



Appeal Decision

Site visit made on 16 November 2021

by P N Jarratt BA DipTP MRTPI

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

Decision date: 30 November 2021

Appeal Ref: APP/F5540/X/20/3262363

2 Martindale Road, Hounslow, TW4 7EP

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Devkala Gurung against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00745/2/LAW2, dated 29 May 2020, was refused by notice dated 19 October 2020.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is use of dwellinghouse (C3) as supported housing (C3b) for up to 6 people living together as a single household and receiving care.
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Decision

1. The appeal is dismissed.

Procedural matter

2. At my unaccompanied site visit I was able to view the site externally. The appeal documents included internal layout drawings of the property and these provide sufficient information to determine the appeal without necessitating an internal inspection.
3. My decision rests on the facts of the case and on relevant planning law and judicial authority.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant an LDC was well founded.

Reasons

5. The appeal property is a two-storey detached dwellinghouse having a loft floor in the roof space, located on a corner plot in a residential area.
6. The appellant indicates that the property would be used for adults under 65 years with learning disabilities and mental health problems. The ground floor would provide a reception hall with a lift, kitchen, dining room/lounge, bathroom and bedroom with en-suite shower room. The first floor would have

three bedrooms with en-suite shower rooms, a medicine room and a WC. The loft space would contain a bedroom with a shower room, and an office.

7. The appellant indicates that there would be 7-12 members of staff depending on the needs of residents. This suggests that a high level of care would be required but no details have been submitted to indicate the nature of this care or whether this would be provided on a shift or live-in basis by the carers.
8. The Town and Country Planning (Use Classes) Order 1987, as amended, indicates at Part C of Schedule 1, Class C3, Dwellinghouses:
"Use as a dwellinghouse (whether or not as a sole or main residence) by—
 - (a) a single person or by people to be regarded as forming a single household;
 - (b) not more than six residents living together as a single household where care is provided for residents; or
 - (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within class C4)."
9. The Order states that the use of the building for any other purpose in the same use class is to be taken as not involving development of the land. Although the Order interprets the meaning of 'care', it provides no indication as to the quantum of such care. However the amount and level of care can vary widely to a point where it could change the character of the use such that a material change of use has occurred that requires planning permission. This is a matter of fact and degree.
10. The provision of a medicine room, an office, accessibility lift and reception area together would not normally be found in a residential dwelling and the staffing numbers exceed what would normally be associated with a modest single household dwelling. Its proposed use would lead to an intensification of activity such as might occur through the comings and goings of staff and residents and this could potentially impact on the character of the use, the site and the surrounding area.
11. The Council refers to a similar LDC appeals¹ elsewhere with the first involving a six bedroom children's care facility in Rochdale. The Inspector in that case found that there would be an increased level of activity on a daily basis which would be more intensive and constant than that which might reasonably be expected from a large dwellinghouse and that the overall character of the use would differ to that of a single dwellinghouse.
12. I note that the appellant originally applied for an LDC for a Class C2 use (residential accommodation and care for people in need of care other than a use within Class C3) but amended the application based on the Council's comment regarding Class C3(b) use. I note also that the appellant takes issue with the Council's reference to 'high levels of dependency' when the Council had not been given or asked for any details of the physical and mental well-being of future residents and their levels of dependency for care.
13. The burden of proof in an LDC application or appeal rests with the appellant and the level of proof is on the balance of probability. That has not been

¹ APP/P4225/X/18/3198973

demonstrated in this case. The details of the operation are imprecise and ambiguous. The appellant has provided limited information regarding the nature and extent of care, indicating that some 7-12 members of staff would be required. This in my view implies a relatively intensive level of care which takes it beyond what would otherwise be reasonable in maintaining the character of a dwellinghouse. A material chance of use would occur that would require planning permission.

Conclusion

14. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of use of dwellinghouse (C3) as supported housing (C3b) for up to 6 people living together as a single household and receiving care was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

P N Jarratt

Inspector