
Appeal Decision

Site visit made on 4 January 2017

by Harold Stephens BA MPhil DipTP MRTPI FRSA

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

Decision date: 13 January 2017

Appeal Ref: APP/G5180/W/16/3160996
29 Fox Lane, Keston, BR2 6AL

- 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 Acorn Homes against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/02352/FULL1, dated 12 May 2016, was refused by notice dated 14 October 2016.
 - The development proposed is to change the use of the property from a C3 dwelling house to a C2 residential children's home.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) the effects of the proposal on the safe and efficient operation of the highway in the vicinity of the appeal site bearing in mind the proposed car parking arrangements;
 - (ii) the effect of the proposal on the living conditions of neighbours in terms of noise and disturbance.

Reasons

3. The appeal property is a large detached five bedroom dwelling house at the junction of Fox Lane and Heritage Hill in Keston. The property has an existing two storey side/rear extension and a detached garage to the rear. No 29 faces Fox Lane but has its vehicular access facing the north side of Heritage Hill.
 4. The appeal proposal is to change the use from the Class C3 (dwelling house) to a Class C2 (residential institution) to allow use of the property as a children's home. No additional accommodation would be provided and no changes to the existing internal arrangements are proposed. A double garage is located to the rear of the site with an up and over door set back from the highway by some 7.8m behind inward opening gates. The Appellant claims that the number of cars that would be used would not exceed 4.
 5. I note from the plans that the ground floor comprises a family room, kitchen, office, dining room and lounge and the first floor has 5 bedrooms; 3 with en-suite shower rooms and an additional family bathroom. It is proposed that 4 children and one adult would occupy the dwelling house. The application form
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indicates that there would be 9 employees working directly with young people in the property. With the rota and drivers this equates to a maximum of 3 staff at the home at any one time.

6. The development plan for the area includes the Bromley Unitary Development Plan (UDP) and the London Plan which was formally adopted in July 2011 (and consolidated with Alterations in March 2016). UDP Policy BE1: Design of New development requires that all development proposals, including extensions to existing buildings, will be expected to be of a high standard of design and layout. Proposals will be expected to meet the criteria set out in the policy. Policy T3: Parking relates to parking and the provision of off-street parking spaces in new developments. Policy T18: Road Safety states that in determining planning applications, the Council will consider as appropriate the potential impact on road safety and will seek to ensure road safety is not adversely affected.
7. The National Planning Policy Framework (NPPF) published on 27 March 2012 is a material consideration in this case. The Council draws attention to paragraph 17 of the NPPF which relates to the 12 core planning principles and to paragraphs 56, 58, 61 and 64 which relate to requiring good design.

Highway safety

8. At my site visit I saw that Fox Lane is a semi-rural road with no footpaths and has a downhill gradient from Heathfield Road to Gates Green Road/Jackass Lane and narrows significantly south-west of its junction with Leafy Grove from about 6m to 4-4.8m. The general alignment is poor with significant bends at Leafy Grove and at the south west end of Fox Lane. Members and residents alike are concerned that the proposal would have an impact on road safety and parking within the area due to the increased number of car drivers to and from the appeal site. I note that there is the potential to park 4 cars within the site.
9. The Appellant argues that the proposal would not affect traffic in any way. Reference is made to there being few accidents on Fox Lane (2010-2015) and that use of public transport is encouraged as much as possible, to ensure that the children learn to become semi-independent. An example rota is submitted which shows customary shift patterns. Further, it is stated that all meetings and reviews would be conducted off-site and that there would only be occasional visitors to the premises. However, I note that the company employs 9 members of staff who would work a shift pattern and therefore there would be the potential for a certain amount of overlap and moving of vehicles taking place within a constricted site to the rear of the dwelling. If cars were to park at the front of the premises on Fox Lane or on Heritage Hill, there would be issues with manoeuvring of vehicles and obstruction of the highway and a hazard to pedestrians getting out of their vehicles.
10. I saw that access to the car parking area of the property is already difficult and awkward due to the parking of cars on Heritage Hill immediately opposite the entrance given the width of the road is narrow at about 5m. Nearby residents living on Fox Lane have limited on-site parking and as a result make use of Heritage Hill for additional vehicles. I saw that this parking accommodates 8 or 9 vehicles. These spaces are directly opposite the inward opening access gates for the on-site parking making it an almost impossible

task of moving in and out of the gates at 29 Fox Lane. Any larger vans or similar vehicles would reduce the available road width even further, making it extremely difficult to either egress or access the site. The number of cars required to be manoeuvred during staff change overs and visiting times would exacerbate the situation.

11. Neither Fox Lane nor Heritage Hill has footpaths. At the appeal site the road width of Fox Lane is only about 4m, it is poorly lit and vehicles travel at speed as evidenced in the report by Heritage Hill and Fox Lane Residents' Association. Taking all of these matters into account I consider the proposal would have inadequate car parking facilities to provide for the needs of the development. As such this would prejudice the safe and efficient operation of the highway in the vicinity of the appeal site to the detriment of highway and pedestrian safety contrary to Policies T3 and T18 of the UDP. On the first issue I conclude that the appeal must fail.

Living conditions of neighbours

12. The Appellant argues that the appeal property would run like any other normal household and therefore it would be no different from a family with 4 children. I disagree with this view for several reasons. Firstly, a children's home (Class C2) is materially different to a Class 3 residential use. There would be a need to install the correct fire alarm system, fire doors, emergency lighting and a separate lockable office for management suggesting aspects more akin to institutional, rather than normal family life. The formal organisation of the business tends to support that. Secondly, there would be changes in activity in the immediate vicinity of the property. Shift changes for carers are likely to see more comings and goings of cars than might be expected in a normal household.
13. Thirdly, additional agencies that have responsibility for the children 24 hours a day would require access to the premises in order to carry out assessments and care for the children. Fourthly, there would be family members of the children visiting in the evenings and at weekends. Finally, with no sports facilities, parks or playgrounds locally, local residents rely significantly on private transport. The area is not well serviced by public transport therefore the children would rely on being taken to school and activities by cars, thereby adding further to the comings and goings.
14. All of these factors cumulatively, lead me to conclude that the change of use to a residential institution would significantly increase the noise and disturbance compared to a typical single family unit. The proposed development would be detrimental to the amenities that nearby residents might reasonably expect to enjoy by reason of general noise and disturbance associated with the use contrary to Policy BE1 of the UDP. On the second issue also I conclude that the appeal must fail.

Other Matters

15. I have taken into account all other matters raised. I note the representations from local residents including one from the Heritage Hill and Fox Lane Residents' Association. I also note the background information provided by Acorn Homes. I appreciate that the services provided by Acorn are rated as

Good by Ofsted and that the Government is supporting the development of local services for local authorities to prevent young people being placed in accommodation a long way from home. I understand from the submissions that there is a need for more children's homes in Bromley for the age group 13-18 years. I accept that Acorn would not give residence to any young people who come from a background of gangs. I also accept that Acorn would seek to recruit local staff in support of this home. Planning conditions would not overcome the harm that I have described. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion.

Conclusion

16. The proposal is in overall conflict with the development plan and there are no material considerations which would indicate otherwise. The proposal cannot be considered to be sustainable development. I conclude that the appeal should be dismissed.

Harold Stephens

INSPECTOR