



Appeal Decision

Site visit made on 30 October 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2024

Appeal Ref: APP/V1505/W/24/3343355

168 Rectory Road, Pitsea, Essex SS13 2AN

- 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 Samson Oyerokun (ERI HOMES LTD) against the decision of Basildon Borough Council.
 - The application Ref is 24/00196/FULL.
 - The development proposed is the change of use from dwelling (class C3) into (use class C3(b)) supported housing scheme.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from dwelling (class C3) into (use class C3(b)) supported housing scheme at 168 Rectory Road, Pitsea, Essex SS13 2AN in accordance with the terms of the application, Ref 24/00196/FULL, subject to the conditions below:
 - 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 the following drawings:

Location Plan	- TQRQM24050113838171
Block Plan	- PLN 01/05
Proposed Ground Floor Plan	- PLN 03/05
Proposed First Floor Plan	- PLN 05/05

Preliminary Matters and Main Issues

2. The appellant sought planning permission to change the use of the property from Class C3 to Class C3(b). Whilst it was open to them to apply for a Certificate of Proposed Lawful Development to confirm the validity of such a change within the same use class, that did not invalidate the planning application that was submitted. The Council sought additional information and were advised that the property would cater for 4 residents and have at least 6 carers. At the appeal this was said by the appellant to have been a mistake and that the property would accommodate 3 residents who would have 4 carers.
3. However, based on the information submitted at the time, albeit without any written confirmation from the applicant, the Council amended the description of development, and considered the proposal as a change of use from Class C3 to Class C2.

4. The main issues for this appeal are therefore how the appeal property would be used; the effect of this on the character and appearance of the area as well as on the living conditions of occupiers of neighbouring properties, with particular regard to noise and disturbance.

Reasons

5. Use Class C3 relates to dwellinghouses. A sub-set of this is Class C3(b), which also relates to a dwellinghouse but where not more than 6 residents live together as a single household and care is provided for residents. A Class C2 use comprises the use for the provision of residential accommodation and care to people in need of care (other than a use within a Class C3 dwellinghouse).
6. In order to form a household for the purposes of Class C3, the persons who live together need not be related as family members. However, they must be adults. From the representations before me the residents would all be 18+ years old.
7. I saw at my site visit that the layout of the property is largely what is expected of a family home with communal lounge, kitchen and garden areas. The bedrooms provide separate private sleeping space with only one having en-suite facilities and so there is shared use of the upstairs bathroom and downstairs toilet. I saw that one of the ground floor rooms was used as an office for the support workers but this room is relatively small in the context of the building and would not necessarily be unexpected in a home where care is provided.
8. The information and detail submitted in support of the planning application is limited. Furthermore, the information submitted with the appeal has at times contradicted what was submitted with the planning application. Nevertheless, it all generally points towards a prevailing sense of communal living with the accommodation being for the benefit of a household with resident adults who are in need of some assistance, rather than to support the accommodation of people in need of significant care.
9. The residents are described as having learning difficulties and need assistance to live independently. I have no reason to doubt that the support workers on site are not resident and mainly assist residents in day-to-day tasks rather than undertaking such tasks on their behalf. There is no evidence that contradicts or casts serious doubt on the description of care provided by the appellant. There is no evidence before me to suggest that the needs of the adults residing at the property are such that they are not capable of forming a household themselves albeit with some support.
10. Consequently, there is nothing inherent within the layout of the property or in the facilities and support provided, that would suggest that the use falls outside use Class C3(b). I do not therefore agree with the Council that the proposal has the characteristics of a Class C2 use. Indeed, it seems to me that based on the evidence before me and as a matter of fact and degree the care provided to the residents would fall within the meaning of Use Class C3(b).
11. The appeal property comprises a semi-detached, two storey dwelling. There is a lawned area along with a patio to the rear and hard surfacing to the front for car parking. It is located within a residential area.

12. I note the concerns of the Council with regard to the impact of the change on the character and appearance of the area. However, there are no physical changes externally. As such, the property would retain its appearance as a dwellinghouse.
13. There may be some additional vehicle movements and comings and goings from the property. These will mainly be connected to the changeover of staff and perhaps at the beginning and end of the day when residents leave/return to the house. However, such movements would not be disproportionately large or significantly above what could reasonably be expected if the house were occupied as a four-bedroom family dwelling.
14. The proposed use would be residential in nature, with private vehicles parking at the site in the same way as any other private residential property. It seemed to me that there is currently sufficient space to park three cars on the site frontage. There are no on-street parking restrictions in the immediate vicinity of the site.
15. Furthermore, there is nothing before me to indicate that if there is overspill parking there would be any particular difficulties if carers or other health professionals needed to visit the property by private motor vehicle and had to park on street. Overall, there is nothing to indicate that the proposal would be harmful to the character of the area.
16. The Officer Report, largely on the basis that the property would have an office, expressed concern regarding the potential for noise and disturbance to adjoining occupiers. However, an office does not in itself signify that there would be disturbance to neighbours.
17. Given that the appeal property has four bedrooms, a family could also occupy it and potentially generate considerable levels of activity and associated noise and disturbance. This could include some variation in pattern and activity undertaken by different generations of a family, for example parents going to work at different times of the day and separate activities associated with the children, especially if the children were young adults.
18. Consequently, there is no substantive evidence before me to indicate that the nature of the occupation proposed would generate a scale or frequency of activity, noise or disturbance which would cause harm to neighbour's living conditions and so warrant the refusal of planning permission.
19. Drawing all of the above together, I find that the proposed use would be within Class C3(b) and that it would not cause harm to the character of the area or the living conditions of neighbours. As such, it would comply with Saved Policy BAS BE12 (i) and (iii) and Saved Policy BAS BE21 (ii) of the Basildon Local Plan 2007 which, amongst other things, seek to ensure that developments do not cause harm to the character of the surrounding area, or cause noise, disturbance or amenity problems to neighbouring occupants in residential areas.
20. The proposal would also accord with the provisions of the National Planning Policy Framework whose objectives include ensuring developments are sympathetic to local character and that they create safe, high-quality places and environments.

Other Matters

21. Concerns regarding acts of anti-social behaviour and a fear of crime can be material considerations but, in planning terms, the focus has to be the use of the land. Furthermore, there must be some reasonable evidential basis. Submissions linked solely to the characteristics of future occupiers would not justify a refusal of permission.
22. Whilst the experiences of local residents are undoubtedly real, there is no data to indicate the area has a high crime rate compared to other parts of the borough or that the overall likelihood of crime risk from this proposed development is high. As such, there is no robust evidential basis before me to demonstrate that the proposed use would lead to anti-social behaviour or that existing residents' fears of crime would undermine the existing quality of life in the local community.
23. Concerns regarding such matters as property values, the actions of previous residents or that the proposed residents would not be from Basildon are outside the scope of this appeal.

Conditions

24. In addition to the standard time limit, a condition listing the approved drawings is necessary in the interests of certainty.
25. I am mindful that Class C3(b) allows up to six people to live together and the internal accommodation of the dwelling inherently limits the number of residents. Therefore, a condition controlling the number of residents is not necessary. The hardstanding to the front of the dwelling can already accommodate three cars. It seems to me that requiring the spaces to be formally laid out would be out of keeping with the informal nature of most other on-site parking in the area and is not necessary given the availability of on-street parking.

Conclusion

26. For the reasons given, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions specified above.

Stewart Glassar

INSPECTOR