

COMMITTEE REPORT

Committee: East Area
Date: 7 February 2008

Ward: Derwent
Parish: Kexby Parish Council

Reference: 07/02732/FULM
Application at: Gateway To York Hotel Hull Road Kexby York YO41 5LD
For: Change of use from Hotel (Class C1) to care home for the elderly (Class C2)
By: Colin Marsh
Application Type: Full Application
Target Date: 18 February 2008

1.0 PROPOSAL

1.1 This is an application for the change of use of the Gateway to York hotel, a use falling within Class C1 of the Town and Country Planning (Use Classes) Order 1987, to a Class C2 use (Residential Institutions). The application is specifically for a residential care home/nursing home for the elderly and the applicant has indicated in the planning statement supporting the application that a restriction to a nursing/residential home could be applied if necessary.

1.2 The hotel is located on the north side of the A1079 York to Hull road at Kexby, immediately adjacent to the west of Kexby Bridge and the River Derwent. The River Derwent marks the boundary between the City of York Council administrative area and the East Riding of Yorkshire.

1.3 The application site extends to the north of the hotel up to the river bank with an overall site area of 3.2 ha, predominantly in the form of a parkland type landscape containing a large pond. The hotel developed as an expansion of the Norseman restaurant in 1987 with additional extensions in 1989 and 1991. A further permission for an extension was granted in 1999 and renewed in 2004 . This extension has not yet been built. The permission for the extension expires in June 2009.

1.4 The application is for a change of use only, with no alterations being proposed to the layout or external appearance of the buildings at this time. Internal alterations could be carried out without further planning permission being necessary should planning permission be granted. Any external alterations or alterations that materially affected the external appearance of the building would require a further planning application.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams East Area (1) 0003

Floodzone 2 Flood Zone 2 CONF

Floodzone 3 Flood Zone 3

Listed Buildings Grade 2; Stamford Bridge Viaduct, Kexby

2.2 Policies:

CYGB3

Reuse of buildings

CYH17

Residential institutions

3.0 CONSULTATIONS

3.1 INTERNAL

Highways Network Management

The site is well served by a direct access onto the A1079 and has ample facilities for the parking and turning of vehicles associated with its present use as a hotel although cycle storage is not apparent.

It is considered that overall traffic visiting the site will be likely to reduce as a consequence of its change of use from a hotel to a care home and consequently there are no highway objections to this application.

City Development

This proposal will be keeping in use a building within the Green Belt. This will avoid the building becoming damaged/derelict and therefore in this respect it complies with advice in Planning Policy Guidance Note 2. The planning statement submitted with the application also highlights that it is in conformity with policy GB3 (a - f) as there are no substantial alterations being proposed to the existing building. However the City Development Officer raises concerns regarding the proximity of the proposed care home in relation to local services. The applicant needs to demonstrate there are appropriate local services within 800m of the site. The Economic Development unit should also be consulted regarding the level of employment a care home would provide and whether this is appropriate

Environmental Protection

No objections

3.2 EXTERNAL

Parish Council

Having reviewed the application we have no objections in principle to the proposed change of use to a residential care home for the elderly, however, in order to safeguard the impact on the local community and manage the interaction with the extremely busy road running past the application site, we would ask the council to consider the attachment of a planning condition restricting the use of the building to that proposed by the applicant.

We understand that Government circular 11/95 makes provision for such eventualities and if model condition 48 were to be appropriately amended (to restrict use to a residential care home for the elderly) and attached to planning consent we would have no objection in principle to the proposed development. We understand

that the applicant has suggested that they would be happy with such a condition and as such see no reason why it should not be attached to planning consent.

3.3 Publicity

The application was advertised by means of a site notice displayed on the 27th November 2007. The notice expired on the 18th December 2007. Neighbour letters were also sent to the nearest residential properties. These notices expired on the 13 December 2007. No responses have been received. The application was advertised in The Press on the 28th November 2007.

4.0 APPRAISAL

Site history

4.1 The original building has been extended by virtue of planning permissions granted in 1989 and 1991. A further extension was granted permission in 1999 and renewed in June 2004. This extension, which proposes additional bedrooms, conferencing/wedding facilities and an additional 21 car parking spaces, remains extant but has not yet been implemented.

4.2 The key issues raised by this proposal are:-

- Policy background
- Residential amenity
- Highway issues
- Restricting the use to care home only

Policy background

4.3 The application relates to the change of use of an existing hotel, use class C1, to use as a care home for the elderly (class C2). The site is within an area of Green Belt. The North Yorkshire structure plan policy E8 defines the area of green belt around York.

4.4 Central government advice in Planning Policy Guidance 2 "Green Belts" (PPG2) is relevant to the proposal. This states the re-use of buildings inside a Green Belt is not inappropriate development providing it does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it; strict control is exercised over the extension of re-used buildings, and over any associated uses of land surrounding the building which might conflict with the openness of the Green Belt and the purposes of including land in it (e.g. because they involve extensive external storage, or extensive hardstanding, car parking, boundary walling or fencing); the buildings are of permanent and substantial construction, and are capable of conversion without major or complete reconstruction; and the form, bulk and general design of the buildings are in keeping with their surroundings

4.5 The advice in PPG2 is reflected in Policy GB3 of the City of York draft Local plan, although this policy also states that where the proposal involves a change of use to residential, planning permission will only be granted where buildings are within 800m of a defined settlement limit and it can be demonstrated that the building is unsuited to employment or recreational use or the building is of architectural or historic

importance and its reuse for residential purposes would be the only way to ensure its preservation as such.

