



Appeal Decision

Site visit made on 27 June 2023

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th July 2023

Appeal Ref: APP/X3025/W/23/3314228

2 Hollingwell Drive, Mansfield, Nottinghamshire NG18 3GA

- 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 K Mensah of Greenline Healthcare Group against the decision of Mansfield District Council.
- The application Ref 2022/0533/COU, dated 8 August 2022, was refused by notice dated 29 November 2022.
- The development proposed is described on the application form as 'change of use of dwelling (C3) to residential care home (C2)'.

Decision

1. The appeal is allowed and planning permission is granted for change of use of dwelling (C3) to residential care home (C2) at 2 Hollingwell Drive, Mansfield, Nottinghamshire NG18 3GA in accordance with the terms of the application, Ref 2022/0533/COU, dated 8 August 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be in accordance with the following approved plans: Location Plan, Site Plan/Block Plan, Existing Floor Plans, Proposed Floor Plans and Parking Plan.
 - 2) No more than two children shall live at the property at any one time.
 - 3) The residential care home hereby permitted shall be operated in accordance with the submitted risk assessment, management plan and complaints procedure received on 26 September 2022, unless otherwise agreed in writing by the Local Planning Authority.

Preliminary Matters

2. The development proposed has already been carried out. I have therefore dealt with the appeal scheme as seeking retrospective planning permission.
3. I note the appellant's contention that a change from Use Class C3 to C2 is often not considered to be a material change of use. However, it is not for this appeal to determine whether there has been a material change of use. I have dealt with the appeal on the basis of the development proposal as applied for and described on the application form.

Main Issues

4. The main issues are the effect of the development on the living conditions of the neighbouring occupiers, having regard to noise and disturbance; and the effect on highway safety, with particular regard to parking provision and access.

Reasons

Living conditions

5. The appeal site relates to a large two storey detached dwelling located on a corner plot at the junction of Hollingwell Drive and Eakring Road within a residential area. The property is used as a four bedroom property with an activity room which could be used as a fifth bedroom were the building to revert back to use as a dwelling. The site includes a driveway and garden to the front and a further area of garden and an additional driveway to the rear. The site boundaries are enclosed by walls and railings with fencing to the rear boundary. There are a number of neighbouring properties located close to the appeal site, including 4 Hollingwell Drive to the north side, 357 Eakring Road on the opposite side of the road and 359 Eakring Road to the rear.
6. My understanding is that for much of the time there are five persons present at the property: two children, two staff members, and a Registered Manager. Notwithstanding this, there would be more staff members present on site during changeover times or when others visit. However, the evidence indicates that these changeover times are very short in duration and are unlikely to cause any significant noise and disturbance. Given the small number of children in residence, the potential for additional visitors would not be materially different than if the property were in use as a family home.
7. Whilst I note the Council's comments regarding the intensification of the property and complaints from residents about noise from children, the numbers residing at the site would be similar to the numbers that could be expected for a typical family unit occupying a dwelling of this size. The property's gardens are partly contained by boundary walls and fences which are likely in my view to reduce noise to some extent. Comings and goings associated with a large family dwelling would itself have the potential to generate considerable levels of activity and associated noise and disturbance, including residents using the garden, arriving from and leaving to go to work or school each day, and visitors.
8. The activities of children residing at the care home including any use of external areas is monitored and managed by staff members and there is a complaints procedure in place. In addition, the home is subject to Ofsted regulation and inspections. The home may be occupied by children with autism, challenging behaviour or mental health needs. However, such children can and do live in traditional family dwellings. Moreover, some of the examples of incidents experienced by residents are no different from what can be experienced in any residential area. Provided the home is effectively managed, there is no substantive evidence to suggest that noise and disturbance for the proposal would be markedly different to the use of the property as a family dwelling. The management plan and complaints procedure can be secured by a condition.
9. I accept that there may be a possibility of incidents arising in connection with the proposed use, but due to the limited number of residents and the management of the site I consider that these incidents are unlikely to be of such a significant degree to warrant refusal of planning permission. Moreover, despite the neighbours' complaints, I note that the Council's Environmental Health Team did not raise objections to the proposal on grounds of noise and disturbance.
10. For the above reasons, I conclude that the proposal does not significantly harm the living conditions of the occupants of neighbouring properties in terms of

noise and disturbance. Accordingly, there is no conflict with Policy P7 of the Mansfield District Local Plan 2013-2033 (the Local Plan) which seeks to ensure development does not have a significant adverse effect on the living conditions of existing and new residents and not generate a level of activity, including noise, which cannot be mitigated to an appropriate standard. It would also not conflict with the National Planning Policy Framework (the Framework), which seeks a high standard of amenity for existing and future residents.

