
Appeal Decision

Site visit made on 4 February 2020

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2020

Appeal Ref: APP/W3005/W/19/3238392

112 Hartley Road, Kirkby in Ashfield NG17 8DS

- 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 Mr Pete Buller against the decision of Ashfield District Council.
 - The application Ref V/2019/0191, dated 1 March 2019, was refused by notice dated 8 July 2019.
 - The development proposed is change of use from Class C3 dwellinghouse to Class C2 residential care home for one young person.
-

Decision

1. The appeal is allowed and planning permission is granted for a change of use from Class C3 dwellinghouse to Class C2 residential care home for one young person at 112 Hartley Road, Kirkby in Ashfield NG17 8DS in accordance with the terms of application reference V/2019/0191, dated 1 March 2019 subject to the following conditions:
 - 1) The development hereby permitted shall not at any time have more than one child or young person in residence.
 - 2) The permission shall limit the number of staff members employed at the property to no more than 5, unless otherwise agreed in writing by the Local Planning Authority.
 - 3) The premises shall be used only as a children's home and for no other purpose (including any other purpose falling within Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Preliminary Matter

2. The application is retrospective with the site having been in use as a care home for one young person since summer 2018. I have considered the appeal on this basis.

Main Issue

3. The main issue is the effect on the living conditions of neighbouring occupants in terms of noise and disturbance.

Reasons

4. The appeal property is a 2 storey, 3 bedroom semi-detached house with rear garden in a predominately residential street of similarly styled properties. Adjoined to No 114, it is separated from No 110 by a narrow pedestrian passage. Along with some other properties in the road, the dwelling does not have any off street parking. The site has been used as a residential care home for a young person since 2018.
5. Local residents have referenced drug taking and police being called to the property since the change of use. However, there is little to suggest that either is a sustained or ongoing issue. The evidence before me indicates police involvement at the site was an isolated incident.
6. The neighbouring properties are in close proximity and No 114 shares a party wall with No 112. However, the development is small scale involving one young person. References to anti-social behaviour such as shouting, banging doors, loud music and dumping rubbish in a neighbour's skip without permission are activities that could be experienced by neighbours in any residential area. The same is true for comments regarding the upkeep of the garden. There is little to substantiate the Council's claim that employees working at the site and the young person occupying the premises would necessarily have less respect for the area than residents in a C3 use.
7. I disagree with the Council that the turnover of occupants at the site would result in the absence of any respite for neighbouring occupants. The purpose of the home is to provide medium to long term care for a young person, not temporary accommodation. There is little to indicate that occupancy turnover would be greater than if the property were used for a C3 use, particularly if it were let in the private rented sector. The purpose of the accommodation is to provide a safe, stable environment for the occupant and enable community integration. The appellant has identified that the current occupier has been in residence since April 2019. Even if there was a high turnover of occupants it would not necessarily have a detrimental impact on neighbours. The Council acknowledge that not every young person living at the premises would necessarily exhibit challenging behaviour.
8. I acknowledge resident's reports of feeling intimidated and fear for the safety of children and older people. However, there is no substantive evidence before me to demonstrate that there is a reasonable evidential basis for the fear that has been expressed. In the absence of firm evidence that the scheme would materially increase the risk of, or fear of crime, I do not find that the development would have a detrimental impact on the living conditions of local residents with regards the fear of crime.
9. Whilst acknowledging the comments of the residents and the petition submitted in response to the planning application, on the evidence before me the existing C2 use of the property would not have a substantial detrimental impact on the living conditions of neighbouring occupiers. The development does not therefore conflict with the part of Policy ST1(b) of the Ashfield Local Plan Review 2002 (Local Plan) which supports new development that does not adversely affect the character, quality, amenity or safety of the environment. Nor does it conflict with the part of Policy HG8(a) of the Local Plan which permits the development of residential care homes where the amenity of neighbouring properties is protected. The development also conforms with the

part of the National Planning Policy Framework (NPPF) that requires new development to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Other Matters

10. The development has raised concern over the lack of off street parking at the site. Two staff are present at any one time, with the occasional presence of a third staff member. Whilst the use of the property has been identified as materially different to a typical C3 dwelling house, the Council acknowledge that the comings and goings associated with the use do not vary significantly from that of a residential dwelling. There has been no objection from the Highways Authority and I am satisfied that the vehicle movements associated with the development would not cause danger to other road users or pedestrians or cause an unacceptable increase in on street parking in the vicinity of the site.
11. I have not been provided with any substantive evidence to demonstrate that the scheme would in itself materially change the character of the area, particularly as the development has a residential appearance. Given my findings above, there is little to support the suggestion that the development is not suitable in a residential location.
12. I am aware of concerns raised regarding the impact of the development on property values. Planning is concerned with land use in the public interest. The protection of private interests such as property values is not a consideration to which I am able to give any significant weight.

Conclusion and Conditions

13. For the reasons identified and having regard to all other matters, the appeal is allowed, subject to necessary planning conditions.
14. In attaching conditions, I am mindful of paragraph 55 of the NPPF, which states that they should only be imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects.
15. The Council has suggested a number of conditions relating to the occupation of the property and its use which they themselves suggest do not meet the 6 tests. I have assessed the conditions on this basis and have made modifications where necessary in the interests of clarity.
16. A condition restricting occupation of the care home to one young person is necessary to protect the living conditions of local residents. A condition limiting the number of staff members employed at the property is also necessary to protect the living conditions of the neighbouring residents. I disagree with the Council's suggestion that it would not be possible to distinguish between those employed at the property and those visiting it.
17. I note what the Council say regarding guidance that uses within a specific use class should not be restricted. However, as identified by the Council another C2 use could have other impacts which would need to be considered. In the circumstances of this case I am of the view a planning condition restricting

development in line with the provisions of the description of the development is therefore necessary.

K Ford

INSPECTOR