



Appeal Decision

Site visit made on 4 November 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2024

Appeal Ref: APP/W5780/W/24/3344962

32 Woodstock Gardens, Seven Kings, Ilford IG3 9SZ

- 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 Davinder Sohal against the decision of the London Borough of Redbridge Council.
 - The application Ref is 2320/23.
 - The development proposed is described as the 'change of use from current authorised use class C3 to use class C2 (residential care home for young people) for up to 8 residents including associated external storage area, parking as well as refuse and bicycle storage areas (part retrospective).'
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mrs Davinder Sohal against the London Borough of Redbridge Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description of development in the banner heading above is taken from the planning application form. There is no evidence before me that the appellant gave their permission for the change executed on the Council's decision notice.
4. The parties appear to dispute the current use of the appeal site. The appellant considers it to be operated as a Class C3(b) dwelling with up to 6 young people living as a single household and receiving care. However, the Council consider it to be a Class C2 residential institution use on the basis that children cannot form a householder themselves, and the definition of care in Article 2 of the Town and Country Planning (Use Classes Order) 1987 (as amended) (UCO), restricts the personal care of children to Class C2 only and not Class C3(b)¹.
5. Having said that, there is some ambiguity in the Council's position. The Council suggested in the original committee report that a change of use from a Class C3 use to a Class C2 care home for up to 6 persons could be carried out under permitted development². While this may be the case in respect of adults, it is not the same for children who are not living together as a household. In any

¹ Email from the LPA, dated 20th June, as produced at Appendix 1 of the Design and Access Statement, with reference to the case of North Devon DC v FSS & Southern Childcare Ltd [2003] JPL 1191.

² As described within paragraph 11.1 of the Council's committee report provided at Appendix 4 of the appellant's statement of case.

event, the description of development is clear that this is a proposal for the provision of an 8-person care home.

6. Previous enforcement investigations also appear to have been closed because the Council was satisfied that the appeal site was lawfully operating within a Class C3(b) use³. Whether that was on the basis that adults receiving care were occupying the building at that time, as opposed to children, is not clear. Certainly, at the time of my visit a number of occupants appeared to be adults, above the age of a child or young person.
7. It is not for me to consider whether the present use of the appeal building is lawful under this appeal process, or to determine whether it falls within Class C3(b) or Class C2 of the UCO. However, it is important to establish the basis on which I am considering the proposal.
8. The Council considers the last lawful use of the property was within Class C3 of the UCO⁴. The planning application form sought permission for a change from a Class C3 dwellinghouse to a residential care home for up to 8 people falling within Class C2 of the UCO. A Class C3 dwellinghouse could include a dwelling within C3(a), (b) or (c), particularly noting the provisions of s55(2)(f) of the Town and Country Planning Act 1990. This identifies that the use of buildings for any other purpose within the same use class will not involve development. In the absence of anything to indicate that there is a lawful use other than in Class C3, I have considered the appeal on that basis.
9. Having reached that conclusion, I am aware that a certificate of lawful use for a proposed change to a 6-bedroom house in multiple occupation (HMO) was approved in 2012. There is no clear evidence as to whether that change was ever implemented. Thus, I have considered the proposal on the basis of the description set out in the banner heading above.

Main Issues

10. The main issues in relation to this appeal are;
 - The effect of the proposal on the supply of housing within the borough, including whether there is a defined local need for specialist care accommodation, whether the proposal would cater for the needs of the Borough, and whether it would result in the unacceptable loss of a family sized dwelling; and
 - The effect of the proposal on the living conditions of neighbouring residents, with particular regard to noise and disturbance.

Reasons

Defined Need

11. Policy LP4 of the Redbridge Local Plan (RLP) 2018, states that the Council will support older, vulnerable and homeless residents in the borough by aiming to provide a sufficient supply of specialist accommodation, including temporary accommodation, to support independent living. This is subject to compliance with a number of criteria. I agree with the appellant that the policy does not place a ceiling on the provision of supported accommodation. Nonetheless, criteria 1(a) of Policy LP4 advises that the Council will support various forms of

³ LPA reference E0477/20, as set out in the Council's officer report.

