



Appeal Decision

Site visit made on 22 May 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st July 2024

Appeal Ref: APP/R1038/W/23/3332794

Garden House, Station Road, Pilsley, Chesterfield S45 8BG

- 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 Mrs Jenny Payne (iBC Healthcare) against the decision of North East Derbyshire District Council.
 - The application reference is 23/00154/FL.
 - The development proposed is change of use of existing building to three supported living units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant sets out that the proposed supported living units would fall under the C3(b) use class, which is a dwellinghouse with not more than six residents living together as a single household where care is provided for residents. The appellant's statement of case makes it clear that each unit would be a separate C3(b) unit in its own right, and the plans before me show self-contained units each having its own kitchen, living area, bathroom and bedroom, with the only communal facilities being two bathrooms accessed from the main hallway and landing. It has been questioned whether the proposal is more consistent with the C2 use class as a care home, but the evidence from the main parties does not consider this in further detail. In the absence of this, I have approached the proposal on the basis that a material change of use is sought from one to three dwellinghouses on the land.
3. On site, I saw that internal works associated with the change of use have been commenced, with one unit already complete and occupied. However, the other units were not complete at the time of my visit and an increase in the number of residential units on the land had not yet occurred.

Main Issue

4. The main issue is the effect of the change of use on the character and appearance of the area.

Reasons

5. The appeal site is located on a narrow dead-end lane leading from Station Road, the main road through the village of Pilsley. Detached dwellings line one side of the lane. The proposed three supported living units are intended for adults with learning disabilities, including autism. The appellant sets out that occupants would be supported on a 24-hour basis by staff working in shifts,

with up to two care staff present for each occupant at any time. Shifts would be from 9:00am to 8:00pm and 8:00pm to 9:00am.

6. Representations from neighbouring occupants indicate that construction works commenced around April 2023 and the first unit was occupied around August 2023. I saw that the other two units were still under construction and not yet ready for occupation. The proposal includes alterations to the driveway and garden areas to facilitate parking and external amenity and activity space for prospective occupants. No works had commenced in respect of the driveway at the time of my visit. At the rear, fencing has been erected to subdivide the garden, but the proposed leisure, activity and sensory areas did not appear to be fully realised, with areas mainly comprising overgrown lawns.
7. The building on the site is indicated to have been a large, six or seven bedroom family dwelling prior to conversion works commencing. The proposal would create three units, two at ground floor and one at first floor. Despite being immediately to the rear of housing on the main street through Pilsley, the lane has a semi-rural character owing to the narrow, unpaved road surface, the largely undeveloped land to the southern side and the views beyond this over open countryside. I found it to be quiet, with little traffic.
8. The Council's assessment took account of comments from the local highway authority (LHA) and its Environmental Health Officer (EHO), each of which raised no objection on technical grounds relating to highway safety or noise impacts. Indeed, the LHA deemed the level of additional traffic would be 'limited' and the EHO stated that *'there is no substantial evidence that supported living is unacceptable in a residential area on grounds of amenity and that the management controls proposed appear reasonable and can be achieved by way of condition.'*
9. However, the Council's concern, echoed by representations from several interested parties who refer to their recent experience of activity at the site, is that the change of use would have an adverse effect on the character and appearance of the area. The use is described as more 'commercial' in nature and incompatible with the quiet, residential character of the lane. Specifically, reference is made to increased noise and disturbance from occupants and staff due to more intensive use of external areas and increases in vehicular traffic to and from the appeal site by staff. Concerns are also raised in respect of increased parking stress on the private lane; poor management of bins and the condition of the site worsening due to lack of upkeep by management.
10. The change of use would introduce more activity along the lane. The full time staffing requirements for occupants means that there would be routine comings and goings at certain times of the day as staff start and end shifts. This would bring with it a level of noise from vehicle movements, doors opening and closing and staff interacting with each other inside and outside the building. Based on the appellant's figures, the proposal would require up to six staff at any one time for three occupants. There is no suggestion by the appellant of staggered shift patterns. Therefore, at shift changes, it is possible that up to twelve staff may be on site for a period of time, particularly as the level of constant care occupants are stated to require means it is quite probable that there would be a period of overlap where those finishing their shifts will need to relay information to those starting before they leave.

