



Appeal Decision

Site visit made on 18 February 2025

by N Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 April 2025

Appeal Ref: APP/P4605/W/24/3351256

70 Grove Road, Brandwood, Birmingham B14 6ST

- 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 Hilton Mutariswa (Sherlock Healthcare Services Ltd) against the decision of Birmingham City Council.
- The application Ref is 2024/00382/PA.
- The development proposed is Change of Use from Dwellinghouse (C3) to children's care home (C2).

Decision

1. The appeal is allowed and planning permission is granted for is Change of Use from Dwellinghouse (C3) to children's care home (C2) at 70 Grove Road, Brandwood, Birmingham B14 6ST in accordance with the terms of the application, Ref 2024/00382/PA, and the plans submitted with it, 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 plan refs: site plan, proposed plans dated 12/04/2023.
 - 3) No more than three children shall reside at the property at any one time.
 - 4) A minimum of two vehicle parking spaces shall be made available and kept free of obstruction except for the parking of vehicles on the site frontage at all times for the duration of the use.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 12 December 2024. As the changes to the Framework do not affect the main issues in the case, the parties have not been invited to make further comments in this regard. Where reference is made to paragraph numbers of the Framework, these are those in the most recent version.

Main Issues

3. The main issues are:
 - 1) The effect of the proposed development on the living conditions of neighbouring residents by reason of noise and general disturbance, and
 - 2) Whether the proposed development provides adequate parking provision to cater for the proposed use.

Reasons

Living conditions

4. The appeal site comprises a three-bedroom semi-detached property in style, albeit linked to neighbouring homes on both sides, which is set within an established residential area. The bedrooms are set over the first and second floors with living accommodation on the ground floor. The frontage of the property has been laid to hard surfacing for parking vehicles. Homes in the vicinity are typically early to mid-20th century terraces and semi-detached properties. These homes address the street with modest front gardens and driveways and, overall, the vicinity has the character of a pleasant suburban area.
5. The proposal is for the use of the property as a children's home within Use Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) for three residents aged between 8 and 17 years old. These residents would be supported by two further members of staff who would be present on a 24-hour basis arranged into two shifts (with short crossover time) and a home manager who would be present during the day.
6. Policy DM2 of the Birmingham Plan 2031 Development Management in Birmingham Development Plan Document (adopted 2021) (BDPD) relates to amenity and sets out that development will need to be appropriate to its location and not result in unacceptable adverse impacts on the amenity of occupiers and neighbours. Policy DM12 of the BDPD pertains to residential conversions and specialist accommodation. This policy sets out various criteria for such specialist accommodation and these include not leading to an unacceptable adverse impact on the amenity, character, appearance, parking, public and highway safety of the area and that the scale and intensity of the proposed use is appropriate to the size of the building. There is no dispute between the parties that the principle of development is acceptable as has been highlighted by the appellant in reference to the appeal at 69 Hartfield Crescent¹.
7. The supporting text to the policy comments that specialist accommodation is normally most appropriately located in large, detached properties set in their own grounds. The development of such uses in smaller detached or large semi-detached or terraced houses will not be acceptable, unless the amenity of adjoining occupiers can be safeguarded. Case law has shown that the supporting text is an aid to the interpretation of the policy but is not itself policy.²
8. A building in C2 use is still classed as residential, and the day-to-day use of the building is not entirely dissimilar to a Use Class C3 dwelling where children with specialist needs can live. The maximum number of normal occupants, at five or six, is also not significantly different to that which could be reasonably expected from a three-bedroom home of this size especially as it features ample ground floor accommodation and a well-proportioned rear garden. I note that the size of rooms accords with those set out in the Nationally Described Space Standards for bedroom sizes and overall, for a three-bedroom home. Likewise, the garden area is in accordance with the commentary in the supporting text to policy DM12 of the BDPD.

¹ APP/P4605/W/22/3313619

² Cherkley Campaign Ltd, R (on the application of) v Mole Valley District Council & Anor [2014] EWCA Civ 567

9. There are clear similarities between C2 and C3 uses, however there are important distinctions in terms of the nature of the occupants and the manner of occupation. By its very nature, the proposed use is likely to have residents in need of more managed levels of care. The occupation of the property as a children's home does infer the possibility for intrusion and disturbance both from within the dwelling and in the general surroundings therefore whilst sound insulation to the property would ameliorate these issues to a certain extent, this may not be wholly effective as adverse effects could manifest themselves externally and in the wider area and this includes later at night.
10. The possible disruptive behaviour of the most vulnerable residents at any time of the day or night could be injurious to those living close by. Indeed, in this regard, I must be mindful of the representations made by local residents, Councillors, Residents Association and West Midlands Police and their stated experiences of similar facilities in the locality. The commentary of local residents consistently expresses concerns about existing premises in the area and this is reflected in the observations by Councillors. Whilst West Midlands Police did not provide a formal objection, their overall commentary relating to missing or absent children was insightful, as was the commentary on the drain on police resources in the local area. This, to me, highlights concerns expressed by local residents that the effects of the C2 use may well be felt beyond the confines of the appeal site. I must take these matters into account in reaching my conclusions here.
11. The use of the property as a C2 use is different to its occupation as a private family home. Although a private family home could potentially be a disruptive neighbour, this is in my view, more likely for a C2 use. Whilst recognising the needs of vulnerable members of society, this must be balanced against the needs of the local community. The property is reasonably sized, it is not detached as is promoted by the commentary in the supporting text to policy DM12 and would have a more intensive 24-hour usage. This manner of occupation is not of a scale and intensity that is appropriate to the size and context of this building which is attached on both sides.
12. The Framework notes at paragraph 96 that decisions should aim to achieve healthy, inclusive and safe places which (inter alia) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. The Ministerial Statement³ cited by the appellant does note that planning system should not be a barrier to providing homes for the most vulnerable children in society. However, equally it also notes that these need to be the right homes, in the right places with access to good schools and community support.
13. I therefore conclude that the proposal would result in harm to the living conditions of neighbouring residents by reason of noise and general disturbance. The proposal therefore conflicts with policy DM2 of the BDPD and policy PG3 of the Birmingham Development Plan 2031 (adopted 2017) (BDP).