⁴ As set out in the Council's email of the 20 June 2023 on page 11 of the appellant's Management Plan dated August 2023.

specialist accommodation where it is needed to meet a demonstrable need within the borough and will be targeted at borough residents (my emphasis).

12. The criterion is therefore 2-fold and requires both parts to be met simultaneously. It is clear from the wording of the policy that it is not designed solely for new care homes catering to elderly people and other groups, as suggested by the appellant. Even so, notwithstanding what use may be occurring at the property at the moment, the application seeks permission to change from a Class C3 dwelling to a C2 care home, such that it is in planning terms, a new care home.
13. The appellant maintains that there is a desperate shortage of well-run, high-quality and suitable care home accommodation for young, vulnerable persons including in this part of the capital⁵. They have pointed to an uneven distribution of children's residential homes across the country⁶ and evidence that demand for specialised supported housing is increasing⁷. Although this provides a wider picture of the supported housing context, it does not evidence a particular need or demand for such accommodation in Redbridge.
14. The Redbridge Housing Strategy (RHS) 2017-2022 acknowledged that there is a small stock of supported housing in the borough. However, that does not suggest that the stock is insufficient to meet needs. Moreover, the report does not suggest that young people face a significant challenge in securing care home accommodation as suggested by the appellant, but rather that affording accommodation independently of their families can be a considerable challenge. This is different. Whilst the RHS suggests that there are not adequate levels of social housing available for every young person, that is distinct to the provision of supported care accommodation.
15. In any event, the RHS was superseded by the Redbridge Housing Strategy (revised RHS) 2023-2028. This revised RHS does not make explicit reference to a need for supported accommodation for young people. What it does say is that the Council will produce a strategy to deliver the right kind of homes for those with specialist needs⁸. It is unknown whether such a strategy exists.
16. Notwithstanding the above, the Havering and Redbridge Local Housing Needs Assessment Update; Report of Findings (HNAU) 2023, appears to identify a need for 399 Class C2 dwellings over the plan period⁹. The HNAU does not however, provide any more detailed information regarding the need for a care home specifically for young people.
17. The Council via the consultation response of the children's services officer, has stated that data provided by the Commissioning Alliance indicates that Redbridge has the highest number of children's homes in London. It has suggested that there is no need for a further provider in the borough, and it does not struggle in finding suitable supported accommodation for 16-18 year olds. Emails from the Council's placement and brokerage officers appear to demonstrate some degree of a working relationship with Supporting Young

⁵ Paragraph 8.5 of the appellant's statement of case.

⁶ Excerpt from Ofsted 'Main findings: children's social care in England 2023' document as provided at appendix 11 of the appellant's statement of case.

⁷ Mencap 'Funding supported housing for all' document (2018) as supplied at appendix 8 of the appellant's statement of case.

⁸ Set out within the objective 1 table set out on page 10 of the Revised RHS provided at appendix 10 of the appellant's statement of case.

⁹ As demonstrated in Figure's 80 and 82 of the Havering and Redbridge Local Housing Needs Assessment Update; Report of Findings 2023.

Futures (SYF), although the precise nature and formality of this arrangement with the care provider is unknown¹⁰. As each young person's needs with regard to 'looked after' care is likely to be different, it appears that a request for a place from the Council would not automatically translate into an appropriate placement for that individual¹¹. The emails nevertheless appear to be evidence of demand for bedspaces in a C2 care home.

18. The Council has not drawn my attention to any quantifiable data that would indicate that there is a surplus of children's homes in the area, that there is no additional need for further supported accommodation units or that the HNAU target has been met. I therefore consider based on the evidence presented, that the proposed development would contribute to meeting the need for Class C2 specialist accommodation as identified in the HNAU.

