



Appeal Decision

Site visit made on 2 July 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Appeal Ref: APP/P2365/W/24/3339138

77 Manfield, Skelmersdale, Lancashire WN8 6SU

- 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 Ms Jeane Lowe, Proactive Intervention Care Limited against the decision of West Lancashire Borough Council.
 - The application Ref is 2023/0588/FUL.
 - The development proposed is change of use from dwelling (C3) to residential care home (C2) for 1 (no.) child.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from dwelling (C3) to residential care home (C2) for 1 (no.) child 77 Manfield, Skelmersdale, Lancashire WN8 6SU in accordance with the terms of the application, Ref 2023/0588/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan MSP.1981/001; Block Plan MSP.1981/002A; Existing/Proposed Floor Plans Drawing No. MSP.1981/003A.
 - 2) 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 one child aged 7-17 and for no other purpose (including any other use falling within Class C2 of the Order, but may revert back to C3 (dwelling house) on cessation of the use).

Preliminary Matters

2. The development proposed has already been carried out. I have therefore dealt with the appeal scheme as seeking retrospective planning permission.
3. I note the appellant's contention that a change from Use Class C3 to C2 is often not considered to be a material change of use. However, it is not for this appeal to determine whether there has been a material change of use. I have dealt with the appeal on the basis of the development proposal as applied for and described on the application form.

Main Issue

4. The main issue is the effect of the development on the living conditions of neighbouring occupiers, with regard to noise and disturbance.

Reasons

5. The appeal property is a 3-bedroomed semi-detached property with a small front and an enclosed rear garden in a pleasant cul-de-sac of similarly styled properties. The locality is residential in character. The appeal property has a parking space. No extensions or alterations are proposed to the existing building.
6. The property is already in use as a residential care home for the care of one child aged between 7-17 with complex needs. The child is cared for by staff on a 1:1 or 2:1 basis, with staff sleeping at the property overnight. In this sense, the proposed use functions very much like a typical family home with older adults caring for a child. Six staff are employed on a shift basis working 48 hours on and 4 days off. A locally based manager regularly attends the property.
7. The evidence indicates that there would normally be two-staff on site at any one time. Notwithstanding this, there would be more staff members present on site during changeover times or when others visit. However, it is likely that changeover times would be short in duration and unlikely to cause any significant noise and disturbance.
8. There would be comings and goings associated with the child attending school, and general after school and leisure activities, along with occasional visits from social care professionals. However, the three-bedroomed dwelling house might reasonably accommodate five occupants, including a number with cars. Comings and goings associated with a family dwelling would have the potential to generate considerable levels of activity and associated noise and disturbance including residents using the garden, arriving to and from work or school, and from visitors attending the property.
9. The development is located within a quiet cul-de-sac which has a close relationship between the dwellings and their occupants by reason of the small number of dwellings and their semi-detached form and layout, fronting onto the shared narrow carriageway. However, passing traffic noise and the manoeuvring of vehicles would not be uncommon in the area owing to the housing density and inevitable variation in neighbouring occupiers' work patterns and social activities. Given the limited traffic movements anticipated, and that there would only be one child in residence and a small number of staff, I find that the comings and goings along with any potential additional visitors would not be disproportionately large or significantly greater than those associated with a family in a property of this size carrying out their day-to-day activities.
10. The home would be occupied by a child with complex needs, including behavioural, social, emotional and educational difficulties. However, such children can and do live in traditional family dwellings in residential areas. Whilst neighbouring properties are in close proximity, the development is small scale, and anti-social behaviour, such as swearing and loud music, whilst unpleasant, could be experienced by neighbours in any residential area.
11. Local residents have, however, reported significant concerns regarding incidents of anti-social behaviour associated with the appeal property which have resulted in the police being called. Increased police activity within the street and incidents at the property, such as smashed windows, drug abuse,

and the throwing of furniture from windows would undoubtedly be concerning for neighbouring residents. While such issues are capable of being a material consideration, the evidence before me is limited to isolated instances at the existing property. There are no submitted police reports, there were no comments from the police at the planning application stage, and I have no indication of the number of times the police may have been called. There is therefore no substantive evidence before me to suggest that such incidences are a sustained, ongoing issue or of such frequency to lead me to dismiss the appeal on these grounds.

