



Appeal Decision

Site visit made on 24 October 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th November 2023

Appeal Ref: APP/F1040/W/23/3319968

61 Ashby Road, Woodville, Derbyshire, Swadlincote DE11 7BZ

- 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 Kabal (Rose View Care Group Ltd) against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2022/1202, dated 29 August 2022, was refused by notice dated 22 March 2023.
 - The development proposed is to convert 4 bed dwelling to children's care home.
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Decision

1. The appeal is allowed and planning permission is granted to convert 4 bed dwelling to children's care home at 61 Ashby Road, Derbyshire, Swadlincote DE11 7BZ in accordance with the terms of the application, Ref DMPA/2022/1202, dated 29 August 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans numbered: A102 and, A103.
 - 3) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 2015 (as amended) the premises shall be used solely for the purposes of a children's care home, as defined by Class C2 of that legislation, and for no other purpose.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers.

Reasons

3. The appeal site contains a detached two-storey dwelling that can provide five bedrooms. The site fronts on to Ashby Road and provides vehicular parking to the front, while at the rear there is a large garden. The proposal is for the conversion of the appeal site to a children's care home but would not include any physical changes to the property.
4. Given the scale of the existing dwelling, I find that it could accommodate a large family. Given that such a family could include adult children or children with additional needs, a notable level of noise could be generated as existing. Moreover, I find that the proposed conversion would not intensify the use of the site beyond that already possible. Therefore, although noise arising from

care related activities may be audible from nearby dwellings, such as when it is necessary to tell off a child, or otherwise control unacceptable behaviour, I do not find this to be atypical for a family home. Consequently, I find that the level, and character, of the noise generated on site by residents would not be dissimilar to a scenario that could occur at the existing dwelling, without planning permission.

5. It is likely that friends or family may visit residents at the care home. Although I note the concerns raised that this would generate further noise, I do not find it likely to be any different than that which would occur at a family home of this size. Likewise, I find that the rear garden would likely be used in a way similar to how it could currently be used as a family home. Therefore, any noise generated would be of a level and character similar to a large residential dwelling.
6. Although the front of the site may be used for additional parking over that already present, I find that the increase would not be significant given the scale of the proposal. I therefore find that any noise associated with the manoeuvring and parking of vehicles would not be significantly or unacceptably greater than existing.
7. In considering the above, I am mindful that the appeal site is within a residential area and immediately adjacent to Ashby Road, a main thoroughfare. I noted during my site visit that it was a busy road and that the vehicular traffic generated a notable level of noise. Although my visit can only provide a snapshot in time, given the nature of the road, I do not find this to be an anomalous occurrence. Against this noise, and that generated by other nearby dwellings, I find that the proposal would not result in an unacceptable impact on the living conditions of neighbouring occupiers.
8. Although the appellant has not provided a management plan, given my findings above such a plan would not be necessary to ensure the living conditions of neighbouring occupiers. Moreover, I note that other legislation would also put controls in place to ensure the proper management of the care home.
9. Given the scope of the proposal and that there would be no physical changes to the dwelling or plot, there would be no impact on the privacy of neighbouring occupiers when compared to the current dwelling.
10. Although I recognise that there is a difference between the use of a property as a C2 dwellinghouse and a C3 care home, given the scale of the proposal I find that the appreciable difference with regards to the living conditions of neighbouring occupiers would not be unacceptable.
11. The proposal would not result in any unacceptable impacts on the living conditions of neighbouring occupiers and would therefore comply with Policies E7, SD1 and BNE1 of the South Derbyshire Local Plan Part 1 which, amongst other matters, require that developments do not result in any undue or adverse impacts on neighbouring occupiers with regard to them feeling safe, comfortable and appropriate privacy and amenity.

Other Matters

12. Given the scale of the development and the associated number of staff likely to be on site at any given time, I find that the parking area to the front would be sufficient to meet the needs of the proposal without harming highway safety.

13. I note concerns from interested parties that the proposed care home could be extended, or the use otherwise intensified, in the future. While possible, such scenarios would require the grant of planning permission. The Council would therefore retain control as to the assessment of potential harms arising from future works.
14. The Planning Practice Guidance makes it clear that private interests such as the alleged impact of a development on the value of a neighbouring property is not a material consideration.

Conditions

15. 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.
16. For certainty, I have set out the timescale for the commencement of development. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
17. As alternative uses, including within the remit of a care home, have the scope to result in impacts that have not been considered above, a condition is necessary to restrict the use to that of a care home for children.
18. The front of the appeal site is already used for the parking of vehicles. Given the scale of the proposal, and the details before me, I find that there would not be a significant increase in vehicles parking at the site at any one given time. Therefore, such a condition would not be necessary to protect highway safety.

Conclusion

19. There are no material considerations that indicate that the appeal 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