Whether Targeted Provision for the Residents of the Borough

19. I now turn to the second part of criterion 1(a) of Policy LP4. The appellant suggests that due to the location of the appeal site close to services, facilities and public transport options, the care home would in the first instance always be targeted at young people from Redbridge. The Council has acknowledged that it can be difficult to establish where persons requiring care originate from. However, the supplied emails from the Council's placement and brokerage officers appear to indicate placements at local schools, or relationships with relatives, that could enable a connection to the borough to be identified.
20. Despite the well-meaning intentions of the appellant, there is no mechanism before me, for example a S106 agreement, to ensure that the proposed accommodation would be targeted at Redbridge residents in a meaningful way. Whilst the appellant suggests that they are happy to accommodate young people from Redbridge, there would be no way of preventing any available places from going to people from outside of the area.
21. I am not satisfied that a planning condition, requiring a scheme to demonstrate that the operator will continue to work with the Council's housing referrals team, would be sufficiently precise or enforceable, to ensure the accommodation would be appropriately targeted. This is particularly given the comments from the parties regarding the difficulties of ascertaining where some individuals originate from, which provides a degree of complexity in ensuring a suitable mechanism for targeted provision. In any event, no such condition has been presented by the appellant for my consideration.
22. Although I acknowledge the proposal would contribute to the need for Class C2 care homes within the borough, it would not be specifically targeted at residents of the borough as required by Policy LP4(1)(a).

Loss of a Family-Sized Dwelling

23. The appeal site comprises a large dwelling of 3+ bedrooms in a residential street. The appellant suggests that Policy LP5 which seeks to secure a range of dwelling sizes and tenures particularly focusing on the provision of larger family sized homes (three+ beds), is not applicable as it is aimed at new housing developments. However, the appellants evidence appears somewhat

¹⁰ As set out at appendix 7 of the appellant's statement of case.

¹¹ As discussed within page 3 of the appellant's supplementary statement.

contradictory in their acknowledgement that Policy LP5 along with Policy LP2, underscore the importance of providing and retaining larger family housing¹².

24. I also accept that Policy LP4 does not make explicit reference to the need to protect existing housing stock when considering proposals for specialist accommodation such as a care home. However, it is clear from the revised RHS and HNAU that the greatest need in the borough is for family-sized (3+ bedrooms) dwellings¹³. Such provision is supported by Policy LP5 in new housing developments, as well as Policy LP2 which also seeks to prevent the net loss of residential accommodation (criterion d).
25. Paragraph 3.8.11 of the supporting text to Policy LP2 advises that in addition to creating new homes to meeting its housing target, it is important to protect against the loss of existing homes to other uses. It suggests that the loss of housing would worsen the borough's housing shortfall and homes lost through redevelopment, change of use or conversion would further widen the gap between supply and demand.
26. The appellant contends that existing residential floorspace would not be lost. However, it is clear from the description of development that the proposal would result in the loss of a Class C3 dwelling from the housing stock for the lifetime of the proposed use. The proposal would maintain a form of housing provision at the site and I recognise that supported accommodation may positively contribute to catering for diverse housing needs in the borough. Given the lack of evidence that the proposed Class C2 care home would be targeted at those with a connection to the borough, I am unable to conclude that its provision would take-priority in this instance, over the loss of a family-sized dwelling.
27. Even if I could accept that the current operation of the appeal site amounted to a Class C3b) use which I have discussed in the preliminary matters section above, it would nonetheless remain in a Class C3 use, such that it could be occupied as a dwelling by a family. Irrespective of the internal layout and communal living environment of the appeal site, it is the material difference in the proposed change of use to Class C2, that is the crux of the issue here.

