
Appeal Decision

Site visit made on 11 June 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2024

Appeal Ref: APP/K0235/W/24/3336437

4 Milton Road, Bedford MK40 2AY

- 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 Dean Pinnock (Bedfordshire Supported Housing) against the decision of Bedford Borough Council.
 - The application Ref is 23/01085/COU.
 - The development proposed is change of use from Class C4 HMO to Class C2 care home for up to 5 children.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading and decision above reflects the wording that was agreed between the parties after the application was submitted and that was included on the Council's decision notice.
3. The Council has queried the existing lawful use of the appeal site. This is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 (the Act). It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal. I have decided the appeal on its merits.

Main Issues

4. The main issues are:
 - whether future occupiers would be likely to experience acceptable living conditions in terms of amenity space provision; and
 - the effect of the proposal on the living conditions of neighbouring occupiers, with particular reference to noise and disturbance.

Reasons

Living conditions of future occupiers

5. The proposed children's home would provide accommodation for up to five children, anticipated to fall into the categories of low to medium risk. I understand they would be placed in the home on a medium to long term basis for upwards of 6 months to provide continuity of care. The principal area of external amenity space available to the children would be the rear garden,

which would comprise some 30m² of useable space. The modest side courtyard would be used for bin storage, so would not be primarily intended for, or suited to recreational use.

6. The rear garden would be large enough for sitting out but would not provide sufficient space for children to run around, play ball games or use active outdoor play equipment. Even two or three children playing in the space simultaneously could be difficult given its constrained size and bearing in mind the potential need for adult supervision.
7. I have considered the information about alternative outside spaces in the area. The nearest is relatively small and would involve walking along and crossing busy A roads, so it would not provide a readily available alternative to outside play at home. The other spaces would involve a considerably longer walk and there is little compelling evidence the schedule of the children's home would include regular visits to these. I note the organised off-site and in-house leisure activities that would be available to the children in the home, but these would not be a substitute for informal outside play. Nor does the inclusion of ample internal living accommodation overcome the separate need for acceptable outside space.
8. The Council does not have specific standards for external amenity space in children's homes. The Council's Homes in Multiple Occupation Supplementary Planning Document (HMO SPD) is not directly relevant to the use proposed in this appeal. Nevertheless, the suggested minimum of 50m² outside amenity space in that guidance does provide a point of reference, albeit for accommodation primarily intended to be occupied by adults. The proposed garden area would be well below this indicative benchmark.
9. Moreover, children's need for outside play space would be greater than that of adults and they would be less able to access alternative outside spaces independently. Given the additional vulnerability of the intended occupiers of the care home and the length of time they could live there, I find the outside amenity space proposed would not be sufficient to meet their needs. This would not be in the best interests of the children who would occupy the home.
10. It has been put to me the appeal premises could be used as a C3 dwellinghouse under the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended (UCO), in which case the number of children using the rear garden could be the same as that proposed in this appeal. Whether or not such a use would be lawful, I am not satisfied on the evidence before me that the way outside space would be used by children living in a single household would be directly comparable to that of up to five more vulnerable children living in a care home, with potentially varied care and educational regimes. Even if the premises could currently be occupied as an HMO, the way the outside space would be used would not be comparable for the reasons given above. I therefore give these potential fallback positions limited weight.
11. The appellant contends the size of the garden relative to the size of the appeal premises is proportionately similar to that of nearby properties. I am not persuaded of this on the evidence before me. In any event, this consideration is not sufficient to overcome the concerns I have identified, because of the particular needs of children in care. I have considered the suggestion that the urban location should be taken into account but if anything, I find this adds to

the need for dedicated outside space for more vulnerable children rather than weighing in favour of the proposal.

12. I recognise the proposed care home would need to undergo a separate assessment and registration process under another regulatory regime, which would also consider provision of and access to outside space. However, this does not eliminate the need for me to assess the planning merits of the proposal or overcome the concern about living conditions I have identified.
13. For the above reasons, I conclude future occupiers would not be likely to experience acceptable living conditions in terms of amenity space provision. This is contrary to Policy 60 of the Bedford Borough Local Plan (BBLP), which requires new residential institutions to be appropriate to the needs of the intended occupiers. It is also contrary to the Framework, which seeks to create places that promote health and well-being, with a high standard of amenity for future users.

