



Appeal Decision

Site visit made on 7 November 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2023

Appeal Ref: APP/Z4310/W/23/3319094

27 Spellow Lane, Liverpool L4 4DE

- 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 Miss Kirstie Holmes (Bliss Care and Support Services Ltd) against the decision of Liverpool City Council.
 - The application Ref 23F/0173, dated 26 January 2023, was refused by notice dated 14 April 2023.
 - The development proposed is the change of use from a HMO property to a children's therapeutic residential care home providing sole or main residence for up to four young people forming a single household.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a HMO property to a children's therapeutic residential care home providing sole or main residence for up to four young people forming a single household at 27 Spellow Lane, Liverpool L4 4DE in accordance with the terms of the application, Ref 23F/0173, dated 26 January 2023, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have shortened the description of development provided on the application form so that it more succinctly describes the proposal.
3. The Council has stated that the lawful use of the property as a House in Multiple Occupation (HMO) has not been established. My attention has been drawn to a recent appeal decision¹ on this site which addressed the matter of the existing use and granted planning permission for a change of use from a small HMO to a large HMO. On the evidence before me, I have considered this appeal based on the description of development as applied for by the appellant.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of surrounding residential occupiers, with particular regard to noise and disturbance.

Reasons

5. The appeal site comprises of a mid-terrace property which is sited a short distance back from the highway. It is situated opposite a school and college, with the County Road District Centre located a short distance from the appeal site.

¹ Ref: APP/Z4310/W/22/3308068

6. The proposal would provide accommodation for up to 4 children, with the provision of 24-hour care provided by 2-3 members of staff depending on the number of children present. A shift changeover would take place between 10.30am and 11am. In addition, a manager or deputy manager would be present during weekdays between the hours of 9am and 5pm. Other visitors would, such as social workers, visit the site less frequently. This level of activity would undoubtedly generate a number of comings and goings, some or all of which may be by private vehicle. However, whilst the site is designated as being within a Primary Residential Area, there are a wide range of uses in the surroundings, including a football stadium. Spellow Lane is in itself a busy road, which connects the nearby football ground with the commercial uses along County Road/Walton Road. In this context, with the background noise from passing traffic and vehicle movements associated with other uses such as the education establishment on the opposite side of the road, I do not consider that the arrival and departure of staff and other movements associated with the proposed use would give rise to harmful levels of noise and disturbance to surrounding residential occupiers.
7. My attention has also been drawn to parking restrictions in place to the front of the appeal site which would limit the parking of vehicles. This may have the effect of displacing parking to surrounding streets, but this is likely to be spread over a wider area rather than being concentrated in one location. Given the scale of the proposed use, and in particular the maximum number of vehicles would be for a short period at staff changeover time, this would not adversely impact on the living conditions of residents in the wider area.
8. The appeal property has a close physical relationship with other neighbouring residential properties, but there is nothing before me which indicates that the internal activities of the proposed use, which would be occupied by up to 4 children and usually by up to 4 members of staff would be inherently noisy. There would be differences between the proposed use and a typical family dwelling, most notably in staff changeovers that would be in addition to household activities, but the Council has not demonstrated why this would be harmful to the living conditions of neighbouring occupiers at this location.
9. For the reasons given above, I conclude that the development would not cause unacceptable harm to the living conditions of surrounding residential occupiers with regard to noise and disturbance. As such, it would not conflict with Policies H7, UD2 and UD7 of the Liverpool Local Plan 2013-2033, which seek, amongst other matters, to ensure that there is no adverse impact on residential amenity.

Other Matters

10. Reference has been made by the Council to a number of appeal decisions² and although limited information has been provided, it is clear from the details available, that their circumstances differed from this appeal as they are located in a different local authority area. The individual circumstances of the developments in the referenced appeals, such as the living room windows being at the back of the pavement is also not the case here on the appeal property, as they are set back and elevated from the pavement level. As such, they are not directly comparable to the proposal before me, which I can confirm has been considered on its own merits.

² Ref's: APP/C3430/C/21/3289833 and APP/C3430/X/22/3292915

Conditions

11. I have considered the conditions suggested by the Council and a consultee, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the suggested conditions as appropriate.
12. Conditions are required to control the use to that of a children's therapeutic residential care home for up to 4 children in the interests of the living conditions of neighbouring residential occupiers. Conditions are also necessary for this same reason to limit the number of staff, including the staff changeover timings and for the use of the home to be in accordance with the management details in the Statement of Purpose. A condition requiring the provision of cycle parking is required to encourage the use of a sustainable means of travel.

Conclusion

13. The proposed development would accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. I conclude that the appeal should be allowed.

F Rafiq

INSPECTOR

Schedule of 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: Location Plan (Scale 1:1250), Block Plan (Scale 1:200), Floor Plans, Business Plan (Bliss Care and Support Services Ltd) and Statement of Purpose September 2022 (Bliss Care and Support Services Ltd).
- 3) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended or re-enacted), the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended or re-enacted) and the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 (as amended or re-enacted) the appeal property shall only be used for a children's therapeutic residential care home for up to 4 children and for no other purpose, including any other purpose within Use Class C.
- 4) The number of staff on the appeal property at any one time shall not exceed 4, other than during staff shift changeovers which shall not take place between the hours of 23:00 and 07:00 and during which such changeover period the number of staff should not exceed 5.
- 5) The use hereby permitted shall not operate other than in accordance with the Statement of Purpose September 2022 (Bliss Care and Support Services Ltd).
- 6) The development hereby permitted shall not be first occupied until a scheme for the provision of cycle parking has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the development and retained thereafter.

End