



Appeal Decision

Site visit made on 15 May 2024

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2024

Appeal Ref: APP/G4620/W/23/3334290

7 Temple Meadows Road, Sandwell, West Bromwich B71 4DE

- 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 Jas Birring of Bright Life Living against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref is DC/23/68570.
 - The development proposed is the change of use from sui generis self-contained flats to Use Class C2 - children's residential care home.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from sui generis self-contained flats to Use Class C2 - children's residential care home at 7 Temple Meadows Road, Sandwell, West Bromwich, B71 4DE in accordance with the terms of the application, Ref DC/23/68570, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The decision hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 01 - Site Location and Block Plans, Drawing No. 03 – Proposed Plans and Drawing No. 04 – Existing and Proposed Elevations.
 - 3) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that order with or without modification) the premises shall only be used as a children's residential home for up to three children aged 8-17 and for no other purpose (including any other use falling within Class C2 of the Order, but may revert back to C3 (dwellinghouse) on cessation of the use).
 - 4) Prior to the first occupation of the development hereby permitted, the vehicular parking as shown on Drawing No. 01 – Site Location and Block Plans shall be provided and shall thereafter be retained for the purposes of parking.

Applications for costs

2. An application for costs was made by Mr Jas Birring of Bright Life Living against Sandwell Metropolitan Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. However, the policies of the Framework that are material to this case have not fundamentally changed. Therefore, I have proceeded to determine the appeal having regard to the revised Framework.
4. Additional information, including details of the organisational structure of Bright Life Living and relevant planning history has been submitted with the appeal. However, this information does not fundamentally change the appeal proposal. Further, given that the appeal procedure has provided an opportunity for the parties to comment on this information, I am satisfied that no party has been prejudiced.
5. Planning permission¹ has been given by the Council for the change of use of the dwelling to 2, 2-bed self-contained flats. Whilst construction works would appear to have commenced on site, the use has yet to be implemented. Thus, in considering the effects of the appeal development, I have had regard to the comings and goings associated with the use of the appeal property as a single dwelling as this better reflects the comings and goings baseline. Nevertheless, as development has begun in association with the 2021 permission, this is a strong fallback which is of significant weight.

Main Issue

6. The main issue in this appeal is the effect of the proposed development on the living conditions of the occupants of neighbouring properties, with particular regard to traffic movements and noise disturbance.

Reasons

7. The appeal property is one half of a semi-detached unit and occupies a modest sized plot. It lies in a relatively dense, suburban residential area characterised by properties of a similar scale and form. Properties typically front the road and are set back, behind front gardens, many of which are open fronted to allow off-street parking.
8. The proposed care facility would accommodate 3 young people between the ages of 8 and 17. There would be 2 members of staff on site providing 24-hour care provision working a shift pattern. In addition, there would be a manager working Monday to Friday 0900 to 1700. Additional support staff would be available between 1000 and 1030. Monthly visits by social workers and an independent reviewing officer would be by appointment only, whilst family and contact visits would typically be arranged off site.
9. The appeal site is within reasonable walking distance of existing services and facilities including local schools and is relatively well served by public transport. The children's independence would be encouraged meaning that some day-to-day journeys would be made without reliance on private vehicles. Nevertheless, given the shift patterns and changeover of staff, it is considered likely that there would be some limited additional traffic movements over and above that associated with a single dwelling house, including arrivals/departures later in the evening.

¹ DC/20/65067

10. Notwithstanding the above, noise and disturbance resulting from vehicular movements would not be uncommon in this area owing to the position of the appeal property on a main thoroughfare. Moreover, given the inevitable variation in work patterns and social activities of neighbouring occupiers, it would not be unusual for the residents to be aware of the comings and goings of their neighbours throughout the day. Having regard to the above, and the limited staff numbers, I find that the anticipated movements would not be disproportionately large or significantly greater than those which could reasonably be expected of a family carrying out their day-to-day activities or 2 households occupying the property as self-contained flats.
11. The internal layout of the residential care home and outdoor living space would not be dissimilar to a family dwelling. Despite the Council's assertions, there is a lack of substantive evidence to demonstrate that the potential emotional and behavioural difficulties of the children residing at the property would result in any greater disturbance than a domestic family residence or that the 24-hour supervision would be untypical of such a setting. Furthermore, given that the planning permission relates to the land, the credentials of the care provider and Ofsted rating are not relevant to the consideration of the merits of the case.
12. For these reasons, I find that the proposed development would not harm the living conditions of neighbouring occupiers, with particular regard to traffic movements and noise disturbance. It would therefore accord with Policy SAD H4 of the Sandwell Allocations and Delivery Development Plan Document 2012 where it seeks to ensure that proposals for specific needs housing is compatible with adjacent uses. It would also be consistent with paragraph 135 of the Framework which promotes a high standard of amenity for existing occupiers.

Other Matters

13. The Framework seeks to ensure that development is inclusive, and the fear of crime does not undermine the quality of life, community cohesion and resilience. While the fear of anti-social behaviour is a material consideration, there must be some reasonable evidential basis for that fear. There is no compelling evidence before me to indicate that the proposal would give rise to anti-social behaviour. Similarly, there is a lack of cogent evidence to suggest that the public sewer has insufficient capacity to accommodate the additional flows.
14. Whilst I recognise that at other times of the day demand for parking could be higher, at the time of my site visit, mid-morning, I observed limited parking stress along Temple Meadows Road. Even if an additional vehicle associated with the development needed to park on the road, given the scale and likely frequency, I am satisfied that there would be sufficient capacity to park along Temple Meadows Road without adversely impacting highway safety.
15. It has been suggested that the Council's publication of the planning application was inadequate. However, the evidence before me indicates that the interested party concerned was notified of the appeal and I have had full regard to the representations made in reaching my decision.

Conditions

16. I have had regard to the planning conditions that have been suggested by the Council and I have considered them against the tests in the Framework and the

advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents and for clarity and consistency.

17. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. To ensure that the intensity of the use of the site is managed in the interests of living conditions, it is necessary to restrict the use of the site and the number of children to reside at the property. I have imposed a condition requiring the provision of the off-street parking prior to first occupation of the development in the interests of highway safety.

Conclusion

18. For the reasons given above the appeal is allowed.

H Wilkinson

INSPECTOR