



## Appeal Decision

Site visit made on 20 June 2023

**by K Williams MTCP (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 October 2023**

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**Appeal Ref: APP/T5150/W/23/3314763**

**4 Stapenhill Road, Wembley HA0 3JJ**

- 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 & Mrs Clive and Deltine Patterson against the decision of the Council of the London Borough of Brent.
  - The application Ref 22/2958, dated 25 August 2022, was refused by notice dated 19 October 2022.
  - The development is proposed change of use from dwelling house Class C4 to C2 residential institutions for 4 children.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - whether the proposal addresses a local need;
  - whether the site is suitable for the proposed development, having regard to relevant policies for the location of accommodation with additional support with particular regard to its accessibility to public transport;
  - whether the proposed development would provide a suitable fire strategy; and
  - whether the proposed development would provide excessive parking.

### Reasons

#### *Local need*

3. The appeal property is a substantial semi-detached building in a predominantly residential area within the Sudbury Court Conservation Area (CA). The submitted existing drawing shows living accommodation at ground floor including kitchen, living and dining areas with 5 bedrooms and 2 bathrooms at first floor. The property has garden space to the front and rear, a detached garage, and as with other properties incorporates space to park vehicles off the public highway. The proposal would not result in significant external or internal alterations to the appeal property.
4. The development is the use of the property as accommodation with care for children or young people. As these groups share a protected characteristic due to their age, and due to that characteristic are unable to care for themselves, I have had due regard to the Public Sector Equality Duty (PSED) outlined in the Equality Act 2010. I understand that the London Plan 2021 (the LP) Policy H12

also makes general support for such uses which meet a wider identified need and the Framework states that it is necessary to ensure that the needs of groups with specific housing requirements are addressed. However, Policy BH7 of the Brent Local Plan 2019 -2041 (the BLP) sets out that proposals for such accommodation will be supported subject to several criteria, including where it demonstrates there is a specific Brent need.

5. The proposal would advance equality of opportunity for certain disadvantaged young people. The evidence before me explains the background context that there is a larger proportion of older children entering care and that it is a challenge for the Council to find suitable accommodation. I note following feedback from children in the care system the aim is to help more young people within the area stay close to Brent.
6. The appellant has explained the ethos of the home, how it would serve the needs of those who would live there, and the experience of staff and management. I recognise that the proposal could increase the availability of residential placements for young people and there is no dispute that there is a need for care places within Brent.
7. However, while the appellant indicates that they will engage with Brent's Children and Young Peoples services to agree referrals, and that their experience has made them aware of the need for specialist housing, there is no detailed or precise mechanism to ensure that this proposal would meet a Brent need as required by Policy BH7.
8. A negatively worded condition limiting the development or age ranges of the children until a planning obligation or other agreement has been entered into to secure this would not give certainty as to what was proposed. It would also conflict with advice in the Planning Practice Guidance that indicates that such an approach may be appropriate in exceptional circumstances where there is clear evidence that the delivery of the development would be at serious risk. That has not been shown to be the case. In the absence of any clear alternative mechanism, I conclude that a planning condition could not be used to ensure the development satisfied a Brent need.
9. Notwithstanding the proposal would provide significant benefits for children, it has not been evidenced that the proposal would meet an identified Brent need, nor is there any way for me to ensure that such can be secured after my decision has been made. Consequently, the proposal would be contrary to BLP Policies DMP1 and BH7. Combined and insofar as they are relevant to the appeal these seek to ensure the location and social infrastructure of development is appropriate and meets a need within the Borough.

#### *Accessibility*

10. The residential institution for four children would be supported by additional staff working in shift patterns. There are a number of services and facilities in the vicinity of the appeal site. This includes access to bus services and neighbourhood shopping areas. The routes to these facilities, would be via residential streets with street lighting and the distances provided by the appellant suggests their distance would provide opportunities for non-car modes of travel including walking, cycling and public transport.

11. However, the site has been given a Public Transport Accessibility Level (PTAL) score of 1b, and 2 by the Council's Transport Planning Section. Policy BH7 of the BLP has a requirement for such proposals to be located within an area with good access to public transport.
12. The appellant has suggested the proposal would be consistent with requirements to reduce the use of private vehicles to 20% by 2041, and that shift changes would normally take place during times when public transport is available. I also note the appellant would seek to employ local staff, but this cannot be guaranteed, nor can the staff use of public transport be controlled. Although I walked from Stapenhill Road to East Lane, noting the Pasture Road bus stops and shops, children or those who are less mobile could find such distances challenging, and they would also be less desirable in dark evenings or inclement weather.
13. It has also not been clearly explained to what degree there would be the need to transport children, where they would need to be taken and how often. Although the proximity of local schools and medical facilities, and the use of these are suggested, families would have to travel to the site for visits. There is no clear evidence that children could be accommodated by these or would want to attend these local key services especially in the absence of a mechanism to meet a Brent need, or if they were already attending school elsewhere.
14. There is no substantive evidence to conclude that the proposed development would be comparable to the use of the property as a House in Multiple occupation (HMO) use or a family dwelling. However, the appellant also refers to additional visits from therapeutic and other healthcare professionals and family members. In this respect, the activity levels would be different to that of a family unit or HMO as neither are likely to draw non-resident staff with regular shift changes and visiting support workers. Overall, given the appeal site's 'poor' PTAL rating, it is highly likely that there would be a reliance on the private car.
15. Consequently, the proposal would not accord with Policy BH7 of the BLP. This is insofar as it seeks to provide accommodation with additional support in locations with good access to public transport which limits car dependency.

#### *Fire Risk Strategy*

16. Policy D12(A) of the London Plan requires schemes to have the highest standards of fire safety. Its specific criteria are not addressed in the evidence before me and therefore the potential for the scheme to present an unacceptable fire risk to future residents cannot be ruled out.
17. I am mindful that the appellant has advised that the property as an HMO does have a level of fire safety provision that was sufficient to acquire a licence. However, no information has been put to me demonstrating that the similarities or differences in the required fire design details for these alternative uses. Therefore, I do not consider it appropriate to secure such information through a condition.
18. The proposal has not provided a suitable fire strategy. Accordingly, I find that the proposal would conflict with the objectives and requirements of Policy D12 (A) of the London Plan which seeks to ensure proposals achieve the highest standards of fire safety.

### *Parking*

19. The existing property has 3 off-street parking spaces, these are not laid out but could be accommodated on the existing driveway, and within the front garden area. This exceeds the maximum standards. The overprovision of parking in certain circumstances can undermine the purpose of maximum parking standards, which being to promote more sustainable modes of transport and reduce dependency upon private vehicles.
20. However, the evidence before me is that Stapenhill Road has been identified as a heavily parked street, and there are particular circumstances in this case resulting in the likely need for potential for external visitors in an area with a low PTAL score. As such the harm arising from one additional space, would be outweighed by the benefit to the wider area if such a proposed use were to be deemed acceptable.
21. I therefore find no conflict with Policy BT2 of the BLP which acknowledges that parking provision is a balance between a number of factors and as such the provision of additional parking could help reduce the effect on parking pressure.

### **Other Matters**

22. The appellant contends the existing property is currently being used as an HMO which falls within Class C4 of The Town and Country Planning (Use Classes) Order 1987 (the UCO), as the ground floor rear lounge is being used as an additional bedroom. The Council's officer report and statement hypothesises that if the appeal property is an HMO, the requirement to retain it as a family home is less relevant. The Council's appeal statement subsequently does not dispute the appellant's additional evidence on the HMO use at the property.
23. As an HMO, the loss of the dwellinghouse of residents living together as a single household has already occurred. The appeal scheme in particular would also retain the visual and physical attributes of a dwellinghouse and could be readily used as a family dwelling in the future. It has therefore not been demonstrated that the proposal results in a net loss overall or how it would be harmful to the housing targets. Thus, I find no conflict with LP Policy BH10, which seeks to resist the loss of larger family homes. The absence of harm in this respect does not attract weight for or against the proposal.
24. The Council's Transport Planning Section has suggested a condition could be imposed if the appeal were to be allowed in respect of cycle storage within the garage. A similar condition could be imposed for refuse storage facilities as the site is a more than adequate size to accommodate these. I therefore find no conflict with policies DMP1 of the BLP and T5 of the LP insofar as they are relevant to these matters of good design and the provision of cycle parking. The above are neutral matters weighing neither for nor against the development.
25. The appeal site is within the Sudbury Court Conservation Area (the CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the CA. From my observations, the significance would appear to be derived from the spacious layout of this

residential area, and consistent and attractive architectural style. As a prominent property of similar appearance to other buildings, the appeal property makes a positive contribution to the character and appearance of the CA. With no significant changes to the exterior and gardens, and consisting of a broadly residential, albeit C2 Use, the proposal would therefore preserve the overall character and appearance of the CA. This is also a neutral factor in the planning balance.

26. Other aspects of the development, such as provision of disabled accommodation, over concentration of care homes and effect on neighbour amenity have not been transposed to the Council's reason for refusal, as such the absence of harm in these respects are also neutral matters.

### **Planning Balance and Conclusion**

27. I have found that the development conflicts with the development plan as it would not have good access to services and facilities and would result in higher levels of car dependency which would be facilitated by the absence of a method of securing referrals for local children. This could not be secured by conditions. The proposed development does not address Fire Safety. I attach significant weight to these issues against the appeal.
28. My findings that the development would preserve the character and appearance of the CA and provide suitable parking, cycling and refuse facilities does not count for or against the appeal. However, it is a positive consideration that the residential institution would provide support services for children. I attach significant weight to the benefits the development would afford to those future occupiers.
29. I have had due regard to the PSED and the associated benefits in terms of eliminating discrimination against persons with the protected characteristics of age, advancing equality of opportunity for those persons and fostering good relations between them and others through the provision of a home environment. However, dismissal of the appeal would not prevent the continued care of children by the relevant authorities and the collective planning harm that I have identified is of such weight that a refusal of planning permission is proportionate.
30. For the reasons given above, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

*K Williams*

INSPECTOR