4.6 The applicants` agent has confirmed that the proposed change of use can be accommodated within the existing building, the internal layout necessary for a care home being very similar to that of a hotel. It is therefore considered that the proposed use will comply with the requirements of PPG2 in that the proposal will not have a materially greater impact than the present use on the openness of green belt. The City Development Officer has expressed concern that the applicant has not demonstrated that the site is unsuited to employment or recreational use and that the building is not within 800 metres of a settlement limit, as referred to in Policy GB3 of the Draft Local Plan. In response to this, it is pointed out that the proposed use is not a pure residential use as such, but relates to a care home for the elderly, a use falling within Class C2 of the Use Classes Order. Residential uses fall within Class C3 thus the proximity of the site to existing settlements is not considered to be strictly relevant in this case. It is the case that care homes occupy a variety of locations and the proposal would add a further degree of choice in this respect. The care home would clearly provide a source of employment and levels of employment are likely to be comparable if not greater than for the existing hotel use. For these reasons it is considered that the proposal complies with the relevant parts of Policy GB3.

4.7 Other relevant policies within the Draft Local Plan include policy H17 which states that planning permission will only be granted for residential institutions where the development, together with existing residential institutions or unimplemented planning permissions for that use, would not give rise to a concentration likely to have an adverse impact on residential amenity and where it is positively located relative to local facilities and public transport. There appears to be little support in national planning policy for the requirements of policy H17, there is merit in the view that care homes should be located close to local facilities and close to public transport. The main road outside the site provides access to public transport and this element of the policy is, therefore, addressed. Other local facilities (e.g. shops) are, however, not located in close proximity to the site.

4.8 Officers have examined appeal cases where this issue has been considered and it appears that there is little support for refusal on the basis of a lack of local facilities. In the main this is because the registering authority for care homes (The Commission for Social Care Inspection) considers this issue through the licensing process. Consideration of the issue through the planning process would, therefore, merely duplicate controls that already exist under licensing legislation. Furthermore paragraph 65 of circular 3/2005 states that in relation to care homes that have to be registered, registration can be refused on the grounds that the home would not provide adequate services or facilities reasonably required by residents or patients. Therefore, it is considered that the main impact that needs to be considered is the impact of the proposed use on amenity and the environment.

Residential Amenity

4.8 The nearest properties to the site are located on the western side of the site, separated from the site by a public footpath. It is likely that the proposed use would

be less intrusive than the existing and in terms of impact on the nearest residential properties the proposal is considered to be acceptable.

Highway issues

4.9 Highway Network Management consider that traffic levels are likely to reduce as a consequence of the development and therefore raise no objections to the development. The public footpath to the west of the site is not affected by the application.

Restricting the use to care home only

4.10 The applicant agent has indicated in the letter supporting the application that they are willing for the application to be restricted within Class C2 to a care home for the elderly. The Parish Council are raising no objections to the application subject to the application being restricted to a care home for the elderly. Other uses in class C2 are hospitals, residential education and training centres, and use for the provision of residential accommodation and care to people in need of care.

4.11 Circular 11/95 - "The Use of Conditions in Planning Permission" makes it clear that there is a presumption against conditions designed to restrict future changes of use which, by virtue of the Use Classes Order or the General Permitted Development Order, would not otherwise constitute development..... The Secretary of State will regard the imposition of such conditions as unreasonable unless there is clear evidence that in the particular circumstances the uses excluded could have serious adverse affects on the environment or on amenity not susceptible to other control. Paragraph 26 goes on to say that if exceptionally conditions restricting changes of use are justified they should be drafted so as to prohibit a change to a particular potentially unacceptable use or uses, rather than in terms, which require future approval of any change of use.

4.12 In officers view any use that provides care is likely to have similar impacts in terms of amenity and the environment and therefore to restrict the use to care for the elderly only or to restrict the use of the building to a hospital would not fall within the guidance within circular 3/2005. However Officers are concerned that the use of the site for a residential education or training centre may have different characteristics, may attract more traffic and visitors and the impact of this use on the openness of green belt and on the nearby residents would need to be considered on their own merits. It is therefore proposed to restrict the permission such that any future application for residential education or training centre would need a separate planning permission.

5.0 CONCLUSION

5.1 The principle of change of use of the hotel to a care home is considered to be acceptable within this green belt location. The application is considered to be acceptable in terms of its impact on residential amenity and highway safety. A Condition is proposed to restrict the use of the site within the C2 use class to prevent the site being used as a residential education and training centre without further planning permission.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent re-enactments thereof, the development hereby approved shall be used as a care home or hospital only and for no other use purposes, whatsoever, including any other purpose in Class C2 of the Town and Country Planning (Use Classes) Order 1987 or any subsequent re-enactment, without formal planning permission first being obtained.

Reason: The site is prominently located within greenbelt and in close proximity to existing residential properties. Any change of use to boarding school or training centre will need to be considered in terms of the impact of the development on the openness of green belt and impact on residential amenity.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact on green belt, residential amenity and highway safety. As such the proposal complies with Policy GB3, of the City of York Local Plan Deposit Draft furthermore the proposal complies with the guidance set out in Planning Policy Guidance note 2 entitled 'Greenbelts' .

2. ALTERATIONS TO THE EXISTING BUILDING

It should be noted that any external alterations to the building would need planning permission where they materially affect the character or appearance of the building. This permission does not give any permission for physical alterations to the building that would normally need planning permission. You are advised to contact the planning section before proceeding with any alterations to the building to establish if further planning permission is required for the alterations proposed.

Contact details:

Author: Diane Cragg Development Control Officer (Mon/Tues)

Tel No: 01904 551657