



Appeal Decisions

Site visit made on 15 February 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2024

Appeal A Ref: APP/C1950/W/23/3329645

59 Tiger Moth Way, Hatfield, Hertfordshire AL10 9LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Miss Carmen Ibie of Agape4All Limited against the decision of Welwyn Hatfield Council.
- The application Ref is 6/2023/1239/FULL.
- The development proposed is the change of use from HMO to residential institutions (Class C2).

Appeal B Ref: APP/C1950/W/23/3329646

61 Tiger Moth Way, Hatfield, Hertfordshire AL10 9LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Miss Carmen Ibie of Agape4All Limited against the decision of Welwyn Hatfield Council.
- The application Ref is 6/2023/1234/FULL.
- The development proposed is the change of use from HMO to residential institutions (Class C2).

Appeal C Ref: APP/C1950/W/23/3329959

65 Tiger Moth Way, Hatfield, Hertfordshire AL10 9LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Miss Carmen Ibie of Agape4All Limited against the decision of Welwyn Hatfield Council.
- The application Ref is 6/2023/1233/FULL.
- The development proposed is the change of use from HMO to residential institutions (Class C2).

Decisions

1. Appeals A, B and C are dismissed.

Preliminary Matters

2. As set out above, there are three appeals which travel together. Whilst they are located on neighbouring sites, the proposals differ only in their detailed design. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the three schemes together, except where otherwise indicated.
3. Since the applications were made, and decisions issued, the Council has adopted the Welwyn Hatfield Local Plan 2016 (adopted 12 October 2023). Accordingly, I have had reference to these policies in making my decisions.

4. Since the appeal was lodged, a revised version of the National Planning Policy Framework (the Framework) was published (20 December 2023). This does not materially change the planning policy context in respect of the main issues.

Main Issues

5. The main issues in all appeals are:
 - the effect of the proposal on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance;
 - the effect of the proposal on highway safety and parking provision; and
 - the effect of the proposal on the character of the area.

Reasons

Living conditions - noise and disturbance

6. The proposals at Nos 59, 61 and 65 Tiger Moth Way would involve the change of use from houses in multiple occupation (HMO) (currently containing five bedrooms) to residential institutions, each containing three bedrooms.
7. Although the appellant sets out that social care activities have taken place at the properties over the last 7 years, and that there are no objections from neighbours, there is no substantive evidence before me which sets out the number of residents who live or stay at the properties, either now or proposed, or the management arrangements there, including the numbers of staff that would occupy or visit the sites throughout the day and night. Similarly, there are no details before me of the numbers or types of deliveries or visitors expected at each of the properties. I consider that such activity, in the form of regular comings and goings, without any evidence to the contrary, would likely be higher than a typical dwelling or HMO in this location.
8. Detail of the management of the properties goes to the core of this main issue and I do not consider it appropriate for such details to be requested by condition. Instead, they should be provided prior to a decision being made.
9. In respect of noise, the appellant admits that there may be occasions where some noise may be heard, but that this would be in keeping with a typical family home with children. Moreover, the properties would be managed by staff. Nevertheless, the Council's environmental health specialists have recommended that a noise management plan would be necessary to ensure that measures are in place to minimise any potential disturbance to existing residential properties adjoining the site. I am of the view that these particular details could be satisfactorily conditioned in the event that the appeal was to be allowed. However, this does not overcome or outweigh the harm identified above.
10. Overall, based on the evidence before me, I conclude that the proposals would likely result in harmful effects on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance. The proposals would therefore be contrary to the relevant provisions of Policy SADM11 of the Welwyn Hatfield Local Plan 2016 (LP, adopted 2023) which, in part, seeks to ensure development proposals protect a good standard of amenity, including in respect of noise. This is in a similar vein to the Framework insofar as living conditions are concerned.