12. Although the appellant has not provided a management plan, given my findings above I do not consider that such a plan would be necessary to ensure that the living conditions of neighbouring occupiers are not harmed. Moreover, I note that other legislation would also put controls in place to ensure the proper management of the care home.
13. For the reasons above, I conclude that the proposal would not harm the living conditions of neighbouring occupiers with regard to noise and disturbance. The proposal would therefore not conflict with Policy GN3 of the West Lancashire Local Plan 2012-2017 (2013) which seeks to ensure that developments retain reasonable levels of amenity for occupiers of neighbouring properties.

Other Matters

14. Local residents have raised concerns regarding parking. However, this is a 3-bedroomed house and as such it would not be unusual to have a number of cars at the address particularly if there were older children residing at the property. I noted from my site visit that car parking typically takes place within the curtilages of individual properties. There are also no off-road parking restrictions in the nearby roads. I also note that there were no objections reported from the Highway Authority. I have found that the development would not give rise to a significant amount of comings and goings. I am therefore satisfied that vehicle movements and parking would not cause danger to other road users or pedestrians.
15. I have not been provided with any substantive evidence to demonstrate that the scheme would in itself materially change the character of the area, particularly as the development has a residential appearance and that the property functions much like a typical family home. Given my findings above, there is little to support the suggestion that the development is not suitable in a residential area. I note comments that other locations may be more suitable for a residential care home of this nature. However, I must assess the proposal before me.
16. Local residents have raised concerns that the child living at the proposed facility would represent a safeguarding threat to local children and that the development would impact on elderly residents. People within certain age groups have protected characteristics for the purposes of the Public Sector Equality Duty (PSED). I have also had regard to information from an interested party that a neighbouring occupant suffers from ill health and disabilities. Given their conditions, the neighbouring occupant is a person who shares a protected characteristic for the purposes of the PSED.
17. In my assessment of the effect of the development on local children, elderly residents and the effect on a person with disabilities, I have therefore had due

regard to the PSED contained in Section 149 of the Equality Act 2010. This 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. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.

18. I recognise the paramount importance of ensuring the safety of local children, and the well-being of elderly residents and the neighbouring occupier. These are primary considerations. Any adverse effects for local children, elderly residents or the neighbouring occupier would weigh against the proposal in these respects.
19. However, given that the placement only relates to one child and the high staff to child ratio that is employed at the home, I do not consider that there is substantive evidence before me to draw the conclusion that allowing the development would threaten the safety of local children. Therefore, even with additional weight applied to this effect, the development would not result in the increased exposure of vulnerable individuals to risk and would not result in significant harm.
20. I have found that the development would not be harmful to the living conditions of neighbouring residents with regard to noise and disturbance, and therefore would not result in significant harm to the vulnerable neighbouring occupant or elderly residents. The benefits of the development would be to provide residential care for a vulnerable child, the needs of which I must also consider under the PSED, which weighs in favour of the proposal.
21. In view of this, and having regard to the legitimate and well-established planning policy aim of providing a sufficient number of homes for different groups in the community, a refusal of permission would not be proportionate and necessary. Allowing this appeal would be consistent with my PSED duty contained in Section 149 of the Equality Act 2010.

Conditions

22. I have considered the conditions suggested by the Council, having regard to the Planning Practice Guidance on conditions. For the sake of clarity, I have amended the conditions as necessary.
23. As the development has already taken place, a condition relating to the standard implementation period is unnecessary. I have, however, for clarity and enforceability, set out the approved plans. In order to protect the living conditions of neighbouring occupiers, a condition is necessary to restrict the use of the site and the number of children to reside at the property.

Conclusion

24. For the reasons given above, I conclude that the proposal would comply with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. As a result, the appeal is allowed.

L C Hughes INSPECTOR