Living conditions of neighbouring occupiers

14. According to the appellant's Design and Access Statement, the home would be staffed by a manager Monday to Friday between the hours of 9.00 and 17.00, plus three care workers on shifts during the day. Shifts would typically be from 10.00 to 22.00. There would be two sleep-in staff from 22.00 to 7.30. The appellant's final comments suggest a slightly different arrangement for staff shifts, such that in normal circumstances change-over would be in the afternoon rather than the evening. I understand from both documents that there would also be a changeover at the end of the night-shift.
15. Whichever shift pattern would prevail, I take from this evidence that there would be a regular routine of staff coming to and going from the premises every day in the morning, afternoon and evening. Children would come and go from the home to attend school, community-based activities/clubs and to visit family members. There would also be some professional visitors to the home, including a social worker every six weeks for each child.
16. Whilst some staff and other professionals may travel by bike or public transport, I consider it reasonable to expect others could use private cars or taxis. On the evidence before me, the children would travel by private car, taxi or on foot and public transport.
17. I find the volume and pattern of comings and goings would be somewhat greater than that typically associated with an HMO or single dwellinghouse of the same size. It is likely a moderate proportion of the journeys would involve cars pulling up at or parking near the home. However, there is a 20 mile per hour speed limit in Milton Road and surrounding streets, so traffic speeds would be low. The parking bays near the site are limited to permit holders during certain hours or to users of a pay and display system. The character of the area is such that comings and goings are part of daily life. Given the proximity of two corners and the spacious layout of the street, there would be relatively few dwellings directly affected by an increase in this type of activity.
18. Taking all this together, I find some increase in noise and disturbance to neighbouring occupiers would be likely to occur. However, on the evidence before me this would not be so great that it would give rise to significant adverse impacts on health or quality of life. There is also no pertinent evidence

to substantiate the suggestion that future occupants of the home would engage in anti-social behaviour.

19. The appeal brought to my attention by the Council¹ relates to a quiet residential area of close-knit dwellings on a narrow road. Therefore, notwithstanding the smaller size of the home proposed, the circumstances in that case are not sufficiently like those before me to be directly comparable.
20. For the above reasons, I conclude the proposal would not have a harmful effect on the living conditions of neighbouring occupiers, with particular reference to noise and disturbance. This is in accordance with BBLP Policies 32 and 47S, which require planning applications to give particular attention to the suitability of the existing environment and factors that might give rise to disturbance to neighbours, and to avoid noise giving rise to significant adverse impacts on health and quality of life. It is also in accordance with the Framework, which seeks to ensure new development is appropriate to its location taking into account likely effects on living conditions.

Other Matters

21. The proposal would help meet the needs of a group with specific housing needs in accordance with the Framework. However, whilst the number of children in care is expected to grow, there is no compelling evidence before me to demonstrate a specific shortage of children's homes in Bedford. Therefore, this consideration does not outweigh the harm I have found.
22. I note that Bedfordshire Supported Housing have been operating in the area for over 11 years and are a well-established social care provider with extensive experience and a range of accredited properties. Nevertheless, this track record is not sufficient to overcome the harm identified.
23. Although Bedfordshire Children's Services have not objected to the proposal, the absence of objection does not in itself render the scheme acceptable.
24. The appeal scheme is a resubmission of a preceding application refused by the Council. I appreciate the appellant has attempted to overcome the concerns previously raised, but living conditions for future occupiers would still not be satisfactory for the reasons I have outlined.

Conclusion

25. I have found the proposal conflicts with BBLP Policy 60. Although there is a limited degree of support from other BBLP Policies, I conclude the proposal conflicts with the development plan read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

C Carpenter

INSPECTOR

¹ Reference APP/U2370/W/21/3288039