



Appeal Decision

Site visit made on 13 June 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2023

Appeal Ref: APP/P4605/W/22/3313619

69 Hartfield Crescent, Birmingham B27 7QE

- 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 G Klair of Guardian Homes Ltd against the decision of Birmingham City Council.
 - The application Ref 2022/06221/PA, dated 31 August 2022, was refused by notice dated 8 November 2022.
 - The development proposed is the change of use from dwellinghouse (Use Class C3) to care of children (Use Class C2).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from dwellinghouse (Use Class C3) to care of children (Use Class C2) at 69 Hartfield Crescent, Birmingham B27 7QE in accordance with the terms of the application, Ref 2022/06221/PA, dated 31 August 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Block Plan, and drawing number BR01 Rev A.
 - 2) The development hereby permitted shall provide accommodation, support and care for no more than three children at any one time.

Applications for costs

2. An application for costs was made by Mr G Klair of Guardian Homes Ltd against Birmingham City Council. This application is the subject of a separate decision.

Preliminary Matters

3. At the time of my visit the appeal site was already being used as a care home. The appeal therefore seeks retrospective permission for the development, and I have determined the appeal accordingly.
4. Although the description in the header above has been taken from the planning application form, I have removed the phrase 'retrospective' from the header above as it is not a description of development.

Main Issues

5. The main issues are:

- the effect of the development on the character and appearance of the surrounding area;
- the effect of the development on the living conditions of neighbouring occupiers, with particular regard to noise; and,
- Whether the loss of a dwelling has been suitably justified.

Reasons

Character and Appearance

6. The appeal site is located at the junction between Hartfield Crescent and Besant Grove, both residential streets within a predominantly residential area. The main exception to this is the large school building on the opposite side of Hartfield Crescent to the appeal site. The appeal site itself is a relatively small plot predominantly covered by a semi-detached dwelling with a sizeable extension.
7. There are no physical features associated with the public facing elements of the site and host dwelling that present a non-residential character. Visually, the building appears as a large, extended, family home within a residential street. In this way the building and its current use as a care home are not out of keeping. Whilst the parking areas to the front and side of the site are cumulatively larger than is usually typical for a residential dwelling, the scale is not jarring or evocative of a more commercial use. Similarly, I find that any parking associated with the site would be similar to parking associated with a large family or one with regular visitors.
8. By the nature of the use there will be staff and visitors driving to and from the appeal site throughout the day. I note the Council's concerns that the shift pattern of comings and goings would not be characteristic of a residential area. However, shift work is a typical pattern of employment. A family home with two earners and children would likely have movements to and from the property throughout the day, especially if at least one earner was employed in shift work. There would be nothing inherently commercial in the nature of the movements to and from the site, and the pattern of these movements would not be jarring with the residential nature of the area. Moreover, not all of these movements will necessarily be carried out by a motor vehicle and any pedestrian movements to and from the site would be innocuous.
9. Regarding the operation of the care home itself, given its small scale, there would be no unacceptable visual effect within the street scene or discernible in public views. However, even if some care was visible from the street, in my mind it would be no different to a family home that contains a child with similar needs to those on site.
10. In light of the above, the character and appearance of the care home and its operation is similar to that of a large residential dwelling. In this way it does not result in any harm to the character and appearance of the surrounding area and complies with Policy PG3 of the Birmingham Development Plan (January 2017, The BDP) and Policies DM2 and DM12 of the Development Management

in Birmingham: Development Plan Document (December 2021, the DMIB). These collectively, and amongst other matters, require developments to be appropriate to their location and contribute to, or help reinforce, the sense of place.

