



Appeal Decision

Site visit made on 27 September 2022

by A Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th December 2022

Appeal Ref: APP/Z4310/W/22/3298683

5 Hemlock Close, Liverpool L12 0AX

- 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 Supporting Futures Ltd against the decision of Liverpool City Council.
 - The application Ref 21F/3268, dated 25 October 2021, was refused by notice dated 21 March 2022.
 - The development proposed is change of use from residential dwelling to care home for children.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from residential dwelling to care home for children at 5 Hemlock Close, Liverpool L12 0AX in accordance with the terms of the application, Ref 21F/3268, dated 25 October 2021, and the plans submitted with it, subject to the conditions in the attached Conditions Schedule.

Preliminary Matters

2. As set out in the Appeals Procedure Guide¹, the Council is expected to submit a list of conditions that it would wish to see imposed in the event of the appeal being allowed. However, in this case the conditions were submitted following the submission of the Council's appeal questionnaire and the Council did not submit a Statement of Case. In the interests of fairness, I gave interested parties an opportunity to comment on the proposed conditions and I have taken their responses into account in coming to my decision.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of surrounding residents with particular regard to noise and disturbance.

Reasons

4. The appeal site is a detached dwelling accessed off a cul-de-sac road within a wider residential area. The proposal seeks the change of use of the dwelling to form a care home for up to two children. The appellant states that during a normal 24 hour period there would be two carers at the property during daytime hours and one carer during the night-time. The shift pattern would commence at 10am and with one carer leaving around 9pm, the other staying

¹ PINS Procedural Guide: Planning appeals-England 2022 paragraphs 2.6.2 and 2.6.3

over-night. However, the appellant also confirms that, on limited occasions, a child may require 2:1 care. This would result in up to four carers during the day-time and up to two carers during night-time hours.

5. Whilst the appellant indicates that the changeover of staff would be taken outside of commuter and travel to school peak times and not during night-time hours, this cannot be guaranteed and nor would it be reasonable to impose a condition to limit staff changeover to certain periods of the day. It is likely that noise and disturbance would be generated by traffic movements and the coming and going of staff at staff changeover times. Although changeover periods would be a daily occurrence, given the limited number of occupants and staff, they would be short in duration.
6. The original garage belonging to the appeal property (No.5) has been converted to a living room and is attached to the garage belonging to No.7 Hemlock Close (No.7). There is space for the parking of one vehicle on the drive of No.5 adjacent to the drive of No.7. It is therefore likely that staff and visitors to the site would have to park on-street, in conflict with the standard set out in the Council's Supplementary Planning Guidance Note 3 Residential Care Homes (SPG3) which requires a minimum of one space for every resident member of staff and one space for every four non-resident members of staff on duty at the peak staffing period. Whilst the status of SPG3 is disputed by the appellant, it was referred to in the officer report and has been supplied in the Council's appeal documentation. I have therefore given it full weight in reaching my decision.
7. I recognise that the proposal would not fully comply with the guidance in SPG3 in relation to parking provision. Nevertheless, having visited the site, which I recognise is a snapshot in time, there was capacity for on-street parking in the vicinity of the appeal site, footways immediately outside and across the road and no parking restrictions. Though it is reasonable to assume on-street parking demands in the locality will change during the day, most of the properties close to the appeal site have off-road parking and the site is located close to bus stops and I consider that it is in an accessible location. I also note the no objections were raised by the Highway Authority to the proposal.
8. The noise and disturbance from residents, staff and visitors coming and going to and from the property would not be disproportionately or significantly above what could reasonably be expected if the property was occupied as a family dwelling that could consist of adults, children and teenagers. Such a family occupying the property could generate considerable activity in the form of comings and goings for work, school, leisure and shopping at various times of the day.
9. Although the appeal property is located on a cul-de-sac, it is close to the entrance to it, where vehicle movements are likely to be more frequent as traffic passes in and out of the cul-de-sac. I consider that the noise and disturbance generated by the daily movements and parking of staff vehicles would not be significantly noticeable above background noise levels.
10. The appeal property is detached, and the front elevation of No.7 is angled away from No.5. There are no windows on the side elevation of No.7 facing the driveway of No.5. There is a small gap and front garden separating the driveway of No.5 from No.3 Hemlock Close (No.3). Other surrounding properties within the cul-de-sac are further away from the appeal site.

Consequently, the level of noise and disturbance from the movement and parking of vehicles or from residents, staff or visitors would not be likely to be significantly noticeable to occupiers of neighbouring dwellings. Furthermore, in coming to this view I have taken into account that the Council's environmental health manager has not raised any objections to the proposal in terms of noise.

11. It has been indicated by the Council and other interested parties that allowing the proposal would lead to a high concentration of similar facilities in the locality which would cumulatively harm the living conditions of nearby residents. There is some uncertainty about the existence of such facilities in the area and whether they are registered with Ofsted. Regardless, I have not been referred to any defined threshold to assess when a local over-concentration of such facilities would occur.
12. For the above reasons, I conclude that the noise and disturbance arising from the daily activities and vehicle movements associated with the proposed use would not be significantly different when compared to the occupation of the appeal property as a family dwelling. Overall, I conclude that the proposed change of use would not cause material harm to the living conditions of adjoining occupiers or the occupiers of other properties in the area. Accordingly, the proposal would comply with Policy H7 of the Liverpool Local Plan 2013-2033 which seeks to ensure that changes of use within residential areas have no adverse impact on residential amenity.
13. Whilst the proposal would not fully comply with the guidance in SPG3 in relation to parking provision, each case must be considered on its own merits, and based on the circumstances of the site. For the reasons set out above, a decision other than in accordance with the SPG3 guidance is justified in this case, but it is based on the specific circumstances of the appeal site and the details of the scheme before me.

Other Matters

14. Concerns have been raised that the proposal would lead to an increased fear of crime and anti-social behaviour in the area as well as an imbalance in the social mix and well-being of existing residents. The statement submitted by the appellant sets out how the home and the children residing there would be managed. It states that the intention is to provide a small home within an environment as close to a conventional family unit as possible, where children can access services and facilities such as parks and schools. In general terms, the management of the home would also be required to operate within the minimum national standards for children's homes and would be subject to Ofsted regulation and inspections.
15. Whilst I acknowledge the concerns regarding other care homes in the area, limited details of the management of these premises or the number of occupants have been provided. In this case there is no substantiated evidence before me to demonstrate that the proposal would give rise to anti-social behaviour or that the appeal site would not be properly managed and maintained.
16. As a modest scale of development, similar to that of a family home, even taking into account the cul-de-sac location, the proposal would not have a significant adverse effect on parking or access in the vicinity. Moreover, the Council's highways and transportation manager has raised no objection to the

proposal, subject to the provision of secure cycle facilities at the site, which could be conditioned.

17. I note the concerns of neighbours with regard to the effect of the proposal upon the character and appearance of the area. However, the proposed use is also residential in nature and no alterations are proposed to the appearance of the building or frontage of the property. It is noted that planning permission has previously been granted for extensions to the property that have already been implemented. As such, there would be little discernible change as a result of the proposal both in terms of the character arising from its use or in physical its appearance.
18. There is access from the front to the rear of the property between No.5 and No.3 and the site is of sufficient size to provide adequate outdoor space to include secure bicycle and refuse storage at the rear of the building, out of public view, but with a route through to the front on collection days and this could be conditioned.
19. The Council's handling of the application, the effect on house prices and covenants are not planning matters on which I can comment as part of this appeal and therefore do not affect my findings on the planning merits of the scheme.

Conditions

20. I have considered the Council's suggested conditions in accordance with the Planning Practice Guidance and paragraph 56 of the Framework. In addition to the standard time limit on the commencement of development, it is necessary to list the relevant plans as it provides certainty.
21. To protect the living conditions of nearby properties, particularly with regards to the arrangement and movement of vehicles relative to shift patterns of staff on the appeal site, it is necessary to provide clarity on the management of the proposed development. The number of children and staff is limited to a maximum of 2 and 4 respectively to limit the impact of the proposal on the living conditions of neighbouring properties. Given uses within Class C include other uses, a condition to restrict the use to a children's home within Use Class C2 is necessary.
22. Details of cycle parking are required to ensure future occupiers are encouraged to travel sustainably and details of bin storage are required to ensure waste is kept within the confines of the property.

Conclusion

23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

A Veevers

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin before the expiration of 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans: Location Plan TQRQM21298160449528, Site Plan TQRQM21298160541308, Existing floor plan 001 and Proposed floor plan 002.
- 3) The care home hereby permitted shall only be operated in accordance with the submitted operational management plan outlined in the email sent to the Council dated 01/03/2022.
- 4) The number of children in residence at the premises shall not exceed 2 at any one time.
- 5) The number of staff to be accommodated on the premises shall not exceed 4 at any one time.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and the Use Classes Order 1987 (or any equivalent Order following the amendment, revocation and re-enactment thereof), the premises shall only be used as a children's home and for no other purpose, including other uses within Class C2 of the Use Classes Order.
- 7) Prior to occupation of the use hereby permitted, details of secure bicycle parking for at least 4 bicycles shall be submitted to and approved in writing by the Local Planning Authority. The approved bicycle parking shall be implemented and made available for its intended use prior to occupation of the dwelling for the use hereby permitted and shall thereafter be kept available at all times for the parking of bicycles.
- 8) Prior to occupation of the use hereby permitted, details of bin storage shall be submitted to and approved in writing by the Local Planning Authority. The approved bin storage shall be implemented and made available for its intended use prior to the occupation of the dwelling for the use hereby permitted and shall thereafter be kept available at all times for the storage of waste.

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