

Appeal Decision

Site visit made on 11 September 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

Appeal Ref: APP/M1520/W/23/3330592

49 Kiln Road, Thundersley, Benfleet, Essex SS7 1TA

- 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 Patrick Zola against the decision of Castle Point Borough Council.
 - The application Ref is 23/0335/FUL.
 - The development proposed is described on the application as to 'convert the existing use C3 to C2 care for children'.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from Class C3 (dwellinghouse) to Class C2 (residential institution) at 49 Kiln Road, Thundersley, Benfleet, Essex SS7 1TA in accordance with the terms of the application Ref 23/0335/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. Notwithstanding the description of development set out in the banner heading above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the change of use from Class C3 (dwellinghouse) to Class C2 (residential institution). The Council dealt with the proposal on this basis and so shall I.

Main Issues

3. The main issues are:
 - whether a suitable standard of accommodation would be provided for future occupiers; and
 - the effect of the proposed development on parking provision.

Reasons

Standard of accommodation

4. The appeal site comprises a two-storey property, positioned to the north of Kiln Road, at its junction with Konny Brook. Parking is provided at the front, with a reasonably sized private garden to the rear.

5. There is no dispute between the Council and appellant in respect of the internal standard of accommodation that would be provided. However, the Council's first reason for refusal relates to the provision of insufficient external amenity space.
6. Policy EC2 of the Local Plan (LP, 1998) sets out that a high standard of design in relation to new buildings and extensions and alterations to existing buildings will be expected. RDG6 of the Castle Point Residential Design Guidance Supplementary Planning Document (SPD, 2013) sets out guidance in respect of amenity space. This states, amongst other requirements, that amenity space should cater for all the outdoor needs of occupiers and must be of a usable shape, provide safe and convenient access and should not be steeply sloping. Technical guidance is also set out to ensure that at least 15sqm of amenity space is provided per habitable room.
7. I have not been provided with the precise size of the existing garden space (which is to be retained) by either party. Nevertheless, I observed during my site visit that the established garden was of a reasonable size, typical of the area, was relatively flat, useable with both patio and lawn space and sufficiently private. In my view, and with no evidence to the contrary, the garden space would be suitable for the intended occupiers of the property (up to four children).
8. Overall, the proposed amenity space would provide a suitable standard of accommodation for future occupiers, in accordance with the relevant provisions of LP Policy EC2 and RDG6 of the SPD, which in summary seek to ensure that appropriate levels of amenity space are provided. This is in a similar vein to the provisions of the National Planning Policy Framework insofar as good design and living conditions are concerned.

Parking provision

9. The Council sets out that the development would require 6 parking spaces in order to meet its maximum parking standards. The appellant proposes 3 off-street parking spaces at the property. This is the same number as presently available at the front of the property. This would essentially provide parking spaces for two full time members of staff (whether in the day or night) and a visitor.
10. I acknowledge that the proposed development would, in all likelihood, attract other callers to the premises. However, the evidence before me sets out that these, typically health and social care visitors and inspectors, would be less frequent visitors, sometimes as little as once a month or once a year, and would be pre-planned.
11. There is no substantive evidence before me, such as an objection from the highway authority, that leads me to conclude that the provision of less than the maximum number of parking spaces would automatically lead to on-street parking or inappropriate parking generally.
12. Taking into account the two members of staff at the property, the relatively sustainable location of the site (bus routes pass the site) and the lack of any objection from a highways perspective, I am of the view that the proposed parking arrangements would not be harmful. Ultimately, there is no

substantive evidence before me that leads me to conclude that the proposed use would result in harm to pedestrian or highway safety.

13. Overall, I conclude that the proposed development would be acceptable in respect of parking provision, in accordance with the relevant provisions of LP Policy T8. This requires that adequate parking is provided, in line with the provisions of the Essex County Parking Standards (2010).

Other Matters

14. I note a number of matters raised by neighbours and others in respect of the proposed development. These matters include issues of overlooking, noise and disturbance, the impact on house prices and a rise in crime.
15. The existing property, including elevated rear-facing windows, is long established. The relationship between it and surrounding properties would not change as a result of the proposed development. From that perspective, there would be no harm to the living conditions of neighbouring occupiers with regard to privacy.
16. In respect of noise generated within the house and garden from the occupiers, this would unlikely be significantly different from that created by its use as a single dwelling. Moreover, the Council's environmental health specialists considered that the proposal would have a minimal adverse impact on the living conditions of neighbouring occupiers. I have no reason to disagree with those findings. There is no evidence before me to demonstrate that crime or security issues would arise as a result of the proposed development. Moreover, an operating management plan would be conditioned. Matters relating to house prices are not planning considerations.
17. A neighbouring occupier has set out personal circumstances in that the development would affect elderly residents who live near to the appeal site. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which 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. Wider planning considerations are paramount but nevertheless the particular effects of the development in this location are matters to which I give moderate weight in assessing the proposal. However, I have reasoned above the limited harm that the proposed development would cause and have found no harm in respect of the PSED factors.

Conditions

18. The Council has provided a list of 6 conditions that it suggests should be applied in the eventuality that the appeal was to be allowed. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance. I have amended the wording of some, and combined provisions of others without altering their fundamental aims.
19. In addition to requiring commencement within the relevant statutory period, I have imposed a condition requiring adherence to the relevant plans for certainty.

20. Conditions have been imposed relating to the Operating Management Plan and restricting the type of C2 use and the number of occupants. These conditions are necessary to protect the living conditions of the occupiers of neighbouring properties, and for certainty.

21. Separate suggested conditions restricting the number of children occupying the premises and in respect of the management plan are not necessary as these are covered under the conditions above.

Conclusion

22. For the above reasons, having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

A Price

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 23-097-010 (Existing plans and location plan); 23-097-100 (Proposed plans); 23-097-120 (Proposed elevations); 23-097-002 (Block Plan).
- 3) The submitted Operating Management Plan, dated 14th August 2023, shall be adhered to at all times.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, and the Town and Country Planning (Use Classes) Order 1987, as amended, (or the equivalent provisions of any statutory instrument revoking, amending or re-enacting those Orders) the premises shall only be used as a children's care home for up to four children up to the age of 18 and for no other purpose.