Conclusion – Effect on Housing Supply

28. For the reasons given, I have found that the proposal would meet an identified need for supported accommodation. However, the proposal would have an adverse effect on housing supply in the borough through the loss of a family-sized dwelling, with a form of alternative housing provision that would not be targeted at residents of Redbridge. I find that the proposal would not contribute to the supply of specialist care accommodation for residents of the borough. The provision of care for those outside the borough may not necessarily be harmful and would increase such provision more generally. However, in the absence of any evidence that the development would provide for the needs of local residents, it is not a form of development that would be supported by Policies LP2 and LP4(1)(a) of the RLP as set out above.

Living Conditions

29. The appeal site is located in a quiet residential street which at the time of my visits had limited pedestrian and vehicular movements. Whilst some properties

¹² Paragraph 7.57 of the appellant's statement of case.

¹³ As demonstrated in Figure's 80 and 82 of the Havering and Redbridge Local Housing Needs Assessment Update; Report of Findings 2023.

appeared to have been subdivided into flats, the majority appeared to be in use as single dwellings.

30. The property is undoubtedly sizeable and could accommodate a large family. It could also accommodate 6 adults (but not children) living as a family with care, given that planning permission is not required to go from Class C3(a) to C3(b). To be clear, given my findings above based on the evidence presented, there is no current lawful use of the appeal site as a Class C2 care home for 6 young people.
31. The Council's position with regard to the effect of the proposed development on the living conditions of neighbouring occupants is somewhat unclear. In its officer report it appears to have considered the proposal on the basis that the increase in occupants from 6 to 8, would not lead to harm to the living conditions of neighbouring occupiers with regard to noise and disturbance. However, reason for refusal 1 on the Council's decision notice describes concerns regarding the proposed size of the children's home and the intensification of the use.
32. The proposal would allow the property to be occupied by up to 8 independent young people, albeit sharing communal living spaces and facilities. Occupation by people living independently with varying lifestyles, would be materially different in character to a large family where visitors and journeys are more likely to be shared. Occupants are likely to be a more transient population than a family, that would come and go separately from one another for education, employment or leisure activities. As each person is permitted a visitor, up to 8 visitors could also be present.
33. It is not clear from the evidence presented to me as part of the appeal, whether individuals within the proposed care home would require visits from educational, probation or health care providers, in addition to those staff that may be on site on a more regular basis. To some extent this may depend on the exact 'looked after' requirements of the individual young persons. Nonetheless, this would cumulatively add to the intensification of activity that would occur at the appeal site, compared to a Class C3(a) or (b) use.
34. Given the quiet nature of the surrounding area, and the fact that the property directly abuts its neighbours with little space in-between, the more transient population, greater number of occupants, staff and visitors and pattern of use arising from the proposed care home, would be readily perceptible to neighbouring residents.
35. The Council advises that there have been no noise complaints arising from the existing use and the appellant informs me that one incident of antisocial behaviour that occurred in 2021 was promptly dealt with. This appears to contradict the representations from interested parties who have raised concerns about noise and disturbance already occurring from the current use of the appeal site, including loud music late at night, people loitering around the property and emergency service visits. As discussed above, it is not clear from the information presented whether the existing or previous use related to the provision of care for adults or child occupants.
36. Class C3 dwellings may be occupied by families with teenage children who have additional and specialist needs, that play loud music and/or have parties that may cause noise and disturbance to their neighbours. Nevertheless, a care home use will inevitably have a greater turnover of residents particularly where emergency care is offered, and residents require settling in.