11. It is indicated that residents would not be able to drive, but the potential staff numbers and working patterns mean that, were each staff member to travel in their own car, up to twelve vehicles may be parked or seeking parking on site at the same time, which would not be possible with the proposed six spaces. Moreover, the parking layout shows an impractical arrangement with spaces perpendicular to the site entrance in which vehicles are unlikely to be able to park. More likely is that cars would park facing the dwelling, as I saw on site, and would have to reverse out as there is insufficient turning space within the site. The expected increase in parking demand increases the risk of reversing manoeuvres taking place, particularly if the parking area is full when someone arrives, or if double parking takes place and one or more cars has to vacate to allow another to leave.
12. Beyond this, the evidence from several interested parties is that the number of carers on site for the current occupant is at times up to three or even four. This suggests that parking demand could be higher still. The appellant points out that staff may choose to walk, cycle or use public transport. A staff member living in Pilsley may do so, but I have no evidence that this would be the case for the majority of staff. Public transport is limited to one bus an hour between Chesterfield and Alfreton. This may be used occasionally by staff members, but given the long shifts expected, I find it more likely that workers would choose the convenience of their own car or a taxi over waiting for a limited bus service. Similarly, there is no evidence that cycling is likely to be a realistic or popular alternative for staff, particularly given the long hours required.
13. The level of parking demand would be added to by visitors, such as relatives of the occupants or health visitors, and deliveries to the units. Notwithstanding that an objection has not been raised in highway safety terms, I find that this level of activity would be more akin to a commercial operation than a private residence, or even a block of three private flats, where such a level and regularity of vehicular movements would not be expected. The private lane is narrow, unlit and in poor condition, and the proposal would represent a significant increase in activity, noise and disturbance that would contrast markedly with the quiet, semi-rural character of the lane. I am not persuaded that planning conditions would suitably address these effects, as I am not confident that there is sufficient space on site to properly accommodate a suitable parking arrangement, and it would be difficult, if not impossible, to regulate parking within the private lane. I appreciate that, in the event of the proposed parking area being full, an alternative may be for staff to park on other streets in the area. However, I have no information before me on the parking conditions on other streets, nor has this formed part of the proposal as assessed by the Council. The Council in any event has not proposed a condition relating to parking, despite indications to this effect in its statement of case.
14. As indicated, the Council did not explicitly refuse permission in respect of the effect on neighbours' living conditions, stating that the effect of noise from everyday activity on the site can be addressed by a planning condition requiring the appellant's noise management plan to be implemented. The plan sets out that staff will be on hand 24 hours a day to constantly supervise residents, that risk assessments are undertaken to ensure the accommodation is suitable for the occupant, and that incidents of noise, such as in external areas, would not be dissimilar to those arising from a private family home, and would be addressed by encouraging the occupant to return inside.

15. The proposal would be a form of residential use and I have already referred to the Council's EHO stating that there is no substantial evidence that supported living is unacceptable in a residential area on amenity grounds. However, neighbouring residents state that distressing incidents of noise and disturbance have already occurred. Derbyshire Constabulary Designing Out Crime Officer (DOCO) acknowledges that there is no inevitability that those in care will bring with them problematic behaviour, but that likelihood rests with the individual resident and the quality of care provided, with governance the responsibility of the Care Quality Commission.
16. The appellant does not comment on the claims made about incidents at the property, though the fact that they are made in similar terms by more than one interested party lends some credence to them. However, I am mindful of drawing general conclusions from such incidents, as the evidence does not indicate they are frequent, and the prospect of them occurring in future would depend on who may occupy the property. In this respect, the appellant states that the prospective occupants are not known to have behavioural problems and that it is intended that the units would be long-term residences for them.
17. The number of residents, at three, would not be significant even in the context of a quiet, semi-rural lane. As a residential use, noise would not be constant, and the full-time presence of staff members would help to address any incidents quickly. Therefore, I am satisfied that normal day-to-day activity by the occupants would not create such a level of noise or disturbance that it would adversely affect the living conditions of neighbouring occupants. I understand that the proposed use would introduce new people to the lane. However, given the scale and nature of the use proposed, there is no substantive evidence to suggest a risk to personal safety or community cohesion. It is, after all, a place for people to live, in a lane of houses.
18. The care and supervision requirements of the occupants mean that integration and neighbourly interaction as might occur with a single family dwelling is less likely. However, I am not persuaded that the use, in principle, is incompatible on this basis, and neighbourly relations could be fostered in time should occupants become long-term residents. Rather, without any substantive evidence such as vehicle tracking, a parking management plan, details of shifts and modes of transport, I cannot but conclude that the expected comings and goings of staff at shift changes, including from vehicle manoeuvring and conversing, would fail to respect the existing tranquil character of the lane.
19. In terms of bins and litter being left on the lane attracting vermin, I did not see this for myself on site, though I accept my visit was but a snapshot. However, such matters could be addressed by way of a planning condition to set out a waste management plan to which the appellant would be required to adhere. The local authority also has powers to address occurrences of littering.
20. The proposal would involve minor extension of the gravelled parking area to the front of the property. This in itself would not result in a significant change to the character and appearance of the property, though for the reasons already set out, the increased parking activity this would facilitate would have an adverse impact on character. At the rear, the subdivision of the garden would not be readily visible from a wide area, and it would remain in use as a recreational space. No adverse visual effect would arise from these alterations.

