



Appeal Decision

Site visit made on 15 January 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2024

Appeal Ref: APP/N1920/W/23/3320621

1 The Cottages, Oakridge Lane, Aldenham WD25 8BT

- 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 Mandeep Singh Basra against the decision of Hertsmere Borough Council.
 - The application Ref 22/1153/FUL, dated 30 June 2022, was refused by notice dated 24 March 2023.
 - The development proposed is Change of use from a single residential dwelling (Use Class C3(a)) to use as a children's home (Use Class C2).
-

Decision

1. The appeal is allowed, and planning permission is granted for Change of use from a single residential dwelling (Use Class C3(a)) to use as a children's home (Use Class C2) at 1 The Cottages, Aldenham, WD25 8BT, in accordance with the terms of the application, Ref 22/1153/FUL, dated 30 June 2022, and the plans submitted with it, subject to the conditions within the attached schedule.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (The Framework) was published with immediate effect on 19 December 2023. Policies within the revised Framework are material considerations which should be taken into account in decision making. Main parties have been given an opportunity to comment on the new Framework and I have taken into account any subsequent comments received in arriving at my decision.

Main Issue

3. The main issue is the effect of the proposed use on the living conditions of future occupiers, with particular respect to the movement of commercial vehicles associated with the neighbouring use.

Reasons

4. The appeal site is a four-bedroom detached dwelling, enclosed by a secure fence. It is alongside a cluster of development including two further dwellings and a car breakers and scrap metal yard. These properties gain access to Oakridge Lane via a narrow unmetalled private driveway, which is in a poor state of repair. The cluster of development is in the open countryside to the northwest of Radlett.
5. Policy SP1, of the Hertsmere Core Strategy [2013](CS), supports sustainable development. This includes the requirement for development to be safe and accessible and for it to create a healthy living environment for residents and

other users of development. The policy also seeks to ensure that it would be served by a safe and efficient transport system that allows access for all to everyday facilities.

6. The proposal seeks to convert the appeal dwelling into a small children's care home. The Appellant's supporting evidence indicates that the dwelling would be occupied by three children, with three carers, and states that the house would be of sufficient size to accommodate this without requiring expansion or alteration. The traffic associated with the use, through staff shift changes and other vehicles attending in support of the use, would be likely to be limited. This level of activity would therefore be similar to the type of activity associated with the use of the property as a single-family dwelling.
7. The Council is concerned that future occupiers of the property, namely children, would be at risk due to the location of the dwelling opposite a scrap metal dealership. The scrap yard is a large operation that would be likely to attract relatively high numbers of commercial vehicles. Children's rights are protected under the Children Act 1989 and 2004, a key principle of which is to protect the welfare of the child. This Act also requires local authorities to secure sufficient accommodation to meet the needs of children that the authority is looking after.
8. From the submitted evidence it seems that the duty of care of resident children of care homes rests largely with Ofsted, both through regulation and in issuing licenses to those operators who seek to run a care home. Resident children would be under the care of professional trained carers, with two staying overnight providing nighttime care and supervision. In such terms, I see no reason to consider that a child would be at particular risk of harm, despite the anticipated nature of traffic using the driveway.
9. Furthermore, the County's Safeguarding Team identify a shortage of children's homes in the county and support the proposal subject to it meeting Ofsted requirements. The County is not providing all required accommodation within its own jurisdiction with 384 children being cared for outside its borders, with 41 placed over 100 miles from their home address. Although some care may be specialist, requiring distance facilities, there is unmet demand for additional children's care homes within Herfordshire. The demand for child-care is corroborated by the Appellant's evidence that demonstrates that, across the Southeast, child place provision is low and substantially outstripped by demand. As such, the proposal would help meet some of this shortfall of places within the county.
10. The Council has provided no compelling evidence to demonstrate how harm to resident children would materially manifest. The property is an existing dwelling which could be accommodated by a family of three children without requiring any adaption. The dwelling is within an open setting, adjacent to woodland and green spaces.
11. At the time of my visit, I noted that the site was secure, with the front gate closed. The property therefore provides a safe and enclosed environment for future resident children. Consequently, although the site is adjacent to an industrial use and sewer treatment works there is no clear reason put to me as to why this would place a heightened level of risk to children attending the site. Furthermore, the secure front boundary would prevent small children coming into direct contact with lorries and vans serving the scrap yard. As a result, the

site would provide suitable residential accommodation that would be indivisible in use and operation from the existing lawful use.

12. Accordingly, the proposal would provide a safe, accessible and healthy living environment for future occupiers, including children. As such, the proposal would comply with CS policy SP1.

Public Sector Equality Duty

13. People within certain age groups have protected characteristics. In my assessment of the effect of the proposed development on children's safety, I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Given that the use would provide a service to children, the future occupiers share a protected characteristic for the purposes of the PSED. I have therefore afforded greater weight to the safety concerns raised as required by the PSED. Nonetheless, even with additional weight applied to this effect, the limited effect on the safety of attending children would not result in the increased exposure of a vulnerable individual to risk and would not result in significant harm.

Other Matters

14. The site is within an area of poor accessibility and provides limited scope for occupiers to catch a bus, walk or cycle to access goods and services. Nonetheless, this disbenefit is of limited weight against the scheme due to the lawful use of the site and being a similar intensity of use.
15. I note the concerns raised by interested parties regarding local drainage capacity, shift-changes causing potential disturbance to neighbours, the absence of fire hydrants and in questioning the size of the property to accommodate the proposed use, but these do not alter my findings on the main issue.

Conditions

16. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I shall take the Council's suggested conditions into consideration and impose most of these with some amendments and adjustments for clarity.
17. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty [conditions 1 and 2]. Conditions are also necessary with respect to the provision of suitable car parking, and for bin and cycle storage to be provided, to ensure the proposed use operate safely and would function well [3 and 4].
18. The Council has suggested a condition to limit the approved use to children's care home only. This would prevent movement within the C2 use class, which would otherwise be deemed to be permitted development (PD). The Framework advises that conditions should not be used to restrict PD rights unless there is clear justification to do so. However, C2 use (Residential Institutions) also include hospitals, nursing homes and training centres and therefore cover a range of activities that could be found to be unsuitable given the site's rural

location. A condition is therefore reasonable to restrict the approved use [5]. The Council has advised that a condition would be necessary with respect to electric charging points. However, I have not sought such details as this would be secured by Building Regulation requirements and it would be unnecessary to duplicate other legislative requirements.

Conclusion

19. The proposal would accord with the development plan when taken as a whole. For the reasons given above I therefore conclude that the appeal is allowed subject to conditions.

Ben Plenty

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Existing and Proposed Plans - PL.001, Proposed Site Plan - PL.002 Rev. B, Proposed Bike Store - PL.004 and Proposed Refuse & Recycling Store - PL.003.
- 3) Prior to first use of the development hereby approved, the car parking shall be laid out as shown on Plan No. PL002 Rev. B and that area shall not thereafter be used for any purpose other than the parking of vehicles for the development hereby approved.
- 4) Prior to first occupation of the development hereby approved, the cycle and bin store shall be installed in accordance with the approved plans and retained for the purpose of cycle storage.
- 5) The use of the building hereby permitted shall be limited to a children's residential care home within the limitations of Class C2 and no other purpose (including any other purpose in Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

End of conditions