
Appeal Decision

Site visit made on 6 December 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2023

Appeal Ref: APP/K0235/W/22/3293212

71 Spring Road, Kempston, Bedfordshire MK42 8LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Miss Hayley Murphy against the decision of Bedford Borough Council.
 - The application Ref 20/02325/S73, dated 14 October 2020, was refused by notice dated 15 December 2021.
 - The application sought planning permission for change of use from residential dwelling (C3) to residential family assessment centre (C2) without complying with condition 3 attached to planning permission Ref 18/01090/COU, dated 27 July 2018.
 - The condition in dispute is No 3 which states that: The property the subject of this planning permission shall be used as a 4 bedroom family assessment unit for a maximum of 4 adults and 4 children only and for no other purpose within Class C2 of the Schedule to the Town and Country Planning (Use Classes Order) 1987 as amended, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification. To enable the Local Planning Authority to regulate and control the development of land, and because the property is located within an area where there is high demand for on street car parking and an unrestricted C2 use could lead to an increase on street parking resulting in danger to users of the highway contrary to Policies H38 and BE30 of the Bedford Borough Local Plan.
 - The reason given for the condition 3 is: To enable the Local Planning Authority to regulate and control the development of land, and because the property is located within an area where there is high demand for on street car parking and an unrestricted C2 use could lead to an increase on street parking resulting in danger to users of the highway contrary to Policies H38 and BE30 of the Bedford Borough Local Plan.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from residential dwelling (C3) to residential family assessment centre (C2) without complying with condition 3 attached to planning permission Ref 18/01090/COU, dated 27 July 2018, in accordance with the terms of the application Ref 20/02325/S73, dated 14 October 2020, subject to the following conditions:
 - 1) The development hereby approved shall be in accordance with the following plans and documents: Supporting Statement (5 pages) submitted with application Ref 20/02325/S73 and All Floor Plans and Location Plan.
Ref: 18-038-01 V No: V01, Received: 27-Apr-18.
 - 2) The Family Assessment Centre hereby approved shall be occupied by a maximum of 6 adults and 6 children at any time and shall not be used for any other purpose falling within Class C2 of the Schedule to the Town and

Country Planning (Use Classes Order) 1987 as amended, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

- 3) Within one month of this Decision, a scheme including a timescale for the provision of refuse storage facilities shall be submitted for approval in writing by the local planning authority. Thereafter, the refuse storage facility shall be provided in accordance with the approved scheme and timescale.
- 4) The four on-site car parking spaces shown on Plan No. 18-038-01 (dated Apr 18) shall only be used for car parking in connection with the development hereby permitted and shall not be used for any other purpose.

Applications for costs

2. An application for costs was made by Miss Hayley Murphy against the decision of Bedford Borough Council. This application is the subject of a separate Decision.

Preliminary Matter

3. I have amended the appellant's description to better reflect the proposal.

Main Issue

4. The main issue is whether the variation of condition 3 would be acceptable with regard to highway safety and the living conditions of neighbours.

Reasons

5. Under the extant permission¹, the appeal property operates as a Family Assessment Centre. This provides accommodation for parents and children from local authorities, who need supervision and parenting capacity assessments.
6. The Family Assessment Centre facilitates up to 4 families at any given time. This is not controlled by the planning permission but by the licensing requirements of Ofsted.
7. However, condition 3 of the extant permission restricts the use of the property for a maximum of 4 adults and 4 children. Condition 3 was specifically imposed to control the development of land and limit the impact of on-street, car parking.
8. Whilst the appellant states that the appeal site has sufficient on-site space for the parking of 5 vehicles, the extant scheme was approved on the basis of the availability of 4 on-site car parking spaces shown on Plan No. 18-038-01. I have proceeded with the appeal on this basis.
9. As part of the proposal before me, the Family Assessment Centre would continue to accommodate up to 4 families but needs to cater for larger family groups and is seeking to use the appeal property for up to 6 adults and 6 children. The supporting statement with the application provides scenarios of when the need for this would arise.
10. According to the appellant, care is provided by social workers and family support workers operating on a shift-based system and no permanent carer or support worker would be living at the property. However, there would always be a Family Support worker or Manager at the property at any one time, including overnight.

