



Appeal Decision

Site visit made on 26 June 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th September 2024

Appeal Ref: APP/G4620/W/24/3336919

17 Lee Street, Sandwell, West Bromwich B70 0QY

- 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 Quintella Thompson of New Era Residence against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref is DC/23/68214.
 - The development is change of use from C3 Dwelling to C2 children's Care Home.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from C3 Dwelling to C2 children's Care Home at 17 Lee Street, Sandwell, West Bromwich B70 0QY in accordance with the terms of the application, Ref DC/23/68214, subject to the conditions in the attached schedule.

Preliminary Matter

2. The development has started but it appears some works have been undertaken that do not accord with the plans before me. Consequently, I have determined the appeal on the basis of the plans before me.

Main Issues

3. The main issues relevant to this appeal are: the effect of the development upon the living conditions of the neighbouring occupiers with regard to noise and disturbance and the effect of the development upon highway safety.

Reasons

Living Conditions

4. The appeal property is a modestly sized bungalow located in a residential area with a mix of house types. The building has an inbuilt garage, and the entire frontage of the property is covered by a tarmac driveway.
5. The building is currently used as a Use Class C2¹ children's Care Home and provides a home for a single young person aged between 8 and 17 years old, alongside carers. Two carers would be on site throughout the daytime and one overnight, although an additional carer would be on site for part of the day and the evening. The appellant states that visits are made to the building from social workers and other professionals, but this is typically by appointment.

¹ The Town and Country Planning (Use Classes) Order 1987

6. Policy SAD H4 of the Site Allocations and Delivery Development Plan Document (SADDPD), adopted 2012, states that proposals for forms of housing, including care homes will be considered in relation to several criteria. It is not disputed by the parties that the site is accessible by a choice of means of transport and is in proximity to facilities. Based on the evidence before me I see no reason to disagree.
7. The three other criteria are 'compatibility with adjacent uses', 'the suitability of the site and building' and 'the character and quality of the resulting environment'.
8. The building is large enough internally to provide suitable accommodation for a single child as well as the carers and the garden is modestly sized given the number of occupants. The purpose of these types of care homes is to provide a normal as possible living environment for the child whilst ensuring there is support for them. As such, logically this use should be located in residential areas, such as this, to create a normal as possible living environment for the child in care.
9. Several comments were submitted to the Council's Pollution Control team and recordings were made that identified noise disturbances were occurring that led to Pollution Control to object to the application. Whilst I have not been provided with this evidence, it is evident the child was causing a disturbance to the neighbouring occupiers, however, given that this noise and disturbance relates to a child, this could occur in any residential dwelling. The comments raised are not predicated on the use of the building as a C2 children's Care Home but rather a matter of individual behaviour.
10. A building in C2 use is still classed as residential, and the day-to-day use of the building is very similar to a dwelling with the Care Home providing a home for the child. This is not substantially different to a Use Class C3 dwelling where children with specialist needs can live. The type of noise and disturbance from this use is not materially different from that which can occur in a dwelling.
11. Children in care can have a wide variety of needs but there is no substantive evidence before me that they would all cause significantly harmful disruption to the neighbouring occupiers. Consequently, the use is compatible with the adjacent uses.
12. A condition requiring a management scheme would include staffing, noise control and procedures for complaints which would provide a process to ensure matters, such as noise and disturbance, could be appropriately managed. This would contribute to preserving the quality of the environment nearby.
13. For the reasons given above the building and site is suitable for this use and the development is compatible with the adjacent uses. Furthermore, processes would be in place with the management scheme to ensure the character and quality of the resulting environment would not be harmed.
14. Therefore, the use of the building as a C2 children's Care Home does not significantly harm the living conditions of the neighbouring occupiers. Consequently, the development complies with Policy SAD H4 of the SADDPD for the reasons given above.

