



Appeal Decision

Site visit made on 14 November 2023

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2024

Appeal Ref: APP/G5180/W/23/3323458

Pilgrim Manor, Chapmans Lane, Orpington BR5 3JA

- 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 E Elliot against the decision of the Council of the London Borough of Bromley.
- The application Ref DC/20/05005/FULL1, dated 30 November 2020, was refused by notice dated 7 December 2022.
- The development proposed is the change of use and conversion of existing dwellinghouse (Use Class C3) to a 16-bed residential care home (Use Class C2) incorporating a part one/two storey side and rear extension, dormer windows, rooflights, PV panels, elevational alterations and associated landscaping.

Decision

1. The appeal is allowed and planning permission is granted for the change of use and conversion of existing dwellinghouse (Use Class C3) to 16 bed residential care home (Use Class C2) incorporating a part one/two storey side and rear extension, dormer windows, rooflights, PV panels, elevational alterations and associated landscaping at Pilgrim Manor, Chapmans Lane, Orpington BR5 3JA in accordance with the terms of the application, Ref DC/20/05005/FULL1, dated 30 November 2020, subject to the conditions set out in the Schedule.

Preliminary Matters

2. I have used the Council's description of development contained on their decision notice since it fully describes the proposal without reference to the lawful development certificate.
3. The National Planning Policy Framework (the Framework) was updated in December 2023, during the consideration of this appeal. Insofar as is directly relevant to the appeal, there are no substantive changes. As such, it was not necessary to ask the main parties for views and no parties have been prejudiced as a result.

Main Issue

4. The main issue is whether the appeal site is a suitable location for a Class C2 care home with particular regard to access to public transport and local facilities.

Reasons

5. The appeal site is a large, detached house set in extensive grounds. The site is located within the Metropolitan Green Belt. It is accessed via a narrow road, Chapman's Lane, a no through road running east from Sandy Lane, which also serves several other dwellings. Whilst the appeal site is relatively close to St

Paul's Cray and St Mary Cray, due to its location and setting, along with the other very sparse development off Chapman's Lane, the immediate area has a somewhat rural character.

6. The proposal involves the change of use of the house to a care home within Class C2, comprising 16 bedrooms and supporting facilities including communal living areas, a hairdressing room, gym and medical room. Extensions are proposed to the rear at ground and part first floor. The appellants have clarified that the care home would be for dementia patients requiring 24-hour care. Up to 13 staff would be employed, with 4-6 being on site at any given time.
7. Policy H13 of the London Plan 2021 relates to specialist older persons housing, identifying that boroughs should work with providers to identify sites which may be suitable for specialist older persons housing. It goes on to state that sites should be well connected, having access to relevant facilities, social infrastructure and health care, and being well served by public transport. Part 3 of the policy requires the increasing need for accommodation suitable for people with dementia to be taken account of.
8. Policy 11 of the Bromley Local Plan 2019 (BLP) refers to specialist and older people's accommodation, supporting the provision of this type of housing across all tenures where, amongst other things, they are conveniently located for local shops, services and public transport, appropriate to the mobility of the residents.
9. Whilst both the London Plan and BLP policies refer to the need to be well connected, as the caveat in BLP Policy 11 acknowledges, this is dependent upon matters including the mobility of residents. The London Plan also acknowledges that there is no clear evidence identifying the best method of provision of dementia care or accommodation, and that a range of solutions will continue to develop.
10. I acknowledge that the Council's Education, Care and Health Services questioned the need for residential care in an environment where care is increasingly provided in the community, had concerns over whether the proposals would be in line with the expectation that the elderly should be part of the local community, and had concerns that this location would not offer any opportunity for independent access to local shops and services. The appellant has, however, clarified that the intended residents of the care home would be elderly dementia patients requiring 24-hour care. As such, it would be reasonable to assume residents would be very unlikely to make use of public transport or leave the site unaccompanied due to the impact of the condition on personal capacity to lead an independent life. The travel plan proposes that for medical appointments or other off-site activities, a member of staff would be available to drive residents in a minibus.
11. Taking the above factors into account I do not find that the location of the site with specific reference to public transport availability or proximity to local facilities would be a limiting factor for the intended residents or would render the site inappropriate for the proposed use. Given the provision of a travel plan which sets out intended transport arrangements for residents, staff and visitors, I consider that the proposed use, subject to appropriate conditions restricting it to Class C2 nursing or residential care for elderly dementia patients, would be in line with the aims of Policy 11 of the BLP and Policy H13 of the London Plan.