21. For the reasons set out, I have found no harm to appearance from the development, and the use itself would not be incompatible with the character of this residential street. However, given its semi-rural, tranquil character, I find the material increase in traffic movements, noise and activity, would significantly harm the character of this street. This would conflict with Policies SS1, SS7 and SDC12 of the North East Derbyshire Local Plan (November 2021) (the NEDLP) which together require development to respond positively to local character and context to preserve and, where possible, enhance the quality and local identity of existing communities and their surroundings; and to be appropriate in location to the character and function of the settlement.

Other Matters

22. I have had regard to a number of other matters raised by interested parties. I note the concerns regarding the actions of the appellant in terms of a lack of consultation with residents and commencing works on site before planning permission was obtained. However, whilst consultation by applicants is encouraged, it is not mandatory. The planning system also affords the right to seek planning permission retrospectively, and such applications must be determined as any other, only on their planning merits and without prejudice. As such, these are not matters which are decisive to my reasoning.
23. Concern is raised that the proposal could be converted to a Class C4 house in multiple occupation without further planning permission. However, were permission to be forthcoming, it would be possible to restrict future changes of use by condition should there be justification to do so.
24. Policy LC4 of the NEDLP supports specialist housing in appropriate locations, close to services and facilities. Whilst interested parties are critical of the level of service provision in Pilsley, it is categorised as a Level 2 Settlement in the development plan with a good level of sustainability. The site is also located within the settlement boundary where development is generally supported under Policy SS7. As such, the location would be appropriate with respect to the accessibility of facilities.
25. The proposal would provide a specialist form of accommodation for people with complex care needs, and I afford weight to the fact that the quiet environment is particularly suitable for persons with autism. I have no specific evidence as to an objective level of need for such accommodation in North East Derbyshire, but evidence set out by the appellant relating to the high number of individuals with learning disabilities and/or autism who are inpatients in hospitals and require accommodation is not challenged by the Council.
26. Notwithstanding that the site was occupied prior to planning permission being obtained, I have regard to the fact that the current occupant is likely to have protected characteristics under the Equality Act 2010, and the effect that dismissal of the appeal may have on their living situation. I have no evidence as to alternative living arrangements should permission be refused, but equally no evidence has been put to me that alternative arrangements could not be found, or that the existing resident could not continue to reside at the property within a single residential unit. Moreover, beyond general comments on the suitability of the quiet environment for prospective occupants and having to locate close to where the need arises, there is no specific evidence that this is the only such site that meets the requirements of the occupant.

Planning Balance and Conclusion

27. The proposal would conflict with the development plan due to the significant harm identified to the character of the area from increased activity associated with the use. This would also conflict with the aims of the National Planning Policy Framework (the Framework) to ensure that developments function well and add to the overall quality of the area over their lifetime and that they are sympathetic to local character. This harm, occasioned by necessary travel to and from the site by staff, could not reasonably be addressed by conditions.
28. I have not found harm in terms of the effects on neighbours' living conditions from everyday activity by residents, or in terms of highway safety. These are neutral matters in the overall balance.
29. The three supported living units would offer bespoke accommodation for persons with complex care needs within an accessible location, which accords with the aims of the Framework to support the housing needs of different groups. This is a positive factor of the proposal; however, given the limited number of units proposed, this attracts only moderate weight in its favour. Whilst the loss of a single family dwelling is raised by interested parties as a harmful aspect of the scheme, I have no evidence of a shortfall in the supply of such housing, and the loss of a single unit would weigh only slightly against the proposal, particularly as the building would still be put to a residential use.
30. I have had due regard to the Public Sector Equality Duty and the associated benefits in terms of eliminating discrimination against persons with protected characteristics, advancing equality of opportunity for those persons and fostering good relations between them and others through the provision of a home environment and the provision of residential care and support for people with autism and/or learning disabilities.
31. However, it has not been demonstrated that the site location is specifically necessary for the use, or that there are no other locations where supported living units could be provided without causing adverse effects on the character of the area. This tempers the weight I afford to the benefits of the scheme. Dismissal of the appeal would not prevent care by the relevant authorities, but use of the site at the level proposed would lead to permanent, significant harm to the character of the lane.
32. Overall, I find that the planning harm I have identified outweighs the identified benefits and a refusal of planning permission is proportionate and necessary.
33. For the reasons given, I conclude that the proposal would not accord with the development plan, taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

K Savage

INSPECTOR