent and of the proximity to the public park. The lead officer also reminded members that the proposed occupancy as per the care home proposal was not necessarily any greater than were it to be occupied by a family. In addition, the agent for the applicant pointed out that a couple/family could occupy the properties and foster children from precisely the same cohort as those who would occupy it as a care home.
- 4.4 The Council's statement fails to recognise the points above and assumes that any 'standard family' occupation of the premises would comprise only teenage children who might be able to use the park unsupervised, and that moreover, these teenage children would have no special needs of any sort.
- 4.5 Critically, the Council's approach here also fails to account for the fact that a major performance indicator around which such care homes are licenced, funded and assessed by both Ofsted and the Local Education Authority is the provision of 'experiences' such as visits to the park, shops etc – which are required to take place every second day.

5. The Committee Process

- 5.1 Paragraphs 6.4 and 6.5 of the Council's submission to the Inspector state, respectively, that:

Firstly, and importantly, contrary to the assertions of Paragraph 7.1 of the Appellant's Statement of Case, the decision to refuse planning application 24/00476/FUL was a matter of judgement, and Council Members, who have a greater understanding of local conditions

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and circumstances, are entitled not to accept the professional advice of Officers. Therefore, the refusal of this appeal proposal was not unreasonable.

Ultimately, Paragraph 134 of the NPPF states that, “Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.”

- 5.2 As set out in the appellant’s original statement (para’s 6.1 to 6.5), the appellant believed at that time, and continues to believe, that the refusal of this application was pre-determined, and that positions had been agreed before the commencement of the meeting.
- 5.3 Whilst the appellant does not dispute that Members have the latitude to apply judgement, the Committee paid absolutely no regard to the advice from professional officers either through the written report in front of them, or from the senior officer’s present on the evening.
- 5.4 Even before the Chair had opportunity to go ‘around the table’, the 2nd speaker moved to refuse the application and the debate was characterised by emotive analogies of such facilities elsewhere which were described as a ‘nightmare’, and terminology such as ‘sort of children’ which was clearly deployed to be derogatory, generalise and be alarmist.

6. Conclusion

- 6.1 The appellant would like to reiterate the fact that it is not uncommon for care home proposals to meet with this sort of prejudice at Committee stage. In this instance, the Committee’s stance appears to be based on a judgement not around planning reasons or local circumstance, but more around a combination of what Members perceive a care home should look like and a generalised view about the children who reside at these homes
- 6.2 The reality in the care sector, is that more modern care philosophies and methodologies have moved away from the large institutional type facility which is the common pre-conception in the minds of the general public. Instead, the sector now prefers settings which more closely resemble a family home type environment, but which also have all of the local facilities to allow children in the care of the home to experience all of the normal everyday things such as going to the park, shopping, going on public transport etc. It is for these reasons that the appellant feels that 87B and 87C High Street, offer great potential for the proposed conversion and for future occupants.

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- 6.3 The appellant believes that whilst the Council appears to have pre-determined the Highway Authority response to the appeal rather than reconsulting it, the Highway Authority has previously demonstrated pragmatism based on local circumstances. The appeal site is in a sustainable location, has access to public transport and, on a day-to-day basis, has a good level of on street parking availability within a reasonable walking distance. Moreover, it is clear that there are a number of very possible scenarios, under which the properties in question could be occupied within the parameters of the existing consent, but create more parking demand than the proposed care home.
- 6.4 Similarly to the parking issue, we believe that the issue of amenity space has been misrepresented by the Council in order to support retrospectively the views of the Planning Committee. The Council has previously agreed the slight under-provision of amenity space on the basis of proximity to a public park. It is entirely possible that were the two properties in question to be occupied as family accommodation, this would generate as many child occupants as is proposed at the care home. However, the Council now appears to be adopting a different set of standards for the care home proposal than was adopted when the properties were consented in 2019.
- 6.5 In summary therefore, it is the appellants contention that in presenting this proposal to the Planning Committee, the Case Officer considered the relevant planning policies and applied these with a level of pragmatism. Equally, the Highway Authority showed a level of pragmatism in considering its policies in the context of both the application site and local circumstances. However, following the manner in which the application was dealt with at the Planning Committee, the Council is now seeking to remove this pragmatism.

7. Conditions

- 7.1 The appellant confirms that were the Inspector to grant this appeal they are happy to accept the conditions set out in the Local Authority's Statement of Case.