Other Matters

Green Belt

12. A previously refused scheme on this site for a similar development which contained almost identical extensions to the appeal scheme, was considered by the Council to be a proposal for which very special circumstances had been demonstrated. This was due to a lawful development certificate being issued in 2019¹ which permitted a larger floor area than proposed in both the previously refused scheme and in this appeal. I have no reason to disagree with the Council's conclusion.
13. The scheme shown on the certificate included a large outbuilding which could theoretically be implemented prior to the appeal proposal. In its delegated report, the Council indicates that it would expect the appellant to enter into a legal agreement or unilateral undertaking to not implement the works as shown on the certificate in order to maintain the openness of the Green Belt.
14. There is no evidence to suggest that the scheme shown on the drawings accompanying the certificate has a reasonable prospect of being implemented. In any event, the existing house would continue to benefit from permitted development rights irrespective of the extensions or outbuildings shown on the drawings accompanying the certificate, so a unilateral undertaking would not guarantee that no extensions would be built pursuant to the permitted development rights for the dwelling. I do not therefore find that an undertaking to this effect would meet the tests set out in the Framework or Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 in that it would not be necessary to make the development acceptable in planning terms.

Proposed extensions

15. The proposed rear/side extension at ground floor and associated alterations would link the two buildings at ground and first floor, forming a single L shaped building. Dormers at roof level would be installed, enabling the use of some loft space as a staff area. The form and detailed design of the extensions would be consistent with the style of the existing dwelling, they would be subservient in nature and confined to the rear of the site. There is little detail regarding the landscaping of the remainder of this extensive site, but I consider this aspect of the development could reasonably be dealt with by planning condition.

Highways, parking and servicing

16. In terms of access to the site from the highway, I note that the existing carriageway is narrow with a few informal passing places. The existing access to the site has sufficient width for 2 cars to pass. Although the driveway is relatively wide, there would be limited visibility when turning onto Chapman's Lane due to the configuration of the land. Whilst I appreciate that interested parties have concerns regarding safe access and visibility, I note that the Council in its capacity as highway authority has not raised any objection to the proposed arrangement. I am also mindful that there have been no reported accidents, and that vehicular speeds would necessarily be slow in any event due to the nature and configuration of the road.

¹ Reference DC/19/04044/PLUD dated 12 November 2019.

17. A total of 11 car parking spaces would be provided, including space for a mini bus, along with 8 cycle spaces. Swept path diagrams provided in the transport assessment demonstrate access for larger vehicles including emergency vehicles and servicing vans. The travel plan states that the minibus would also be used for collecting/dropping staff at local train and bus stops to facilitate sustainable transport use. The travel plan also encourages car sharing and cycle use.

Standard of accommodation

18. There is no planning policy requirement that has been brought to my attention regarding room sizes in a care home use. The drawings show that there would be level access to the site, along with a level threshold throughout the ground floor and lift access to the upper floor bedrooms. Bedrooms and communal areas would have natural lighting and there would be small courtyard gardens to the ground floor accommodation. Level access would also be provided to some of the outdoor areas. I have no reason to reach a different conclusion to the Council regarding standard of accommodation proposed.

Living conditions of nearby residents

19. The building is a significant distance from any neighbouring dwellings. Due to this relative isolation from other buildings and significant coverage of the site by trees and vegetation, the extensions and alterations would not have any harmful effect upon the living conditions of neighbouring occupiers in terms of light, outlook or privacy.
20. The proposed use would attract more comings and goings than the existing single dwelling given the combination of employees arriving and leaving at the end of their shift, visitors, and deliveries. Whilst the increased level of activity associated with the proposed use may be noticeable to surrounding residents, given the significant distance between the proposed use and nearby dwellings, I do not consider that the use itself would cause any undue disturbance. The predicted increase in traffic along Chapman's Lane as a result of the proposed use would not in my view be so significant as to harm the living conditions of nearby residents.

Conditions

21. The council have provided some suggested conditions which I have considered against advice in the Framework and Planning Practice Guidance; as a consequence I have amended or omitted some of the suggested wording. I have attached the standard time limit condition (1) and a plans condition (2) as this provides certainty.
22. Condition 3 restricts the use of the building to nursing, residential and dementia care within Class C2 for people over the age of 65 years, as this was the basis upon which I have determined the appeal. Other uses within C2 would require additional assessment based on the characteristics of those uses, so it is necessary to restrict the nature of the use. Conditions 4 and 5 relate to landscaping, requiring details of the treatment of all areas of the site not covered by buildings, requiring planting to be completed within the first planting season following occupation. This is necessary to ensure the TPO woodland area is protected and ensure the development has a satisfactory setting.

