
Appeal Decision

Site visit made on 15 April 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State.

Decision date: 23 April 2024

Appeal Ref: APP/T2215/W/23/3325458

15 Fairway Drive, Dartford DA2 6AR

- 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 Vimmi Virk against the decision of Dartford Borough Council.
 - The application Ref 22/01384/COU, is dated 22 November 2022.
 - The development proposed is described as the 'Change of use from C3 - dwellinghouses to C2 - residential institutions.'
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Decision

1. The appeal is allowed and planning permission is granted for Change of use from C3 - dwellinghouses to C2 - residential institutions at 15 Fairway Drive, Dartford DA2 6AR; in accordance with the terms of the application Ref: 22/01384/COU, dated 22 November 2022, subject to the conditions as listed in the Annexe of this letter.

Background and Main Issues

2. The appeal was made prior to the Council's determination of the application. Following the submission of the appeal, the Council issued a report, minutes and resolution from the Development Control Board indicating that had they determined the application, they would have recommended refusal of the application on two grounds: (1) *'The development, by virtue of the likely increase in activity at the property, would lead to a harmful impact on neighbouring residents by way of disturbance and the over-intensive use would have a harmful impact on the quiet character of the road contrary to policy DP5 and DP7 of the adopted Dartford Development Policies Plan 2017.'* The relevant policies are stated in the Minutes as being DP5 and DP7 of the adopted Dartford Development Policies Plan (2017) (DDP). An additional ground (2) suggested by the Council is that *'The development, by virtue of the increased parking demand, short-fall in on-site parking provision and lack of available on-street parking spaces, would lead to a harmful impact on highway amenities.'* The relevant policies stated in the Minutes as being Policies DP3 and DP5 of the adopted DDP.
3. On this basis, the main issues are the effect of the development upon:
 - The living conditions of the future occupants of the appeal dwelling from its proposed use, including the effect of the proposed use upon the living conditions of surrounding occupiers, with special regard to noise; and
 - Highway safety, with particular regard to impacts towards on-street parking provision.

Reasons

Living conditions

4. The Council have suggested that in considering living conditions, relevant policies include DDP Policy DP5 which seeks that development does not result in material impacts, from intensity of use, and noise, amongst others. I note that DDP Policy DP7 is also stated, however this policy relates to the borough housing stock in that it seeks to prevent the loss of family dwellings from subdivision and inappropriate development of garden land. Having read the appeal documents, there is no commentary in the loss of a family dwelling, with this proposal not having any affect to the garden land of the dwelling. As such I will not consider DDP Policy DP7 any further as it is not relevant to the matter at hand.
5. Beginning with intensity of use, the minutes of the Council's Development Control Board state that the building is unsuitable for the proposed use. It is unclear from the appeal documents of how this particular judgement was founded. DDP Policy DP5 mentions that intensity of use is a consideration, however contains no minimum standards for how to assess this. The Council's appeal documents do not provide any additional justification for this opinion or reason for refusal. The Appellant's Statement of Case states that the building is appropriate for the use and the rooms would meet the health and safety requirements to comply with the guidelines set by Ofsted. I have no reason to dispute this, and the dwelling would appear fit for purpose, having a room each for the residents along with private garden space and living areas.
6. I also appreciate comments from interested parties that that a purposely constructed building for the proposed residents may be more suitable, however that is not what is being assessed as part of this application. The building would be fit for purpose, and would be in compliance with DDP Policy 5.
7. Turning to noise, the application was supported by an Acoustic Report and Noise Management Plan.¹ The report illustrates noise would arise from two areas, the party wall and from the use of the garden. The report contains an assessment of these elements and concludes that there are no material differences from the proposed use compared to the use of a residential dwelling, but suggests that improvements such as internal acoustic insulation and acoustic fencing would assist in reducing any noise levels. The Noise Management Plan would also provide for training of staff and recognising any issues from residents with regards to noise and how to mitigate for this.
8. The submitted acoustic report, management plan and suggested measures would be appropriate to mitigate any proposed impacts from the proposed change of use.
9. In conclusion of this matter, the proposed change of use would not be detrimental to living conditions of surrounding occupiers and future occupants, as a result of the principle of the proposed use and its impact upon the surrounding residents as a result of noise. As such the proposal is made in accordance with DDP Policy DP5.

¹ By Ned Johnson Acoustic Consultants, Dated 03/07/2023

Highway Safety

10. DDP Policies DP3 and DP4 relate to Transport impacts and Transport design which seeks to ensure that development is appropriately designed in terms of its parking provision, encourages sustainable modes of transport and does not result in road and traffic congestion, safety impacts of pedestrians and pressure for on-street parking. There is also a Dartford Parking Standards Supplementary Planning Document (SPD) which gives guidance as to the design and amount of parking needed according to its use.
11. When I visited the site I noticed that some vehicles were parked within the turning head as well as along the cul-de-sac, which would make it difficult for larger vehicles such as refuse, delivery and emergency vehicles to manoeuvre and turn around within it. I appreciate that the parking conditions I experienced on my site visit was only a snapshot of the parking at this particular time, however I have also considered the evidence submitted by both main parties and interested parties, in the light of this, I am satisfied that what I saw represents typical conditions. It was evident to me that whilst there were some on-street spaces available, there is pressure on parking within this cul-de-sac.
12. A Parking Stress Survey² has been undertaken to consider whether the proposal would increase on-street parking pressures in the local area. The Parking Stress Survey Report has surveyed Fairway Drive, and surrounding roads including Lingfield Avenue; Rosedale Close and Newbury Close and found that whilst there is high demand that in the times surveyed that on average during peak times there were still available spaces.
13. Given the nature of the use, the parking demand generated is not from the occupants, but from the carers/staff associated with the use. The SPD states that for a C2 use that the proposal should provide one parking space per resident staff, plus one space per two other staff in addition to one space per six beds or residents (for guests/visitors) and one space for an ambulance. This would equate to a total parking requirement of approximately four car parking spaces and two for non-resident staff, one for the resident and one for a visitor. Given the nature of the use as a small care home, an ambulance space is unlikely to be required. The front of the building would allow two vehicles to be parked, a third could be possible, however the positioning of a street lamp post prevents this from happening. Additionally a vehicle could be parked on the road in front of the vehicles to the front, meaning that there may be at worst case scenario one car that may require off-street parking in the case that there were four carers on site at one time.
14. According to the Appellant's documents there is an emphasis and willingness to undertake a travel plan which encourages visits to the site by alternative means of transport by the staff/carers. Comparing this particular proposal to a residential dwelling, I am not convinced that in this particular case, that the proposed change of use would result in a significant increase of parking demand when compared to a residential dwelling. I note comments from interested parties with regards to the introduction of yellow lines along Lingfield Avenue, however this is unlikely to exacerbate parking to a great extent around the appeal site. There are also concerns from interested parties regarding parking over footpaths and blocking access, however unlike in the

