



Appeal Decision

Site visit made on 7 January 2025

by **K Williams MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 March 2025

Appeal Ref: APP/L2440/W/24/3344980

39 Gorse Lane, Gorse Manor, Oadby, Leicestershire LE2 4RR

- 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 Harjinder Singh against the decision of Oadby and Wigston Borough Council.
 - The application Ref is 23/00506/COU.
 - The development proposed is for a change of use from residential use to a residential children's home for up to 4 young people.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024. The main parties were given an opportunity to comment on this matter.
3. The appellant did not submit proposed floor plans with the application. However, this appeal is submitted with proposed ground and first floor plans¹ which showing five-bedrooms. I have based my decision on the submitted plans, and accepted these as they do not change the substance of the appeal.

Main Issues

4. The main issues are:
 - whether the proposal would provide adequate living conditions for future occupants; and
 - whether the proposal meets an identified need.

Reasons

Living conditions

5. The appeal site comprises a large detached property, with parking at the front for several vehicles and garden at the rear. It is located in a wide residential street. The proposal seeks permission for a change of use to a residential children's home. I have taken this to be that this would fall within Class C2 of the Town and Country Planning Use Classes Order 1987 (the UCO), which includes the

¹ Drg no. S151 (20) 01 and drg no. S151 (20) 02 A.

provision of residential accommodation and care to people in need of care (other than a use within Class C3. Dwellinghouses, used as sole or main residences).

6. It has been demonstrated that the five bedroom sizes would be in compliance with the Nationally Described Technical Housing Standards as required by Policy 11 of the Borough of Oadby and Wigston Local Plan 2011 – 2031, adopted 2019 (the Local Plan). The appellants explain that two, not three members of staff are required to remain overnight through the submission of shift patterns. They identify that two young people, or two carers may be able to share a room.
7. I have not been provided with evidence that the proposed arrangements would meet children's home regulations, as referred to within the Ministerial Statement Planning for accommodation for looked after children, 23 May 2013 (the Ministerial Statement). Nor have the appellants explained who would occupy the bedrooms. It is not clear whether it is appropriate for any non-siblings to share. In terms of staffing arrangements I am not convinced that there would be an appropriate level of accommodation and facilities for staff of different genders to share a bedroom.
8. Although the proposal is for up to four children, and there could be fewer children residing at the home, satisfactory living arrangements have not been clearly demonstrated. Although the appellant considers how a children's service is operated is not for consideration, health, wellbeing and amenity considerations are key components of sustainable development and set out within the Framework.
9. I am mindful that there is additional space available in the property to create an additional bedroom. However, it would not be appropriate to condition subsequent alterations to different rooms without plans before me. I could not be certain that the room size would be sufficient, whether there would be natural light provided or the appearance of any external changes required. Nor should the appeal process be used to evolve a scheme.
10. Therefore, in the absence of evidence and on the basis of up to four children residing at the premises, I am of the view that the proposal could lead to bedrooms being over-occupied. Such arrangements could result in inappropriate accommodation, which could be cramped, not private and harmful to the health and well-being of individuals whether or not this is covered or sanctioned by other regulatory regimes.
11. I conclude that the proposal would be harmful to the living conditions of future occupiers. The proposal would be contrary to Local Plan Policy 11 where it requires residential proposals including changes of use to consider the Government's Technical Housing Standards and that area fit for purpose. The proposal is contrary to the aims set out within the Framework paragraph 135.

Identified need

12. Local Plan Policy 11 supports applications for specialist care accommodation, where it meets an identified need and is proposed in an appropriate sustainable location. The Framework at paragraph 63 identifies that the tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. Footnote 26 to this paragraph identifies that evidence of need for looked after children can be found, in the relevant, in this case, Leicester County Council Children's Social Care Sufficiency Strategy (the Leicester CSCSS).

13. I have not been provided with the Leicester CSCSS. Although the Council claims it does not specify a deficiency the Service Manager for the Commissioning Service, Children and Family Services at Leicestershire County Council response of July 2024, advises that there are several children awaiting a placement in a children's residential home. Although at face value there does not appear to be a large number, nevertheless it is an indication of need in the county, which potentially could include children from within the borough.
14. The appellants have referred me to a recent appeal decision in the Oadby and Wigston borough.² Although the appeal was dismissed, on the matter of need the Inspector commented that Policy 11 of the Local Plan does not specify that the identified need should be local. However, the Council asserts that harm would manifest from non-local children living far from where they would call home, as expressed within the Ministerial Statement *Planning for accommodation for looked after children*, 23 May 2013 (the Ministerial Statement). Furthermore, the Council suggests that there are sufficient placements, and that a large number of inadequate placements are those located outside the foster system in residential placements, such as the appeal proposal.
15. The appeal site is close to public transport links and a relatively short distance from Leicester city centre, where links to the surrounding suburbs, and wider areas would be possible. The Council has not advanced any argument that the appeal site would not be a suitable location for such a facility. Therefore the accessibility of the site would in my view be suitable to be accessed in a relatively short travel time from main urban centres, including by non-car modes of transport. As such the Council has not provided compelling evidence to demonstrate how harm to resident children would occur as a result of this location from children who live within the county.
16. Taking the above into account, an aspect of the Council's concerns are also that the proposal would result in the removal of a family dwelling, which would be to the detriment of the boroughs housing supply. Although the Council referred to increased housing targets resulting from the updated Framework, it was afforded the opportunity to comment on this. I have no substantive evidence before me that the loss of a family home would be harmful to the housing provision in the area or that the Housing and Economic Development Needs Assessment has identified larger 4-bed homes are in particularly short supply in the borough. In any event the scale of this loss is very small, and the harm resulting from the property being occupied by residents from outside the local area and therefore a dwelling of this size needing to be compensated elsewhere has not been demonstrated.
17. Given the above considerations, I conclude that the proposal would in this case meet an identified need. It would accord with Policy 11 of the Local Plan through contributing towards delivering inclusive and mixed communities through the provision of specialist care accommodation in a suitable location. For similar reasons it would also align with the aims of the Framework where it seeks to address the needs of groups with specific requirements set out in paragraph 61.

Other Matters

18. The development is the use of the property as accommodation with care for children or young people. As these groups share a protected characteristic due to

² Appeal Ref: APP/L2440/W/24/3336468

their age, and due to that characteristic are unable to care for themselves, I have had due regard to the Public Sector Equality Duty (PSED) outlined in the Equality Act 2010. The PSED sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.

19. I have also had particular regard to the Human Rights Act (HRA) 1998. The best interests of the child must be a primary consideration. These interests are at the forefront of my mind. However, these are qualified rights, and interference may be justified where in the public interest. The concept of proportionality is key. In reaching my decision, I have kept these interests at the forefront of my mind.
20. In addition to the main issues, other considerations have been raised, mainly by local residents. These include accessibility, highway safety and parking matters; anti-social behaviour; impact on the character of the area; property values; impact on public services; inadequate security at the site; care home staff shortages and effect upon neighbouring living conditions. Private interests such as land/property values are not a consideration in this appeal. I note that the Council's Tree officer and Environmental Health do not object. There are no adverse comments from Leicester Police regarding any anti-social behaviour in the area or risk to nearby residents from the proposal. Nor do the Highways Authority object to the proposals in terms of highway safety.
21. Furthermore, these matters were largely before the Council when it considered the proposal and prepared its evidence when it submitted its case for the appeal. I see no reason to disagree with the Council's conclusions on the character of the area or neighbouring living conditions. Overall I am satisfied that suitably worded planning conditions could address such considerations if the appeal were to be allowed, however my conclusions on these matters weigh neither for nor against the development.
22. The proposal would help address the need for children's care home places in the borough and provide several jobs. There are no planning reasons why the property or location is unsuitable for the proposed use and there would be no discernible effect on the residential character of the area. I have no substantive evidence that the development would be harmful to the living conditions of neighbouring residents with regard to noise and disturbance, and therefore it would not result in significant harm to the neighbouring occupants and children or elderly residents, who also share protected characteristics under the PSED. The benefits attract significant weight in favour of the appeal.
23. However, the evidence does not demonstrate that other accommodation for children would not be obtainable, not in the pipeline or that other options have been fully explored should the appeal fail. Furthermore, the proposal would result in site specific unacceptable harm in respect of future occupiers, which would not be in the best interests of children. I have attached significant weight on the proposal not providing suitable living conditions. These matters temper the weight to be attached to the benefits of the appeal.
24. The appellant contends that a change from Use Class C3 to C2 is often not considered to be a material change of use. Nevertheless, the proposal is before

me and the description of development clearly refers to a change of use. I have had regard to this insofar as it is material to the decision.

25. It was held in *North Devon DC v FSS & Southern Childcare Ltd* that Article 2 restricts the personal care of children to class C2 only. Children cannot form a household without the presence of a caregiver and a children's care home may not fall within class C3 unless a caregiver is a resident. Furthermore, the conclusions in the judgment were very specific to those premises and the facts of that case. In the absence of full details of the case, it has not demonstrated how this is of particular relevance to this appeal.
26. The submitted appeal decisions³ are not for the same type of development as proposed here as they relate to adults. Even if I were to accept that there is a fallback position, or that the activity would be similar to a house in multiple occupation, I have concluded that the proposal would be harmful in terms future living conditions. The examples provided are sufficiently different to not alter my opinion about this proposal.

Planning Balance and Conclusion

27. The proposal is not in accordance with Policy 11 of the Local Plan. The proposal conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise. The policies the policies of the Framework are also material considerations.
28. I have had due regard to the HRA, the best interests of the children and the PSED. The benefits of the provision of such a facility significant weight in favour of the appeal. However, to allow the appeal would not be wholly in the best interests of the children as the internal layout of the development not provide an acceptable standard of accommodation. Nor would it eliminate discrimination or promote equality of opportunity.
29. In view of this and having regard to the legitimate and well-established planning policy aim of creating places that are safe, and which promote health and well-being, with a high standard of amenity for future users, the harm and related policy conflict outweighs the benefits. Dismissing this appeal would be proportionate and necessary. There are no other material considerations, including the Framework, that indicate that I take a decision other than in accordance with the development plan.
30. I conclude the appeal is dismissed.

K Williams

INSPECTOR

³ APP/P1560/X/12/2186388 and APP/P1560/A/12/2183345, APP/Z5060/C/18/3214506 and APP/Z4310/X/23/3316521.