Highway safety and parking provision

11. The Council has set out that one car parking space would be sufficient for each of the properties. However, given the nature of the individual sites, on-site parking would not be possible. No details of parking provision have been provided by the appellant.
12. During my mid-week site visit, I noted a moderate volume of parked cars within the surrounding area. I have no doubt that the volume of parked cars in the area would increase in the evenings and at weekends. I also noted that controlled parking zones exist, restricting parking during the week to permit holders. Whilst I accept that the residents of the properties subject to the appeals may not use or need a car, it is set out that the properties would be staffed. As no details are provided of how staff would access the sites, or how frequently, it is likely that at least some staff would need to park nearby. It has been confirmed by the Council that permits would not be applicable to those members of staff.
13. With the above in mind, and with no evidence before me to substantiate that the likely uplift in vehicular parking could be acceptably accommodated within the surroundings, any additional on-street parking as a result of the proposals would likely result in inconsiderate parking. This is likely to lead to some frustration and drivers parking or manoeuvring in ways they would otherwise not. This, in turn, could impede the free flow of traffic and potentially be detrimental to highway safety.
14. Consequently, I conclude that it has not been satisfactorily demonstrated that the proposals would provide adequate parking provision and therefore have an acceptable effect on highway safety, contrary to the relevant provisions of the Council's Parking Standards Supplementary Planning Guidance (2004) and the Interim Policy for Car Parking Standards and Garage Sizes (2014). These documents, in summary, seek to provide adequate car parking and ensure that highway safety is not adversely affected, which is an objective shared with the Framework.

Character of the area

15. LP Policy SP1 supports sustainable development where, amongst other things, this increases the supply of housing and helps to reduce social and health inequalities. LP Policy SP7 supports the provision specialist housing in the borough's towns where accessibility to services and facilities is good.
16. The proposals would provide specialist housing for which there is an identified need. This would likely improve the living environments of the residents, integrated within an established residential area with good access to local services and facilities. There is no evidence before me to demonstrate that the proposals would result in a harmful concentration of specialist housing or that health care services would be unable to support the proposals.
17. LP Policy SP9 seeks to ensure that development proposals deliver a high quality design that sits comfortably in its context. In this respect, the buildings are already in-situ and no physical changes are proposed. During my site inspection, I saw no obvious indication of other properties within the locality of the appeal sites that were in an obvious residential institution use. The properties subject to the appeals, which are already in use for care provision

according to the appellant, did not stand out as particularly different within the townscape in terms of their appearance or how they are used.

18. However, the Council sets out that character is not limited to appearance. I agree with this statement, acknowledging that character is also about how a place is experienced as a whole. Nevertheless, the use of the properties would remain, principally, as residential accommodation which is in keeping with the established residential surroundings. Matters relating to potential noise and disturbance have been dealt with separately.
19. In respect of the comment concerned with precedent, this is based on a hypothetical eventuality. I am assessing the scheme based on the plans and evidence before me, limited to three nearby sites.
20. Overall, I conclude that the proposals would have an acceptable effect on the character of the area. The proposals would therefore accord with the relevant provisions of LP Policies SP1 and SP9, which in summary seek to support specialist housing, ensure development proposals sit comfortably in their context and help to reduce social and health inequalities in the borough.

Other Matters

21. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which 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. Wider planning considerations are paramount but nevertheless the particular effects of the proposal in this location are a matter to which I give moderate weight in assessing the proposal.
22. The buildings are intended to provide specialist accommodation. The appeal could result in the loss of the developments, which would mean that the management and residents of the sites would be unable to derive the benefits of the accommodation. This has the potential to disproportionately effect the residents and these equality implications add weight in favour of allowing the appeal.
23. However, I note that the services provided have been taking place at the site for 7 years. I have no evidence before me to indicate that the purpose of the buildings could not continue as they have been if the appeals were to fail, or that there are not alternative ways to provide the accommodation which would be less harmful. Taking all relevant matters into consideration, I do not find that the PSED considerations would outweigh the harm I have identified.

Conclusion

24. For the above reasons, having had regard to all matters raised, I conclude that the proposals would be contrary to the development plan as a whole and therefore the appeals should be dismissed.

A Price

INSPECTOR