² By Alpha Parking, Dated 01/02/2023

surrounding dwellings, there would be a management plan in effect to ensure that this would not occur.

15. In conclusion of this matter, the proposal would not cause adverse highway safety impacts as a result of on-street parking provision. As such it would be compliant with DDP Policies DP3 and DP4.

Other Matters

16. I note comments from interested parties with regards to anti-social behaviours; impacts from mini-buses and taxis; no other business operating in the area; neighbours not receiving written notification of proposals; loss of privacy; impacts to property prices of surrounding dwellings; concerns over the welfare of the children being cared for; and concerns that the use will be changed to adults with drink and drug problems.
17. Impact upon property values or the consideration about welfare of the residents are not planning issues, so is not considered further. The Council has suggested conditions with regards to the nature of the occupants and sought that permitted development rights within the use class be removed which appears to be an appropriate way to manage the use. The use, whilst a business is more related to residential in its aspects, and there is nothing in legislation preventing such a use from occurring in a residential street. The Council has consulted in accordance with the requirements of the legislation, whilst it may have been preferable to advertise more widely, this does not affect the considerations of the merits of the application. The visiting of the property by school buses or taxis would not be materially different from a regular residential property, I can see no increased harm caused by this in this particular case. As such these elements do not change the appropriateness of the proposed scheme when considered as a whole against the Development Plan and relevant material considerations.

Conclusion and conditions

18. For these reasons, and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal should be allowed and planning permission granted, subject to the conditions as detailed in the Annexe attached to this letter.
19. The Council in their Appeal Form response detailed that should the appeal be allowed, that suggested conditions should be imposed. I have considered the suggested conditions in accordance with the Planning Practice Guidance (PPG). Suggested Conditions 1 and 2 are standard conditions which set the standard time limit and approved plans which are necessary for the avoidance of doubt and in the interests of proper planning. Suggested Condition 3 seeks the undertaking of the suggested noise attenuation measures in order to mitigate against potential noise from the property. This is considered an appropriate and necessary condition that meets the tests of the PPG. Suggested Condition 4 seeks a travel plan be submitted for approval and implemented. This is considered an appropriate and necessary condition that meets the tests of the PPG. Suggested Condition 5 seeks that the use is restricted to young adults with disabilities and that permitted development rights be removed for changes within the C2 Use Class. This condition is reasonable, and gives further comfort to concerns to interested parties with regards to the use, and would be compliant with the PPG.

20. Suggested Condition 6 seeks that the development is operated in accordance with the Noise Management Plan which would be appropriate and conform with the PPG. Suggested Condition 7 seeks that the car spaces provided to the front of the property remain clear of obstruction and remove permitted development from the front garden area. This condition would be considered appropriate and reasonable and meet the tests of condition as per the PPG.

J Somers

INSPECTOR

ANNEXE – Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall be carried out in accordance with the following plans and documents:
 - 'Proposed Section A-A,' Sheet Ref: 15FD-PL 11;
 - 'Proposed Ground Floor Plan,' Sheet Ref: 15FD-PL 02 REV B;
 - 'Proposed First Floor Plan,' Sheet Ref: 15FD-PL 04 REV B;
 - 'Proposed Site and Block Plan.' Sheet Ref: 15FD-PL-00;
3. Prior to the first use of the development hereby approved, the noise attenuation measures (comprising insulation between nos. 15 and 17 Fairway Drive and acoustic fencing in the rear garden) as set out in the Acoustic Assessment from N Johnson Acoustic Consultants Ltd (dated 03/07/2022) shall be implemented and thereafter maintained in accordance with the approved details.
4. Prior to occupation of the development hereby approved, a Travel Plan is to be submitted to and approved by the Local Planning Authority and should cover the following issues:
 - Travel Plan co-ordinator;
 - Travel Surveys;
 - Measures to be taken to encourage walking, cycling, use of public transport and reduce car travel by staff.
 - Monitoring and review; and
 - Programme for implementation.

The approved Travel Plan shall be implemented in accordance with the approved implementation programme.

5. The use hereby permitted shall be only for to a residential institution for a maximum of four children/young adults no older than 18 with disabilities and for no other uses, including any other falling within Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or for any order amending, revoking and re-enacting that Order) and any other use whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not.
6. The development shall be operated in accordance with the submitted Noise Management Plan as set out in the Acoustic Assessment from N Johnson Acoustic Consultants Ltd (dated 03/07/2022).
7. The car parking spaces, turning areas and means of access shown on the approved plans shall be kept available for such use at all times and no development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 or not, shall be carried out on that area of land or to preclude vehicular access thereto.