Highway Safety

15. The submitted plans show there is space for a single car to be parked on the driveway and another in the garage. However, the driveway appears to be large enough for a second car to be parked on it, although this has not been shown on the submitted plans.
16. The Sandwell Metropolitan Borough Council Supplementary Planning Guidance on Residential Design (2014) states that 'car parking standards for Nursing/Care Homes and Homes in Multiple Occupancy will be considered on the individual merits of the development proposal'.
17. The appellant states that the child in care would not be a vehicle owner and as such only the carers and any visitors are likely to need to park vehicles near to the building. If two cars were parked on the driveway and one in the garage, there is sufficient off-street parking spaces to meet the parking demands of the carers. Whilst this would involve tandem parking, given that the carers work together in the building, this would not create an unsuitable parking arrangement.
18. Carers, visitors, and those making deliveries may be required to park vehicles on Lee Street but there are limited parking restrictions on the road and none in front or neighbouring the site and as such, they could park vehicles on it. Whilst the building is located close to a bend in the road, the road is wide enough for cars to be parked on it and still allow vehicles to pass which I saw on my site visit. Vehicles also do not necessarily need to be parked on the bend in the road given the limited parking restrictions elsewhere on it. Furthermore, there are bus services nearby which can reduce reliance on private car use.
19. The scheme is limited in scale and off-street parking is available on the appeal site. In light of the number of carers employed and possible visitors there would only be a very limited increase in the number of vehicles that would need to park on the road and those visiting the site would do so irregularly. In light of this and the availability of parking on site and nearby, the development does not lead to the road becoming significantly constrained where emergency or refuse vehicles would be unable to drive down the road. This again is a matter of individual behaviour rather than the use of the building. The management scheme would provide a means to manage parking related to this development.
20. I am not satisfied that there is substantive evidence that if any additional vehicles from this development parked on the road that it would lead to the road becoming significantly constrained to the point where it would have an unacceptable impact on highway safety. Furthermore, while my site visit was only a snapshot in time the road was lightly trafficked, and most dwellings had off street parking spaces. Overall, there is no substantive evidence that the cumulative impact on the road network from this development was severe.
21. Therefore, for the reasons given above, the development does not harm highway safety and would comply with paragraph 130 of the National Planning Policy Framework (The Framework) which requires development to function well and add to the overall quality of the area.

Other Matters

22. Local residents have raised concerns that the child living at the proposed facility represents a safeguarding threat to local children. People within certain age groups have protected characteristics for the purposes of the Public Sector Equality Duty (PSED).
23. In my assessment of the effect of the development on local children, 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.
24. I recognise the paramount importance of ensuring the safety of local children. Any adverse effects for local children, would weigh against the proposal in these respects.
25. However, given that the development only relates to one child and the high staff to child ratio that is employed at the Care Home, I do not consider that there is substantive evidence before me to lead me to conclude that allowing the development would threaten the safety of local children. Therefore, even with additional weight applied to this, the development would not result in the increased exposure of vulnerable individuals to risk and would not result in significant harm.
26. I have found that the development is not harmful to the living conditions of neighbouring occupiers with regard to noise and disturbance, and therefore does not result in significant harm to the vulnerable neighbouring occupants. The benefit of the development is 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 development.
27. 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.
28. Comments were received regarding the windows within the flank wall of the building that faces towards 15 Lee Street (No 15) and concerns with overlooking. However, the plans before me do not include any windows within that flank wall. Whilst I saw at my site visit that there are windows within the flank wall, the development that is before me does not and as such, it does not lead to a harmful loss of privacy to the occupiers of No 15.
29. Matters related to Childrens Care and Safeguarding are dealt with under separate legislation and not a matter for me in the determination of this appeal.
30. While there may have been concerns regarding the behaviour of the carers requesting cars to be moved on the road, in reaching my decision I have been concerned only with the planning merits of this case.

31. The planning system does not exist to protect private interests such as the value of land and property. Thus, I have given this negligible weight in coming to my decision.

Conditions

32. Given that the application was made retrospectively it is not necessary to include the statutory commencement condition. However, it is still necessary in the interest of certainty that the development is carried out in accordance with the approved plans [1].
33. A condition limiting the number of young persons aged between 8 and 17 that can be housed within the property is necessary in the interests of the living conditions of the neighbouring occupiers as well as the future occupiers of the building itself. I have revised the suggested condition to allow the building to revert to a dwellinghouse in the event the use ceases [2].
34. As discussed above, a condition requiring a management scheme is necessary in the interests of the living conditions of the neighbouring occupiers. It is also necessary in the interest of highway safety that parking is also managed at the site [3].

Conclusion

35. The development complies with the development plan and the material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be allowed.

G Sibley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing nos 0458-01-00-PL1; 0458-03-00-PL1; and 0458-08-00-PL1.
- 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 care home for one child 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).
- 3) The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within 31 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a management scheme identifying management of the property, including staffing, waste disposal, parking, noise control and procedures for complaints shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved management scheme specified in this condition, that scheme shall thereafter be maintained in use.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

End of Schedule