¹ Ref 18/01090/COU

11. The appellant advises that the staffing levels in place are allocated per family rather than per resident, therefore as the number of families will remain the same, there would be no change in the level of staffing, current shift patterns and car movements. I have no clear reason to dispute this.
12. I have also been advised that whilst the residents may own vehicles, they are not permitted to keep vehicles at the Family Assessment Centre, as part of the requirement of their assessment. Given that the residents are expected to live as close to 'normal' life as possible, it remains unclear why residents would be prohibited from bringing cars to the Family Assessment Centre.
13. Moreover, there is nothing to suggest that the residents would be restricted from parking on the adjacent highway, which on the evidence before me already suffers from significant parking stress. Nonetheless, irrespective of the use of the appeal property, it would be difficult to enforce parking on the highway through the planning system.
14. There would also be potential parking associated with visitors. Given that the scheme would cater for larger families, there is no reason to conclude that this would not result in additional visitors. For example, a visitor may wish to visit a particular individual rather than a family. On the other hand, there could be situations where a small family group generates a significant number of visitors.
15. The Council's 'Parking Standards for Sustainable Communities: Design & Good Practice Interim Policy and Supplementary Planning Document' adopted September 2014 ('Parking Standards SPD') specifies a maximum parking standard of 1 space per full time equivalent staff + 1 visitor space per 3 beds for Class C2 (Residential institutions providing residential care).
16. As suggested, by the Council, if 12 residents were occupying the property, then they could require 12 beds. Based on the Council's Parking Standards SPD, this would require 5 parking spaces. However, in light of the scenarios provided by the appellant, the incidences of 12 residents occupying the appeal property at any one time would be limited. In any event, the Parking Standards SPD specifies maximum standards and is guidance. Furthermore, based on my observations, the appeal site is in a location which is accessible by other transport modes, such as bus stops along Spring Road. Thereby, providing opportunities for reduced reliance on car travel.
17. A third party has raised concerns about parking and highway safety associated with the appeal property. However, I have limited evidence to substantiate the extent of these.
18. My attention has also been drawn to anti-social behaviour associated with the appeal property. Nevertheless, I see no strong reason, why allowing larger families to occupy the appeal premises in association with an existing use would exacerbate this. Also, matters relating to anti-social behaviour could be addressed by other regulatory authorities.
19. For the above reasons, whilst I do not consider the Council's concerns about resident and visitor parking to be unfounded, in my judgement, the proposal provides flexibility for larger family groups to occupy the existing Family Assessment Centre rather than any significant intensification of the use. On this basis and given that the appeal site is in an accessible location, the existing

vehicle parking spaces, which are clear of the highway are sufficient to meet the requirements of the proposal.

20. Consequently, the proposal would not lead to any unacceptable additional demand for on-street parking, over and above, the extant use of the appeal property, to the detriment of highway safety. Therefore, the proposal accords with Policy 31 (i) of the Bedford Borough Local Plan 2030 ('BBLP'). This requires that the impact of development should give particular attention to certain considerations: such as highway capacity, parking provision, safety or general disturbance to the area.
21. Accordingly, the proposal would not harm the living conditions of neighbours with regard to increased noise and disturbance arising from resident/vehicle movements and competition for on street parking. I, therefore, find no conflict with Policy 32 of the BBLP, which requires that development proposals should ensure that they minimise and take account of the effects of pollution and disturbance.

Conditions

22. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 of the Act should also repeat the relevant conditions from the original permission (Ref 18/01090/COU) unless they have already been discharged. Since the development that is the subject of the original permission has been commenced, it is not necessary to attach the original condition 1, which set a time limit for commencement of the development.
23. I have also restated those undisputed conditions that are still subsisting and capable of taking effect, such as conditions 2 and 4 of the extant permission. However, I have amended condition 2 of the extant planning permission to reflect the supporting statement provided with the application subject of this appeal, as reflected by condition 1 of my Decision.
24. A third party has expressed concern about the appropriate management of refuse at the appeal property. There are no existing planning conditions to control this. Given that the proposal would increase the number of residents potentially occupying the property, it would be reasonable in the interests of the amenity of the area to impose a condition requiring the submission of a scheme for the storage of refuse (condition 3).

Conclusion

25. For the above reasons, I am satisfied that the variation of condition 3, would not harm highway safety or the living conditions of neighbours.
26. Accordingly, I conclude that the appeal should succeed in respect of the removal of condition 3 and its replacement with a new condition (condition 2) which reflects the proposal.

M Aqbal
INSPECTOR