



Appeal Decision

Site visit made on 11 December 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 24th January 2025

Appeal Ref: APP/V1505/W/24/3346170

22 Kennedy Avenue, Laindon, Basildon, Essex SS15 6LE

- 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 Ms Sharon Nyakabau of Alkadine Ltd against the decision of Basildon Borough Council.
 - The application Ref is 24/00364/FULL.
 - The development proposed is the change of use from single family dwelling house (Class C3) to a childrens home (Class C2) for 1 child or young person of 8-17 years of age receiving care (including additional supporting information).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from single family dwelling house (Class C3) to a childrens home (Class C2) for 1 child or young person of 8-17 years of age receiving care (including additional supporting information) at 22 Kennedy Avenue, Laindon, Basildon, Essex SS15 6LE in accordance with the terms of the application, Ref 24/00364/FULL, subject to the following 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 TQRQM24103092954094, A101 and A102.
 - 3) Prior to occupation of the development hereby permitted, details of cycle parking shall be submitted to and approved in writing by the local planning authority. Cycle parking shall be provided prior to occupation in accordance with the approved details and retained thereafter.
 - 4) Prior to occupation of the development hereby permitted, details of external security measures shall be submitted to and approved in writing by the local planning authority. The security measures shall be provided prior to occupation in accordance with the approved details and retained thereafter.
 - 5) The development hereby approved shall only be occupied as a children's and young persons' residential care home for one child resident between the ages of 8 and 17.

Preliminary Matters

2. The description of development in the banner above and within the formal decision is duplicated from the Decision Notice and Appeal Form. The use of this description was agreed in writing with both the appellant and the Council. This

description is not materially different to that specified on the Application Form; however, it does not reference matters which are not acts of development.

3. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I sought submissions from the parties on this matter. I have considered the parties additional submissions alongside their original representations when determining the appeal.

Main Issues

4. The main issues are the effect of the proposal on a) the character and appearance of the area, and b) the living conditions of occupiers of properties on Kennedy Avenue, with particular regard to noise and disturbance.

Reasons

Character and appearance

5. Kennedy Avenue is a residential area formed of many small closes. Most of the houses are linked-detached and sited near to one another. The appeal property is located at the end of a cul-de-sac that accommodates several houses. The prevailing pattern of development contributes to the area's suburban character.
6. The proposed use as a children's home would generate additional activity when compared to the existing use of the property. However, the occupation of the property would be restricted to one child and as such the increase in activity would be limited. Furthermore, the proposed change of use would be from one residential use to another. Consequently, the proposed use would assimilate with the suburban character of the area.
7. In addition, the proposal does not include any external alterations, other than the potential installation of security measures, which could be controlled by condition. The design of the appeal property would remain similar to neighbouring properties.
8. The proposal would not have a harmful effect on the character and appearance of the area. The proposal would comply with saved Policy BAS BE12 of the Basildon District Local Plan Saved Policies, September 2007 (LP), which indicates that planning permission for the alteration of dwellings will be refused where it causes harm to the character of the surrounding area. Also, the proposal would be in accordance with paragraph 131 of the Framework which indicates that the planning process should achieve the creation of sustainable places.

Living conditions

9. The appeal property is a 3-bedroom dwelling. Whilst it may only be occupied by an individual for part of the year, it is capable of being occupied more intensely. Regardless, the proposed change of use would increase the activity associated with the use of the property. Most of the time, the activity generated by the proposed use would be similar to a family dwelling, but there would be periods where there would be more intense activity, including at shift changes and during visits by support workers. The appellant has indicated that the shift change would take place at 09:30am but planning permission would not be linked to their business. Therefore, shift changes may occur in the morning and/or the evening, outside of traditional commuting periods.

10. Moreover, there is limited separation between properties and the road narrows towards the end of the cul-de-sac. Therefore, the effect of the increased activity would be particularly felt by neighbouring residents. Notwithstanding this, the proposed occupancy of the property would be limited to a child. As such, the increase in activity would be limited. Furthermore, the periods of more intense activity would last for a short amount of time. Given the number of houses in proximity to the appeal property and the amount of activity their use generates, a small increase in activity would not have a materially harmful effect, with regard to noise and disturbance.
11. The conversion of the property to a children's home would increase the transient population in the surrounding area. However, the area would still be dominated by private dwellings. The change of use would not result in an over concentration of residential uses which accommodate a more transient population. Therefore, the proposal would not have a harmful effect on social cohesion. Interested parties have also highlighted that the change of use would increase the fear of crime in the area. If the use is implemented the property would be monitored by Essex County Council to ensure it is operating safely. There is also no substantive evidence that the use of a children's home would lead to an increase in crime.
12. The proposal does not include any physical alterations to the building beyond the installation of security measures. As such, the existing relationship between the appeal property and its neighbours would be retained. The occupation of the children's home would not alter the amount of privacy currently enjoyed by neighbouring residents.
13. The proposal would not have a harmful effect on the living conditions of occupiers of properties on Kennedy Avenue, with particular regard to noise and disturbance. The proposal would comply with saved LP policies BAS BE12 and BAS BE21 which indicate that planning permission for residential care accommodation will be granted subject to it not giving rise to significant amenity problems, amongst other matters. The proposal would also be in accordance with paragraph 135 of the Framework, where it indicates that planning decisions should ensure that developments function well and add to the overall quality of the area and create places that are inclusive with a high standard of amenity.