Living Conditions

11. Although the shifts may change with the needs of the business, given the scale of the care home, the associated movements are comparable to a large family home. I therefore find that the comings and goings of staff, as well as any visitors, would generate a level and character of noise typical of a residential area. This is not, therefore, unacceptable.
12. Although currently used as a care home, the permitted use of the host dwelling is still a residential dwelling and could, if returned to that use, accommodate a large family. Such a family may include parents with adult children or children with additional needs. Therefore, given the scale of the care home and its provision for up to three children, I find that the level or character of noise from residents would not be dissimilar to such a scenario which could happen without seeking planning permission.
13. Staff may generate noise through office work and their caring duties. Although the character of the office work noise may differ from the domestic noise typical of a residential area the level of any noise generated here would be low and is unlikely to be perceptible outside of the site. In contrast, noise from certain care related activities may be audible from nearby dwellings when it is necessary to tell off a child or control unacceptable behaviour. However, this again would not be atypical for a family home.
14. In considering the level of noise generated at the appeal site I am also mindful of the large school close to the site. This would generate noticeable levels of noise throughout the day and especially around arrival and leaving times for pupils and staff. Against the noise and disturbance likely to be generated by nearby homes and the school, I find that the development would not result in an unacceptable impact on the living conditions of neighbouring occupiers.
15. The development does not therefore result in an unacceptable impact on the living conditions of neighbouring occupiers and therefore complies with DMIB Policies DM2, DM6 and DM12 which together require that developments are appropriate to their location and do not result in any unacceptable adverse impacts on the amenity of neighbours, with particular regard to noise.

Justification

16. The development has, by way of the change of use, resulted in the loss of one large, family dwelling. I note that the Council is currently failing to meet the city's housing needs, including with regard to dwellings with three or more bedrooms. Relative to the housing provision across Birmingham as a whole the loss of one dwelling has only a very modest impact on supply. I recognise that DMIB Policy DM12(e) requires that such developments do not result in the loss of an existing use that makes an important contribution to the Council's objectives, strategies and policies. However, as the development has only a very modest impact, I cannot say that on its own it makes an important contribution to the Council's objectives. I therefore find that there is no unacceptable impact on the supply of houses as a result of the development.

17. Moreover, I am mindful that the Birmingham Children's Trust has submitted a letter of support identifying a need for regulated children's care places. Given the scale and nature of the development it therefore provides a limited benefit in this regard.
18. In conclusion, the loss of one family home is suitably justified by the provision of a care home for which there is an identified need. The development therefore complies with BDP Policies TP27 and TP30 and DMIB Policy DM12 which require, amongst other matters, that developments create balanced communities that meet local needs and deliver a range of dwellings whilst not resulting in the loss of an important use.

Other Matters

19. The appellant has made reference to having received a House in Multiple Occupation (an HMO) license for up to 6 people at the appeal site. I understand that this license lasts until 2027 but that the appeal site is currently still being used as a care home rather than an HMO. Whilst there is the opportunity, under permitted development rights, for residential dwellings to be converted to HMOs for up to six people, from the information before me I cannot be certain that this is the case for the host property. In particular, the dwelling may be covered by a condition from a previous permission or an Article 4 that restricts any change of use. Furthermore, the use of the dwelling as an HMO would not provide a similar outcome for the appellant as the desired care home use.
20. Consequently, and lacking any evidence to the contrary, there is a less than theoretical possibility for the fallback position to be carried out. It has therefore not been determinative in my considerations.
21. It has been suggested that the future occupiers of the care home should be limited to people local to Birmingham in order to prevent residents being brought in from other authorities. However, I find that such controls could be overly onerous and, should local needs change, could result in the care home being unable to operate.
22. Concerns have been raised regarding the quality of the care home staff and the management of the home in general. I cannot be certain of the anecdotal issues raised and moreover, the staff at, and management of, the appeal site are likely to change over time.

Conditions

23. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
24. A condition is necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
25. The Council have recommended a condition limiting the number of children living, and being cared for, at the appeal site in order to protect the living conditions of neighbouring occupiers. I find that such a condition would be necessary in order to maintain any impacts at a level commensurate with a large family home.

Conclusion

26. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR