

Appeal Decision

Site visit made on 28 August 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th September 2024

Appeal Ref: APP/F1040/W/24/3340546

37 Winchester Drive, Linton, Swadlincote, Derbyshire DE12 6PP

- 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 W & Mrs S Cooper of Cooper Humphreys Ltd against the decision of South Derbyshire District Council.
 - The application Ref is DMPA/2023/1374.
 - The development proposed is the change of use from dwelling house to use class C3b.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from dwelling house to use class C3b at 37 Winchester Drive, Swadlincote, Derbyshire DE12 6PP in accordance with the terms of the application, Ref DMPA/2023/1374, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is effect of the change of use on the living conditions of neighbouring occupiers.

Reasons

3. The appeal site contains a semi-detached dwelling with an attached garage that extends to the rear. There is a sizeable parking area to the front and a smaller garden to the rear. The site is set within a residential area characterised by similar dwellings.
4. The existing dwelling provides three bedrooms and, as such, could provide a family home for 2 adults and 2 children. The most notable types of noise generated at such a property would, at least in part, stem from activities outside, children playing (both indoors and outdoors), and from any raised voices such as adults telling off children. Given the residential nature and character of the surrounding area, I consider that background noise levels would be similar. The appeal dwelling and any properties within the wider area could accommodate residents with additional needs or could generate regular visits from friends, family and carers.

5. The proposal would convert the dwelling to a care home providing accommodation for one child and 2 carers. An additional carer would also make visits to the site, but I understand that they would not be located at the site fulltime. I consider that the number of occupants would be akin to a family dwelling and, given the nature of the use, it would also be similarly used in a domestic fashion. Whilst there would be an element of care provided, this would be to 1 child from up to 3 adults. This would therefore be comparable to the care provided in a family home. Although some future residents may need additional care, this can also occur in a residential dwelling. Lacking any substantive evidence to the contrary, I consider the character and level of potential noise generated at the site would be akin to that of the existing and neighbouring dwellings.
6. Children can misbehave irrespective of whether they are within a care setting of a familial home. At the existing dwelling children could be told off or sent to reflect on their actions anywhere within the site, including the garden. Noise from this would have the potential to be heard at neighbouring properties. The appellant's submissions state that de-escalation would take place within the garage. I consider that this management would go some way to reduce the potential impact on neighbouring occupiers below what can be expected of a residential dwelling.
7. Whilst the walls of the garage and dwelling adjoin the neighbouring properties, this is existing, and any domestic noise could already travel across the properties. As I have found no unacceptable increase in noise, this physical connection would not be harmful.
8. Although I note the concerns regarding the size of the dwelling and associated garden, the proposal would not intensify the use of what is already a family home. I consider that there is sufficient space to comfortably accommodate the child and carers and allowing them to meet their daily needs including for relaxation and play.
9. Residential dwellings often generate vehicular movements through journeys to and from work, education, shopping and social visits. Any vehicular movements generated by the care home would likely be for the same, or similar, purposes. I consider that irrespective of their purpose, vehicular movements to and from the site would be comparable to those of neighbouring occupiers and would be no more disruptive to the living conditions of neighbouring occupiers.
10. In light of the above the proposal would not unacceptably affect the living conditions of neighbouring occupiers by way of noise generated by, or associated with, the proposed use. It would therefore comply with Policies SD1 and BNE1 of the South Derbyshire Local Plan Part 1 which, amongst other matters, support proposals that do not result in undue adverse affects to the amenity of existing and future occupiers within or around a development.

Other Matters

11. The proposal would not change the external appearance of the appeal site and, as noted above, its use would be comparable to that of a typical residential dwelling. I do not, therefore, find that it would alter the character

or appearance of the site to the detriment of the surrounding area. Similarly, I have no reason to believe that the care home would adversely affect the community spirit of the area or its quiet character.

12. The submitted plans demonstrate that 3 car parking spaces could be accommodated on-site. This would largely meet the needs of the proposed use. However, it is likely that an additional space may be needed where all 3 members of staff and a visitor are present. Although this could not be provided on site, the road network surrounding the appeal site could accommodate this without any unacceptable detriment to highway safety.
13. The Planning Practice Guidance makes it clear that private interests such as the alleged impact of a development on the value of a neighbouring property is not a material consideration.
14. I note the concerns about the number of toilets provided and that this would not be appropriate for a care home. I do not find the proposed facilities conflict with the policies before me, and it is not within my remit to consider legislation outside of the planning process.

Conditions

15. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the National Planning Policy Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
16. For certainty, I have set out the timescale for the commencement of development. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
17. The proposal has been assessed as a care home for up to 1 child and so its impacts on living conditions have only been considered against this. Therefore, in the interests of protecting living conditions, it is necessary to restrict the use and limit the number of children that can be cared for at the site. To ensure that the site is suitably served by parking spaces, and that highway safety is not harmed, a condition is necessary requiring the proposed parking is provided.
18. I have found that noise generated at the appeal site would be comparable to the existing dwelling. It would therefore be unnecessary to secure the submission of a noise management plan in the interests of protecting the living conditions of neighbouring occupiers.

Conclusion

19. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawings: 5343 01, 5343 02 and Location Plan.
- 3) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 2015 (as amended) the premises shall be used solely for the purposes of a children's home, as defined by Class C3(b) of that legislation, and for no other purposes whatsoever.
- 4) The use hereby permitted will accommodate a maximum of 1no child and 3no. carers (including 1no. manager) within the site at any one time as per the Additional Statement (received 15/11/2023). This arrangement will be retained for the lifetime of the development.
- 5) Prior to the first use of the development, the parking arrangement for the site shall be set out as shown on the approved Block Plan (received 30/10/2023). The parking arrangement shall be retained as such for the lifetime of the development.