Other Matters

14. The appeal property includes off-street parking. The size of the property's driveway is disputed, but it could accommodate at least one vehicle, if not two. There is no evidence of on-street parking stress. In addition, there is a good provision of public transport which would provide an alternative to the use of private motor vehicles. As such, the increased demand for vehicle parking could be satisfied by the existing off-street provision and the potential to park on the street without blocking the shared access. Moreover, there is no evidence to suggest that the increased movements would lead to congestion in the area.
15. A 3-bedroom dwelling with some external amenity space would be a suitably sized property to accommodate a children's home for one child. The appeal property is also in an accessible location with shops, public transport and schools located nearby. This view is also supported by the local highway authority. The proposed children's home would therefore not be isolated.

16. I acknowledge representations from interested parties that most of the neighbouring residents are elderly. Nevertheless, the occupation of neighbouring properties is not age-restricted; as such, the appeal property would be amongst family-sized dwellings and in an appropriate location to accommodate a child.
17. Interested parties have raised concerns with the appellant's lack of experience of managing children's homes. Planning permission is linked to the property rather than the business. Therefore, it could be operated by another organisation. Also, there is a legislative requirement for the property to be appropriately registered prior to accommodating a child. The purpose of the registration is to prevent unsuitable people from owning, operating, managing or working within children's homes. Therefore, the appellant's suitability to manage a children's home is covered by alternative legislation.
18. Concerns have also been raised about antisocial behaviour in proximity to the appeal site and how this may affect future occupiers of the property. There is no compelling evidence that there is an ongoing issue with antisocial behaviour in the area. In fact, there are multiple representations which indicate there has been no or very limited police presence on the road for several decades.
19. Interested parties have highlighted various inaccuracies within the appellant's supporting evidence in relation to how the property would be used and services in the local area. Notwithstanding this, it is clear what the appellant is applying for and where. Furthermore, any concerns with the number of children who could lawfully reside at the property could be addressed via a planning condition.
20. The Council has indicated that there is a need for solo care accommodation but that this need may be met through unimplemented permissions in Basildon. Nonetheless, there is a substantial number of children who are being cared for outside of Essex a long distance from their homes. Therefore, there is a need to provide care spaces within Essex which the proposal would address.
21. Whether the deed of the property includes a restrictive covenant related to its use as a private residential dwelling and the effect of the proposal on house prices are private matters and are not planning considerations.
22. Interested parties raised concerns during the determination of the planning application that the advertisement of the application was insufficient. Given the number of responses received from multiple properties, I am satisfied that the planning application was appropriately advertise.

Conditions

23. The Council and interested parties have indicated the conditions that they consider would be appropriate. I have considered these in light of the guidance contained within the Planning Practice Guidance and the Framework.
24. Conditions specifying a time limit to implement the permission and approved plans are necessary in the interest of certainty. A condition requiring details of cycle parking to be approved is necessary to promote the use of sustainable transport modes.
25. A condition requiring details of external security measures to be approved is necessary in the interest of conserving the character and appearance of the area. I note that certain measures would be requested and subject to approval by

Ofsted¹. However, it would be necessary to control external installations to ensure they do not harm the appearance of the property.

26. A condition restricting occupancy of the property to one child is necessary to ensure that the living conditions of neighbouring occupiers would be preserved through limiting the amount of activity generated by the proposed use of the property.
27. However, it would be unreasonable to condition that Essex County Council get prioritisation or first refusal in the allocation process. As this would not be necessary to make the development acceptable in planning terms. Whilst some children are placed into unregistered accommodation in emergency situations, under the Care Standards Act 2000 it is an offence to run a children's home without appropriate registration. Therefore, it would be unnecessary to attach a condition requiring the property to be registered with Ofsted prior to it becoming operational as this would be a duplication of a legislative requirement.
28. Also, it would be unreasonable to attach a condition which restored the use of the property to Use Class C3 following the cessation of the proposed use for a minimum of 6 months, as the appellant has not applied for a temporary permission.
29. A condition requiring the owner or a nominated person to live at the premises and be responsible for its general management is not reasonable as the only person who would reside at the property would be a child. Moreover, the suggested condition is not necessary to make the development acceptable in planning terms.
30. It has been suggested that further conditions could be attached to the planning permission including to arrange neighbourhood meetings. Conditions to address these matters would not be reasonable as they are not necessary to make the development acceptable.

Conclusion

31. Article 8(1) of the Human Rights Act indicates that everyone has the right to respect for their private and family life, their home, and their correspondence. Where Article 8 rights relate to children, consideration is given to Article 3 of The United Nations Convention on the Rights of the Child, which prescribes that the best interests of the child shall be a primary consideration. In this instance, that relates to both children that would reside in the appeal property and neighbouring properties. As the proposal would not harm the living conditions of neighbouring occupiers, I am satisfied that a grant of planning permission would not unacceptably interfere with neighbouring occupiers right to a private and family life and home.
32. Future occupiers of the proposed children's home and neighbouring residents both share the protected characteristic of age for the purposes of the Public Sector Equality Duty set out within the Equality Act 2010. As I have found that the development would not cause harm, allowing the appeal would help eliminate discrimination against and advance equality of opportunity for future and neighbouring occupiers, and to foster good relations between them.

¹ Office for Standards in Education, Children's Services and Skills

33. The appeal should therefore be allowed, and planning permission should be granted.

J Hobbs

INSPECTOR