



Appeal Decision

Site visit made on 30 October 2019

by J Gibson BUEP MPIA

an Inspector appointed by the Secretary of State

Decision date: 27 November 2019

Appeal Ref: APP/N5090/W/19/3235369

47 Edgeworth Crescent, Hendon, London NW4 4HA

- 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 Mrs Oluchi Roseline Anyanwu (Gentle Hands Care Agency) against the decision of Barnet London Borough Council.
 - The application Ref 19/1949/FUL, dated 1 April 2019, was refused by notice dated 5 June 2019.
 - The development is a change of use of the property from a single family dwelling (Class C3) to Residential Institutions (Class C2) for four people.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the above heading has been taken from the Council's decision notice. The description on the appellant's application form originally described the development as a "change of use from a dwelling house (use class C3) to a small HMO (use class C4) and carryout associated works to meet the requirements" before going on to describe detailed internal alterations and fitouts. However, I understand that during the application process the Council and appellant agreed to change the description of development as shown in the above heading to correctly describe the change of use. The application was subsequently consulted on this basis. Although the appellant's appeal form describes the development differently again (only refers to internal alterations and fitout details, omits any change of use description) I am satisfied based on the evidence before me that the description on the Council's decision notice represents the most accurate description of the development.
3. Based on the evidence provided by both parties, my understanding is that the appeal property as described above is currently being used as a Residential Institution (Class C2) for four people and is the subject of enforcement action. I have therefore determined the appeal on the basis that the development has already occurred.

Main Issue

4. The main issue is whether the appeal property would be a suitable location for the development, with regard for any identified need, the existing housing supply in the surrounding area, living conditions of neighbouring occupants and highway conditions.

Reasons

5. The appeal property is a detached dwelling located on the outside bend of Edgeworth Crescent, towards the north western section of the road. The surrounding area is a quiet residential neighbourhood comprising of predominantly detached and semi-detached dwellings used as family dwellings. The area in front of the appeal property is paved and accessed via two vehicle crossovers for parking and manoeuvring purposes.
6. The Barnet's Local Plan, the development plan for the area, comprises of the Core Strategy (adopted September 2012) (CS) and the Development Management Policies (adopted September 2012) (DMP). Policy DM07 of the DMP seeks to protect the current housing supply and choice within Barnet by outlining the circumstances under which the loss of a particular type of residential accommodation may be acceptable. The policy specifies that development must be for a local facility which would not detrimentally harm living conditions, demonstrate a need for the use in this area, and that the demand for this use could not adequately be met elsewhere, amongst other alternatives.
7. Although a residential use, the Residential Institution (Class C2) is categorised as such to reflect that it is generally subject to higher levels of activity and intensity than an ordinary dwelling house (Class C3), and consequently may introduce harm to more sensitive areas. This can be attributed, but not limited, to the occupants being unrelated, the presence of staff at the property, hours of operation, and increased traffic generation associated with staff and visitors. As such the importance of demonstrating that such a use could harmoniously exist within an area predominantly characterised by dwelling houses, without resulting in any harm to the living conditions of neighbouring occupants or the highway conditions of the local area, is necessary to support such development. Further, that such a use would appropriately be located within such a setting, could not appropriately be located elsewhere, and that the loss of a residential dwelling house is justified.
8. The appellant has not provided a needs assessment for the proposed use, demonstrated why the proposal would be appropriate within this area, nor whether the loss of a residential dwelling house would be acceptable in this area. The appellant has provided some basic details regarding the extent of the property to be used for the development, the number of permanent occupants at the property, the anticipated staffing arrangements and the hours which they would be present at the site. Whilst these details offer some insight as to the likely impacts resulting from the Class C2 use, they do not adequately demonstrate that the development would not amount to harm to the living conditions of neighbouring occupiers, the traffic conditions of the local highway network, or address whether there is a need for such development in the area at the expense of the current housing supply and choice.
9. Accordingly, based on the evidence provided, I am unable conclude that the change of use from a single family dwelling (Class C3) to Residential Institutions (Class C2) for four people would be suitably located at the appeal property, having regard for any identified need, the existing housing supply in the surrounding area, living conditions of neighbouring occupants and highway conditions. It would therefore conflict Policies CS1, CS5 and CS9 of the CS, and Policies DM01, DM07, DM13 and DM17 of the DMP. These policies,

amongst other things, seek to protect the existing housing supply and choice of local areas consistent with the pattern of development, living conditions of neighbouring occupiers and the traffic conditions of local highway networks. I note the Council have referenced Policy 7.6 of the London Plan (adopted March 2015) in their reason for refusal. However, the policy relates specifically to the built form of development, not the mix and distribution of uses in an area. As the development would not alter the external appearance of the appeal property I do not consider this policy to apply in this instance.

Other Matters

10. I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, as the appellant has identified that the development would be occupied by people with the protected characteristic of disability. Since there is the potential for my decision to affect persons with a protected characteristic I have had due regard to the three equality principles set out in Section 149(1) of this Act. The dismissal of this appeal may result in a negative impact to these individuals by restricting the opportunity to live in a residential care home that would meet their specific needs. Despite this, it would be proportionate having regard to the legitimate and well-established planning policy aims to locate development in suitable locations based on the pattern of development and housing supply, protect the living conditions of neighbouring occupiers and the traffic conditions of the highway network. Therefore, I confirm that even taken alongside the other considerations put forward by the appellant the PSED considerations do not outweigh the potential harm I have identified based on the evidence before me.

Conclusion

11. For the reasons given above I conclude that the appeal should be dismissed.

J Gibson

INSPECTOR