



Appeal Decision

Site visit made on 23 April 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2024

Appeal Ref: APP/P4605/W/23/3335218

306 Harborne Park Road, Birmingham B17 0NE

- 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 Mr Harnesh Malhi (Bluejay Care Ltd) against the decision of Birmingham City Council.
 - The application Ref is 2023/01821/PA.
 - The development proposed is change of use from dwelling house (Use Class C3) to children's care home (Use Class C2).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have utilised the description of development from the decision notice as this more succinctly describes the appeal development.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the living conditions of neighbouring occupiers with regard to noise and disturbance, and
 - the character of the area with particular regard to the mix and balance of housing.

Reasons

Living Conditions

4. The appeal property comprises of a semi-detached property that is situated amongst other similar buildings. The surrounding area is predominantly residential, with properties being set back from the busy highway behind front garden and parking areas.
5. The proposal consists of a children's care home for up to 2 children, who would be cared for by 2-3 staff members. It would operate in a similar manner to a family dwelling, and the number of occupants could be limited by condition to ensure that it remains a small-scale use. The adjoining property, 304 Harborne Park Road has been granted planning permission¹ for a similar care home use, and the appeal proposal would also operate on an appointment only basis and

¹ LPA Ref: 2022/03328/PA

it is noted that no objections have been raised by the Council's Environmental Pollution Control Officer.

6. The appeal proposal would however result in two children's care homes being located in adjoining properties, and although the appellant has stated they would remain separate units, they would be run by the same operator, with the potential for staff to move between the two properties. This would generate activity which would differ from a family dwelling and would likely give rise to noise and disturbance on nearby residential occupiers from external activity such as staff taking breaks externally and other noise from staff movements.
7. For the reasons given above, I conclude that the development would cause unacceptable harm to the living conditions of neighbouring occupiers with regard to noise and disturbance. As such, it would conflict with Policy DM12 of the Development Management in Birmingham Development Plan Document (DMB), which seek, amongst other matters, to avoid an unacceptable adverse impact on amenity. It would also conflict with Paragraph 135 of the National Planning Policy Framework (Framework), which seeks a high standard of amenity for existing and future users. Although reference is made to Policy TP35 of the Birmingham Development Plan (BDP), this is not relevant to living condition matters.

Character

8. DMB Policy DM12 sets out that proposals for specialist accommodation, such as that proposed in this appeal will be supported where it will not lead to an unacceptable adverse impact on character, taking into account the cumulative effects of similar uses in the area. Although reference has been made by the main parties to DMB Policy DM11, this relates only to proposals for the conversion of existing dwellinghouses to Houses in multiple occupation.
9. The appellant and the Council have set out differing calculations on the number of properties within 100m of the appeal site, and the number of these which are being used as non-family dwellinghouses. In both sets of calculations, many of the non-family dwellinghouses within this radius are located on Woodleigh Avenue to the rear or on the opposite side of Harborne Park Road, a dual carriageway that has a wide grass verge in the middle and to either side. They are therefore separated from the appeal property which more immediately, along the northern section of Harborne Park Road between Cross Farm Road and a pedestrian path that links to Woodleigh Avenue, would be amongst only three other non-family dwellinghouses according to the Council's figures including the adjoining property at No. 304. As such, the proposal, having regard to the other non-family residential uses, would not unduly imbalance the housing mix to the detriment of the character of the area.
10. To conclude, the proposal would not have an unacceptable harmful effect on the character of the area with specific regard to the mix and balance of housing and as such, it would not conflict with DMB Policy DM12 or the Framework, which seek, amongst other matters, to ensure development is sympathetic to local character. Policy TP35 of the BDP, which is referenced in the decision notice is also not relevant to this main issue.

Other Matters

11. The proposal would contribute towards meeting the great need that exists for children's care provision and add to the choice of residential accommodation. Comments by the Children's Commissioning of Birmingham Children's Trust support the principle of development in this location. Whilst these factors weigh in favour of the proposal, they would not outweigh the harm that I have identified in relation to the first main issue.
12. The Council's decision raises no concerns in relation to highway grounds, the property is well located for schools and other local services and would provide satisfactory accommodation for future occupiers. These are however neutral matters and not ones which weigh in favour of the proposal.

Conclusion

13. I have found that the proposal would conflict with the development plan read as a whole. It has not been demonstrated that there are any material considerations of sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal is dismissed.

F Rafiq

INSPECTOR