



Appeal Decision

Site visit made on 4 December 2024

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2025

Appeal Ref: APP/X1355/W/24/3347950

131 Grange Way, Bowburn, Durham DH6 5PL

- 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 Lee Sowerby of Juniper Care and Support Ltd against the decision of Durham County Council.
 - The application Ref is DM/24/00334/FPA.
 - The development proposed is 'Temporary change of use of the property from C3 Residential to C2 Children's Home for a period of 3 years. There will be no internal or structural changes made to the property'.
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Decision

1. The appeal is allowed and planning permission is granted for 'Temporary change of use of the property from C3 Residential to C2 Children's Home for a period of 3 years. There will be no internal or structural changes made to the property', at 131 Grange Way, Bowburn, Durham DH6 5PL, in accordance with the terms of the application, Ref DM/24/00334/FPA, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan – 131, Grange Way, Bowburn, Durham, DH6 5PL
Parking Plan
Block Plan
Ground Floor Plan
First Floor Plan
 - 2) The use hereby permitted shall be as a children's care home to accommodate no more than 2 young persons under the age of 18 and for no other purpose falling within Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
 - 3) The use hereby permitted shall be discontinued on or before the day 3 years from the date of this permission and the land shall revert back to its previous use as a dwelling under Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
 - 4) The use hereby permitted shall at all times be carried out in full accordance with the Grange House Management Plan, dated June 2024.

Preliminary Matters

2. The evidence before me indicates that the proposed change of use has already occurred, having commenced in March 2023. The description of development confirms that no internal or structural changes are proposed. Accordingly, I have determined the appeal against the details on which the Council made its decision.
3. The planning application was recommended for approval by officers but was refused by the Council's Planning Committee. I have reviewed the minutes of the committee meeting, along with the numerous comments of interested parties that formed part of the discussion. I have given full consideration to these details in reaching my decision.
4. An update to the National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties have been given the opportunity to comment on any implications for the appeal arising through the updated Framework and I have taken account of these comments in my decision.

Main Issue

5. The main issue is whether the effect of the development on the living conditions of nearby occupiers would be acceptable, with particular regard to crime, disorder and the fear of such issues.

Reasons

6. The appeal site is a two-storey four-bedroom detached house, with front and rear gardens and a detached garage with a driveway to the side. It is located within a residential estate, with similar houses opposite and to both sides. To the rear of the property lies an industrial estate / business park.
7. The house is configured as a conventional dwelling, and no physical alterations are proposed to accommodate the change of use. The development seeks to establish a residential home for two children aged between 8 and 17 years. The proposal includes a 24-hour staff presence, with at least 2 carers on site at all times, and additional support available when needed. Two of the bedrooms would be designated for carers, who would work 24-hour shifts followed by 48 hours off on a rolling rota, with daily shift changes occurring at 10:00am.
8. The planning application was supported by a Statement of Purpose and Management Plan, which explain that the purpose of the home is to provide care for children who are unable to live with their parents for a multitude of reasons. The appellant highlights that the young people in their care are often severely disadvantaged, and their specialist support team seeks to meet the needs of the children for personal growth and to provide positive role modelling, with the ultimate aim being the provision of a secure base during their time in care.
9. A team structure has been submitted, outlining the roles, experience and qualifications of staff members. These include Residential Child Care Workers, Senior Residential Child Care Workers, Deputy Manager and Registered Manager, and a named 'Responsible Individual' who leads the team.
10. Policy 18 of the County Durham Plan, Adopted 2020 (the CDP), outlines specific criteria that all proposals for children's homes must meet in order to promote the creation of sustainable, inclusive and mixed communities. The Council's decision

to refuse the application cites conflict with Policy 18 e., which requires proposals to demonstrate they are unlikely to cause unacceptable individual or cumulative impact on residential amenity, fear of crime or community cohesion.