Vehicle Parking

14. The site features a paved front driveway with access onto Grove Road. The application form states that space is available for the parking of two vehicles. However, given the size of the driveway, this could potentially accommodate three

³ Planning for accommodation for looked after children - Rachel Maclean, Minister of State for Housing and Planning, 23 May 2023

vehicles albeit that accessing these via the existing single car width access would be awkward.

15. The property would accommodate up to three staff during daytime hours and two overnight. I have noted the appellant's suggestions that public transport is available locally, this is primarily in the form of buses and the Highways Technical Note observes that there are three routes in the local area with frequencies of up to every 14 minutes and more frequent services slightly further afield but still within reasonable walking distance.
16. It seems to me that the use would generate a demand of up to a maximum of three vehicles parked on or near the property during daytime hours and, for brief periods during staff changeover or when there were visitors, a maximum of five vehicles albeit that this would be a temporary situation. This is assuming that all staff travel by car. This level of parking would be slightly greater than what would normally be expected for a typical private dwelling but even so, it would not be a significant difference and would not be prevalent throughout the whole day.
17. The parking survey indicates that whilst on-street parking is well utilised, it is not at capacity. The survey was undertaken overnight when demand is likely to be at its highest for a residential area, but it may not be representative of daytime usage. Even so this does suggest there is capacity from some overflow parking. I further note that the Highway Authority have not expressed an objection to this proposal.
18. On balance, given the likely demand for parking provision, the availability of public transport, that a private dwelling would have a fairly similar expectation of parking utilisation and that there is reasonable capacity for off-street parking, I conclude that there would be adequate off-street parking for the proposed use. I therefore find that the proposal would provide sufficient parking and is in accordance with policies PG3 and TP44 of the BPD and policies DM2, DM6, DM14 and DM15 and the BDPD.

Planning Balance and Conclusion

19. The proposed development would result in the provision of a children's care home and this would be in the interests of one of the more vulnerable groups in society. The accommodation needs of the intended occupiers is a significant point in favour of the proposal. Furthermore, the best interests of three children is a primary consideration. The intended future occupants would benefit from a stable living environment, and I attach significant weight to the best interests of the children as future occupants of the property.
20. However, I have also found that the proposed development would result in adverse effects on the living conditions of neighbouring residents through noise and disturbance. Whilst finely balanced, I must take into account the commentary provided by third parties and consultees and I attach weight to the harm to the potential harm to the living conditions of neighbouring residents. Nevertheless, in the overall planning balance, the benefits of the proposal, including that the development would provide a settled base for three younger people, is sufficient in this case to outweigh the harm on the amenity of the area.
21. In accordance with the public sector equality duty, due regard has had to have been paid to minimising the disadvantages suffered by the intended occupiers and

to meeting their needs insofar as they have protected characteristics. These considerations have been at the forefront of the decision-making process.

22. I conclude that proposal conflicts with the development plan due to the effect of the proposed development on the living conditions of neighbours. I have, nevertheless, found that there would be sufficient parking to cater for the proposed use.
23. I have considered the possibility for a temporary planning permission. This would require a second balancing exercise taking into account the limited duration of any permission and any reasonable expectation of a change in planning circumstances by the end of that period.
24. I have considered the best interests of the children, and in granting a temporary period that they may become established in local schools and to the difficulties of finding alternative, authorised accommodation once such a temporary period has concluded. Therefore, the material considerations outweigh the temporary harm arising from a limited period.
25. Overall, I conclude that in this case, the material considerations, specifically the needs of children with protected characteristics indicates that a decision should be made other than in accordance with the development plan. Therefore, for the reasons given above the appeal should be allowed.

Conditions

26. I have imposed a general time limit condition to accord with the provisions of the Act and a plan condition in the interests of certainty. These accord with the recommendations of the Council.
27. I have considered other conditions suggested by third parties and have imposed a condition restricting the number of child residents to be no more than three at any one time.
28. I recognise the merits of the conditions suggested by West Midlands Police however I can only impose these insofar as they meet the tests in the Planning Practice Guidance (PPG). Therefore, whilst I accept their veracity, I can only impose those conditions that meet the tests of the PPG and in this instance, this only extends as far as limiting the number of child residents.
29. Finally, I have imposed a condition requiring two parking spaces to be made available on the site frontage. Although it appears that there may be space available for up to three vehicles, I am not satisfied that this could be safely achieved.

N Bowden

INSPECTOR