37. Even with the package of management measures suggested by the appellant and potential regulation by Ofsted, it seems to me that the future residents, by the nature of their circumstances and vulnerability, may have a greater propensity to have incidents than adults receiving care. When such incidents occur, they will have already caused noise and disturbance such that even prompt action through the implementation of the management plan may not wholly mitigate the harm.
38. Clarity around the number of staff and support providers, the likely duration of occupant stays i.e. emergency, temporary or long-term and the implications for the management of the site would need to be clearly understood. In the absence of this, I share the Council's concerns that the potential for conflict would be heightened, given the number of bed spaces planned. The proposed intensification of use would be readily apparent to neighbouring residents and the resultant disturbance would be harmful to the peaceful enjoyment of their homes.
39. For the above reasons, I am not satisfied that the proposal would not lead to a propensity for noise and disturbance, which in this residential location would result in an adverse effect to the living conditions of neighbouring residents. The proposal would therefore be contrary to Policies LP26(2)(I) and LP4(c) of the RLP. These policies seek amongst other things, to ensure that new development does not unacceptably harm the amenity of neighbouring occupiers.

Other Matters

40. Concerns regarding the handling of the planning application are a matter for the parties. I understand that pre-application advice was sought by the appellant and that the planning officer recommended approval of the proposal. The Planning Practice Guidance is clear that pre-application advice cannot pre-empt the democratic decision-making process, or a particular outcome in respect of a formal planning application. Representations from consultees are capable of being material considerations, which the Council is able to take into account in its assessment of a proposal.
41. The appellant has referred to 2 appeal decisions relating to HMO in their costs claim, that should have been presented in their statement of case¹⁴. In respect of the Mortlake Road appeal, it was not the case that the Inspector indicated that the loss of a family dwelling was not an issue. Instead, they gave significant weight to the fallback position established by the grant of a certificate of lawfulness which also resulted in the loss of a single-family dwelling. There would therefore, have been no material difference in the implications of the proposal or fallback position for the housing stock.
42. In the Kingston Road decision, the Inspector found that whilst there was a potential loss of a family-sized house, the intensification did not amount to a material change of use. I find that neither of these decisions are comparable to the proposal in terms of their contexts or the fallback positions presented. Consequently, they do not affect my findings.

Planning Balance and Conclusion

43. The Council has confirmed that it is failing its Housing Delivery Test and cannot demonstrate a five-year supply of deliverable housing land.

¹⁴ Appeal and costs decisions references APP/W5780/W/18/3195145 and APP/W5780/W/20/3263096.

Consequently, paragraph 11 of the Framework is engaged. This states that planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

44. The development plan seeks to boost housing provision and retain existing housing stock through Policy LP2 of the RDP. The proposal would result in the loss of a Class C3 dwelling. Whilst this would have a limited effect on the housing land supply position, incremental loss would exacerbate the Council's housing shortfall, at a time when sufficient housing is not being delivered to meet substantial need. Over time, the cumulative loss of family-sized dwellings would undermine the Council's objectives of maintaining and increasing the supply of housing in the borough. Harm would also arise to living conditions of neighbouring residents with regard to noise and disturbance. These matters carry substantial weight against the proposal.
45. The proposal would provide supported accommodation which could be an important benefit. However, in the absence of a secure mechanism to ensure that it would be targeted at residents of the borough to meet an identified need, the weight that can be attributed to it is diminished. In my view, this attracts no more than limited weight.
46. The absence of harm in respect of highway safety, waste and refuse storage and ecology is a neutral factor that weighs neither for, nor against the proposal.
47. In light of the North Devon judgement, there would only be a fallback position with a realistic prospect of the appeal site operating as a Class C3b) dwelling if the use was restricted to adults requiring care, or in the case of children, it provided a primary residence for carers. The appeal site would form one planning unit such that it would not be possible to hive off 6 bedrooms as being permitted development, with 2 remaining as requiring permission, as suggested by the appellant. Even if I accept that there is a fallback position, it would clearly be smaller in scale, such that any harm generated would be less than that arising from the proposal. It attracts limited weight.
48. In my view, the substantial adverse impacts of the scheme would significantly and demonstrably outweigh the limited benefits. The proposal would conflict with the development plan and there are no material considerations, including the advice of the Framework, which outweigh this conflict.
49. For these reasons, and having regard to all other relevant matters raised, the appeal is dismissed.

M Clowes

INSPECTOR