23. Condition 6 requires the approval of an updated travel statement providing details of how private vehicle trips will be minimised for staff, visitors and residents, as well as details of how residents would access external activities. Whilst the submitted travel plan provides some level of detail in this respect, some aspects are vague and as such not appropriate to be secured by condition. This is necessary to ensure there is a strategy for securing sustainable transport choices and ensuring appropriate arrangements are in place for residents' transport to external appointments.
24. Condition 7 requires the materials used in the extensions to match those adjacent, which is necessary to ensure that the extensions maintain the character and appearance of the host building. Condition 8 is necessary to ensure appropriate measures have been incorporated to improve security and minimise the risk of crime. Condition 9 ensures the parking and turning area is provided and is necessary in the interests of pedestrian and highway safety.
25. Conditions 10 and 11 require the provision of the cycle storage and refuse and recycling storage as shown on the approved plans and are required in the interests of extending sustainable transport options for staff and visitors and ensuring appropriate living conditions for future residents. Condition 12 removes permitted development rights insofar as they relate to gates, enclosures and fences on the land and is required to preserve the openness of the Metropolitan Green Belt. I have amended the Council's suggested wording since the proposed C2 use would not have permitted development rights relating to extensions or other alterations.

Conclusion

26. I have found that the proposal is in line with the development plan read as a whole, and the material considerations in this case do not indicate that a decision should be taken otherwise than in accordance with it. For the reasons set out above, the appeal is allowed.

L Francis

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: 3375-19-PL604/P1 dated 5 September 2022; 3375-19-PL601/P2; 3375-19-PL603/P2; 3375-19-PL605/P2.
- 3) The premises shall be used for nursing or residential dementia care within Class C2 for persons aged over 65 years and for no other purpose (including any other purpose in Class C2) 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).
- 4) A. Prior to commencement of above ground works details of treatment of all parts of the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. Details shall include:
 - a) A scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted which shall include use of a minimum of 30% native plant species of home-grown stock and no invasive species.
 - b) Location, type and materials to be used for hard landscaping including specifications, where applicable, for:
 - i. permeable paving
 - ii. tree pit design
 - iii. underground modular systems
 - iv. sustainable urban drainage integration
 - v. use within tree Root Protection Areas (RPAs)
 - c) A schedule detailing sizes and numbers/densities of all proposed trees/plants.
 - d) An implementation programme, including phasing of work where relevant.
 - e) Specifications for operations associated with plant establishment and subsequent maintenance for a period of 5 years following planting.
 - f) Full details of retained and proposed boundary treatments.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied, in accordance with the agreed implementation and maintenance scheme.

- B. There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed under the details approved pursuant to 4A above.

- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion or first occupation of the development, whichever is the sooner. Any new trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 6) Prior to first occupation of the development, an updated travel plan statement shall be submitted to and approved by the Local Planning Authority. Details shall include:
 - a) Measures to minimise trips by private vehicles for staff, visitors and residents.
 - b) Means by which residents of the development may access appointments or activities located outside of the care home.

The measures contained in the travel plan statement shall be maintained for as long as the development hereby approved remains in place.

- 7) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 8) i) The development hereby permitted shall incorporate measures to minimise the risk of crime and to meet the specific needs of the application site and development. No above ground construction shall take place until details of such measures have been submitted to and approved in writing by the Local Planning Authority.
(ii) The approved measures shall be implemented before the development is occupied and the security measures to be implemented in compliance with this condition shall achieve the Secured by Design accreditation awarded by the Metropolitan Police.
- 9) Prior to first occupation of the development, the parking spaces and turning space shall be completed in accordance with the details as set out on drawing number 3375-19-PL604/P1 dated 5 September 2022 and thereafter shall be kept permanently available for such use for as long as the development hereby approved remains in place.
- 10) The bicycle storage shown on drawings 3375-19-PL604/P1 dated 5 September 2022 and 3375-19-PL603/P2 shall be completed and made available for use prior to first occupation of the development and maintained for as long as the development hereby approved remains in place.
- 11) The refuse and recycling storage shown on drawings 3375-19-PL604/P1 dated 5 September 2022 and 3375-19-PL603/P2 shall be completed and made available for use prior to first occupation of the development and maintained for as long as the development hereby approved remains in place.

- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development pursuant to Class A, Part 2 of Schedule 2 (Permitted Development Rights) shall be undertaken.