11. Durham Constabulary's Safeguarding Neighbourhoods Command (the SNC) confirmed that, as of the time the planning application was determined, there had been 64 recorded police visits to the property since operations began in March 2023. The SNC explained that the Neighbourhood Policing Team regularly attend children's care homes to provide support and advice, whether or not an incident has been reported. While the exact nature of each visit was not disclosed, they largely related to safeguarding issues involving an individual with complex needs. These issues could include children missing from home, varying levels of crime, and other safeguarding issues. While most incidents would be contained within the property, the SNC noted that some neighbouring residents may have witnessed or overheard them. It was also confirmed that the number of incidents had decreased over time and that none of the police visits related to antisocial behaviour, although 5 such incidents had been recorded elsewhere on Grange Way.
12. Despite this, many nearby residents expressed significant concerns about disturbances caused by the operation of the children's home, citing negative impacts on their living conditions. Allegations include – but are not limited to – antisocial behaviour such as loud music, foul language, drug and alcohol use, inappropriate behaviour in front of children, trespassing on neighbouring property, criminal damage to vehicles and businesses in the vicinity, parking and highway safety issues due to staff and visitor numbers, threats and intimidation of residents, and frequent police and emergency service attendance at the site.
13. By the time the planning application was determined, neighbouring residents had lived alongside the operational children's home for over a year, giving them firsthand knowledge of its day-to-day operation and its effects on the community. The representations made by residents show a high degree of consistency, and I have little doubt that some adverse effects have been experienced. However, it is also worth noting that similar issues could arise in any conventional dwelling where individuals with behavioural issues or complex needs reside.
14. The Durham Police and Crime Commissioner objected to the proposal, citing the increased demand for policing associated with such developments. However, this view contrasts with the SNC's comments, which emphasise the police's role in engaging with staff and children to reduce incidents through support and problem-solving. Furthermore, despite the allegations of criminal and antisocial behaviour, evidence of the SNC and the Council's Environmental Health team show no recorded incidences of crime, antisocial behaviour or statutory nuisance directly attributable to the appeal property during its operation.
15. Based on the evidence provided, I therefore conclude that the proposed development is unlikely to result in unacceptable effects on the living conditions of nearby occupiers with regard to crime, disorder and the fear of such issues. The development therefore accords with Policy 18 of the CDP, the aims of which have previously been set out. It would also accord with CDP Policy 31 which, in respect of this issue, seeks to ensure that development has no unacceptable impact, either individually or cumulatively, on health, living or working conditions. The proposal also aligns with the relevant provisions of the Framework, which have similar aims.

Other Matters

16. The representations from nearby residents raise several concerns beyond the scope of the main issue. It is well-established that it is not the role of the planning system to protect private interests, such as property prices and insurance premiums. As such, these matters fall outside the scope of what I can consider. Similarly, issues related to restrictive covenants are not relevant to planning decisions.
17. Interested parties allege that the proposal is profit-driven by a private company. The credibility of the operators is questioned, specifically regarding staff qualifications, the unregistered nature of the operation, safeguarding of the children in their care, and the fact that operations commenced without first obtaining planning permission. However, the regulation of children's homes and their operators falls under legislation outside the remit of the planning system. Additionally, The Town & Country Planning Act 1990 allows for planning applications to be considered on a retrospective basis.
18. Concerns have also been raised that the home does not cater to local children and is not needed. While the Council's Integrated Commissioning Service (ICS) confirms that the current residents originate from a different local authority, it is also stated that Durham County Council's current sufficiency strategy identifies a requirement for smaller children's homes, such as that proposed. This aligns with the objectives of the Framework in delivering provision for looked after children. The ICS further advises on the steps required to cater for local children, such as becoming Ofsted registered. Evidence submitted by the appellant indicates that this process is underway.
19. Significant concerns were expressed regarding staff and visitor parking, and the resulting impacts on highway and pedestrian safety. During my visit, I observed two cars parked on the property's driveway, with further driveway space available for vehicles to park off-street. Photographic evidence has been submitted showing vehicles obstructing pavements outside of the appeal property. While such parking may take place on occasion – potentially more frequently during staff changeovers – similar issues could arise from visitors to other properties in the area, many of which have far less off-street parking than the appeal site. The Council did not consider this matter to be a reason for refusing the application, and based on the evidence and my observations, I see no reason to conclude differently.
20. Interested parties argue that the property is unsuitable for a care home due to limited nearby amenities, youth facilities and schools. However, the property is well-served by public transport via the nearby A177, and a range of local services are within walking distance. Concerns were also raised about residents absconding from the home, but this must be balanced against the appellant's stated aim of encouraging independent living. Given the nature of the operation, the needs of each child in care will vary. In this regard, I find no compelling evidence to suggest that the property or its location is inherently unsuitable for the proposed use.

Conditions

21. The Council has provided a list of suggested conditions that I have reviewed against the tests set out in the Framework and the Planning Practice Guidance. To

ensure compliance with these tests I have made minor amendments to the suggested wording of some conditions.

22. Since the use has already commenced, a condition relating to the standard time limit for implementation is not necessary. A condition to specify approved plans is necessary in the interests of certainty.
23. To maintain consistency with the development as described and to safeguard the living conditions of nearby residents, a condition limiting the consent to a 3 year period from the date of the permission is necessary.
24. A condition requiring the development to operate in accordance with the submitted Management Plan is necessary to safeguard the living conditions of nearby residents.

Conclusion

25. For the reasons given above, I conclude that the appeal should be allowed subject to the conditions listed in my formal decision.

P Storey

INSPECTOR