
Appeal Decision

Site visit made on 27 February 2017

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 21st March 2017

Appeal Ref: APP/N4720/W/16/3164180

23 Norman Place, Roundhay, Leeds, LS8 2AW

- 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 Radical Services (Pebbles Care) against the decision of Leeds City Council.
 - The application Ref: 16/04407/FU dated 13 July 2016 was refused by notice dated 24 November 2016.
 - The development proposed is change of use from dwelling (Use Class C3) to a children's care home (Use Class C2).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of the proposed development from the Council's decision notice. Although it differs from that stated on the application form, I consider it more precisely describes the proposal.

Main Issue

3. I consider the main issue in this case is the effect of the proposal on the living conditions of nearby residents with regards to noise and other disturbance likely to be generated by the proposed use, including the movement of vehicles to and from the premises.

Reasons

4. The appeal relates to an end-terraced dwelling at the junction of Norman Place and Norton Road. The property has small yards to the front and rear and no off-street parking. The surrounding area is wholly residential in character though there is some commercial activity to the south on Street Lane.
 5. The property's current use is as a dwelling house, and consequently the key issue is whether a significantly greater level of disturbance would be caused to nearby residents by the proposed use than by the property's existing use. My consideration of this appeal requires a balance to be made on the need to assess the impact on residents' living conditions against the need to ensure that vulnerable children are appropriately accommodated in the community.
 6. Article 3(1) of the *United Nations Convention on the Rights of the Child* requires that the best interests of children shall be a primary consideration in
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my decision, although the interests of children can be outweighed by other factors when considered in the context of the case.

7. The appellant wishes to provide a safe and secure environment for children and young people with behavioural difficulties, aged between 8 and 16. Three children would live at the property looked after by a team of eight full and part-time staff working on a rota basis to provide 24 hours cover every day, with five or six staff present during each shift.
8. In its reason for refusal the Council has referred to saved Policy GP5 of the *Leeds Unitary Development Plan Review 2006* (UDP). This says, amongst other things, that development proposals should seek to avoid problems of environmental intrusion and loss of amenity. I find no inconsistency between this policy and the *National Planning Policy Framework* (the Framework); given that one of the core planning principles of the Framework is to secure a good standard of amenity for all existing and future occupiers of land and buildings.
9. Although outside the remit of the planning process, I understand it is a legal requirement that operators record and log any complaints about a home and that the regulatory body Ofsted (who would need to licence the Home) consider this log as part of their inspection regime. Therefore, and having regard to the many local representations on this issue, in the event of complaints about noise and/or anti-social behaviour/crime it would be open to Ofsted to reconsider the operator's authority to use the property for care purposes.
10. In my view there is no conclusive evidence that children with behavioural difficulties would be more disruptive than those living as part of a more 'traditional' family unit, and I accept that specialist staff would be present to deal with any situations that could potentially arise. I agree with the Council that levels of noise and disturbance arising from the activities of the children both inside and outside the home would not necessarily be materially different than in a conventional family situation. Indeed, and as stated by the appellant, it would be in their interest to ensure that the children residing at the property would not cause excessive noise or disturbance.
11. However, even though the home would only accommodate three children, and it is stated that meetings with professionals would normally be held elsewhere, the proposed use would result in significant activity arising from the movement of people and vehicles when staff shift changes occur, and when children are transported from the building to education and other services during the daytime. Given the lack of outdoor space attached to the property, further trips may be needed to access outdoor recreation and leisure facilities.
12. The appellant says staff would be recruited from the local area and would either use the two cars belonging to the home or use public transport, and thus keep vehicle movements to a minimum. Whilst this may be the intention, any planning permission runs with the property, and the operation/ management of the home may become different in nature or more intensive within the same use class. Furthermore, although the staff rota envisaged by the appellants would avoid shift changes at anti-social times, there is no mechanism in place to control this intended arrangement and no guarantee that it would prevail in the future or continue with a different operator.
13. Having regard to the above, I consider the proposed use would attract significantly greater levels of vehicle and people movements than would be

expected from the existing use as a private dwelling. Particularly given the close proximity to other dwellings in a tight-knit residential area, I conclude on the main issue that it would have a materially harmful effect on the living conditions of nearby residents in terms of noise and other disturbance. As such it would conflict with saved UDP Policy GP5.

Other Matters

14. Although not part of the reason for refusal, many local residents have pointed out that pressure already exists for parking on the surrounding streets; suggesting it would be significantly worsened by the proposal leading to congestion and a harmful impact on highway safety. However, the Council's Highways Section has no objections to the proposal, and there is no convincing evidence before me to indicate that the appeal should be dismissed for those reasons. Nonetheless, this lack of harm factor does not overcome my conclusion on the main issue, which must be decisive.
15. There is another children's care home (owned by the same organisation) very close by (Cara House), and many local residents have referred to the greater potential for noise and disturbance arising from two children's homes in such close proximity. However, the Children's Services Department has stated that they are not aware of any current issues with the residents of Cara House. Nor has the Council referred to potential issues arising from a concentration of similar uses within the area. Therefore, the presence of this other home has not influenced my reasoning.

Conclusion

16. Paragraph 7 of the Framework refers to the three dimensions of sustainable development (economic, social and environmental), and Paragraph 7 states that the Framework's policies as a whole constitute what sustainable development would mean in practice. The economic benefits in this case are modest, essentially limited to the employment of staff at the Home. In terms of the social role the proposal would provide housing to meet the needs of a particular specialist group in the community, as advocated by Paragraph 50 of the Framework, and this factor attracts substantial weight.
17. Whilst the welfare of children is an important consideration, I have concluded, on balance, that the proposal would be harmful to the living conditions of nearby residents with regards to noise and other disturbance likely to be generated by the proposed use; particularly from the coming and going of vehicles. This adverse environmental harm which I have identified would materially outweigh the social and economic benefits of the appeal scheme.
18. For these reasons I conclude that the proposal would not be consistent with the principles of sustainable development as it conflicts with the policies of the development plan and the Framework when taken as a whole. Therefore the presumption in favour of such development does not apply.
19. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Nigel Harrison INSPECTOR