Highway safety

11. The appeal property is served by two vehicular accesses, one onto Hollingwell Drive at the front and the other onto Eakring Road at the rear. The accesses both have electric gates which are operated from within the property. The plans show four parking spaces, two to the front and a further two to the rear.
12. A total of ten staff members are employed working on a twelve hour rota basis. Two staff members are on site at all times with two staff members arriving and two departing at 0800 and a shift change at 2000 each day. A Registered Manager also attends the site Monday to Friday between 0900 and 1700, together with visitors and support workers when required. The evidence before me indicates only a small number of visitors. Given the small number of children resident, there are unlikely to be a high number of visitors in my view.
13. Concerns have been raised that vehicles associated with the care home are parking on the highway causing obstructions. In my view the level of off-road parking within the site is sufficient for the number of staff and likely low number of visitors. Consequently, the proposal is unlikely to result in any marked increase in indiscriminate parking on the surrounding roads compared to the permitted use of the property as a family home. I am satisfied that any on-street parking is minimal and can be accommodated without there being an unacceptable effect on the ability to navigate the surrounding roads safely.
14. The Council is concerned that vehicles waiting to enter the two driveways whilst the gates are opening poses a highway safety risk, particularly given the proximity of the access points close to the junction. I note the appellant's intention to keep the front access gates open at all times so that vehicles can drive directly onto the driveway and not have to wait for the gates to open, though both sets of gates were closed at the time of my visit.
15. Whilst vehicles may have to wait on the highway to enter the site whilst the gates open, it seems to me that this situation would be no different to that associated with the lawful use of the property as a large dwelling. Given the close proximity of the access to the junction, vehicle speeds along Hollingwell Drive are likely to be low. I also note that the Eakring Road site access does not allow for vehicles to enter and leave the site in a forward gear. However, the proposed use is unlikely to generate a significant increase in vehicle movements to and from the site to the extent that highway safety would be compromised.
16. Consequently, I am not persuaded that the intensity of use of the property has been increased to an extent that would have a detrimental impact on highway safety, compared with the lawful use of the site as a dwelling. I also note that the Highway Authority did not object to the proposal in respect of its effect on the safe operation of the public highway.

17. In addition, the appeal site is located close to bus stops on Eakring Road that provide an option for some staff and visitors to arrive via public transport or by walking or cycling, even though I am satisfied that on-site car parking is sufficient to accommodate staff members and visitors.
18. For the above reasons, I consider that the proposal does not adversely affect highway safety, with particular regard to parking provision and access. Accordingly, it complies with Policy IN9 of the Local Plan, which, amongst other things, seeks to ensure that development does not endanger highway safety and allows for satisfactory access and egress from the highway. In addition, there is no conflict with the Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

19. Concerns have been raised by interested parties in relation to a range of other matters, including the effects on privacy, increased crime rate, and pollution from vehicles engines running. These matters do not form part of the Council's reasons for refusal and I have no reason to reach a different conclusion based on the evidence before me and my own observations. There is no substantive evidence before me that the proposal results in significant loss of privacy to the neighbours or increased crime and anti-social behaviour. In relation to pollution from vehicles, this is unlikely to be worse than the use of the property as a large family home with associated vehicular comings and goings. In terms of the appropriateness of the location, the proposal is primarily for a residential use and I note the Council have not objected to the principle of the proposed use. A further concern raised is that the appeal property may be used for other purposes in the future, such as a home for adults with mental health issues. However, I must consider the appeal on its own merits and as submitted.

Conditions

20. I have had regard to the conditions suggested by the Council in their statement. In imposing conditions, I have had regard to the relevant tests in the Framework, Planning Practice Guidance and of statute. In that context I have modified the wording of some of the conditions proposed by the Council without altering their fundamental aims.
21. As the development has already taken place, a condition relating to the standard implementation period is unnecessary. I have however, for clarity and enforceability, set out the approved plans. In order protect the living conditions of neighbouring occupiers conditions are necessary to restrict occupation of the care home to two children and requiring the use of the home to be in accordance with the management plan and complaints procedure.

Conclusion

22. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed subject to the conditions specified.

M Ollerenshaw

INSPECTOR