
Appeal Decision

Site visit made on 1 April 2025

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 May 2025

Appeal Ref: APP/J4525/W/24/3357788

3 Holystone Close, Houghton-le-Spring, Sunderland DH4 5LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Mr Neville Rodgers (HMO Northeast T/A Forevercare) against the decision of Sunderland City Council.
 - The application Ref is 24/02074/FUL.
 - The development proposed is change of use from a single residential unit (currently Use Class C3 dwellinghouse) to also allow for use as care / supported living accommodation for up to two people (Use Class C2 - for under 18s) - with no physical or external alterations.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's Officer's report sets out that the property appears to be already operating for the use applied for. The appellant explains that the operation has an existing use for 16+child/person care. I have taken such information into account in reaching my decision.
3. The appellant refers to an appeal decision under reference 3233277 outlining what should be the material planning considerations for this type of use in a residential area. The main issues below have however been articulated around the Council's reasoning for refusal which I find appropriate in the particular circumstances of this case.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the amenity and character of the area; and
 - The effect of the proposed development on highway safety.

Reasons

Amenity and character of the area

5. The appeal site relates to an existing two-story semi-detached property located within the small cul-de-sac of Holystone Close, Houghton le-Spring. The surrounding area is characterised by family dwellinghouses.

6. The proposed development seeks planning permission for a change of use from a single residential unit (currently Use Class C3 dwellinghouse) to also allow for use as care / supported living accommodation for up to two people (Use Class C2 - for under 18s) - with no physical or external alterations.
7. Northumbria Police have objected to this scheme due to the level of calls to the Police which have been received in relation to the property. They confirm that they have data relating to Forever Care operating at this address during 2023. During the period 26th May 2023 to 13th November 2023, the appeal property has reported 25 calls for service equating to 96.15% of all incidents reported in the same street. Over the same time period, there have been three crimes, equating to 100% of the crime reported from the street and there have been six missing from home incidents reported, all attributed to the appeal property. Such concerns are also echoed by representations of those neighbouring residents who experience significant issues around noise, disturbance and antisocial behaviour. Northumbria Police has confirmed that since their comments dated 30th October 2024, there have been a further 8 calls for service from this address.
8. Based on the evidence before me, the property generates a high volume of calls and level of demand for police services which is causing harm to the amenity of the area where local residents are fearful of the crime risk. Such evidence is based on current crime and incident data recorded and thus I have no compelling reason to question this evidence. I do not therefore find the Police response to be exaggerated, one eyed, totally negative and made to protect their own interests and resources.
9. I do not dispute that the appellant is an established, long-term operator of various care homes and establishments and operates in a challenging sector of the care industry given the individual circumstances of some of the residents. I am also aware of the demands/needs for such accommodation as well as shortages in this sector. However, the use has not operated in a manner that protects the amenity of the neighbouring properties. I accept that the nature of the calls vary depending on individual circumstances and it does not always mean police cars arriving with sirens. Even so, it would still likely result in levels of noise and police attendance which would be disruptive/concerning to neighbours particularly those living closest to the property. I cannot agree that the presence of a police car is like someone visiting the property like a relative or a delivery. By its nature, it raises concern of fear of crime amongst residents.
10. As set out earlier, the appellant explains that the operation has an existing use for 16+child/person care as supported accommodation and claims that the above relates to adults occupying the property opposed to that of children as proposed which would be closely monitored with onsite supervision. The appellant is therefore of the view that the overall impacts would be less as a result of this. The appellant also explains that the property has not operated as a children's home by Forever Care and has been rented out to a local authority for a period of time with the appellant having no control over the way in which it was managed. Data has been submitted by the appellant regarding call outs for children's care establishments across other properties which are claimed to result in lower calls.
11. Even considering such matters and different arms under the Forever Care banner, the evidence from the Police confirms that they have data relating to Forever Care operating at this address during 2023 and the Police believe that the property has

been providing care as a small children's home particularly between 1st November 2024 and 1st January 2025 which has created a further 8 calls for service from this address.

12. Care being provided for those aged 16+ still accommodates those between 16 and 18 which would continue to be allowed under the terms of the development given that the description of development relates to under 18s. There would not therefore be any change in this regard, and even considering its regulation and monitoring including its control under OFSTED, care and health legislation as well as staffing, risk assessments/management plans, I am not sufficiently convinced based on the evidence before me that such levels of noise and disturbance would be significantly different going forward. I am also mindful that the Police confirm that they do tend to see a higher call rate and demand for police from Forever Care properties.
13. Based on the evidence before me, the operations at the property which is understood to be managed by the appellant does not protect the amenity of neighbouring properties and fails to function well. This is harmful to the character and quality of this area. I appreciate that the property is within an existing residential area where a range of accommodation types is needed to support differing needs. However, the use fails to enhance and function well within its current surroundings and has led to adverse harm to the amenity of the local residents and the locality.
14. The appellant sets out that it could be argued that there is no material change of use and thus no development, as the proposed care home would operate with great similarity to its current Use Class C3 dwellinghouse. Use Class C3(b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
15. The development would utilise the property as care / supported living accommodation for up to two people for under 18s and I note the staffing arrangements where care is provided 24 hours a day, 7 days a week. Established case law provided for by *North Devon District Council v First Secretary of State* [2003] EWHC 157 Admin covered the question of whether a house used to provide residential care for children fell within class C2 or class C3(b). The Court held that children themselves could not be regarded as forming a household with the following reasoning being stated: *'It seems to me that the Inspector's approach was, in this respect, correct, inasmuch as he was regarding the household as needing more than just children. Children need to be looked after. They cannot run a house. They cannot be expected to deal with all the matters that go to running a home. Sometimes, of course, one recognises they are forced to do so, but as a matter of principle and approach the whole point of these homes is that the children are regarded as needing full-time care from an adult, someone to look after them, someone to run their lives for them and someone to make sure that the household operates as it should. It seems to me that in the context "household" means more than merely the bodies. You have to consider whether the bodies are capable of being regarded in the true sense as a household. The same would apply to those who suffer, for example, from physical or mental disability and who need care in the community. They, if they are not capable of looking after themselves, would not be regarded as a household, hence the need for the carer, hence the need for that addition to make it a household within the meaning of the*

relevant class....One has to have regard to the need that they be living together as a single household. The question then arises whether carers who do not live but who provide, not necessarily through the same person, a continuous 24-hour care can be regarded as living together. In my view, the answer to that is no. Consistent with the approach indicated by the Circular, what is required is indeed residential care with a carer living in full-time and looking after those in the premises who otherwise would be unable to live as a household'.

16. The materiality of a change of use is assessed on a case-by-case basis. However, I find that in the particular circumstances of this case, the change despite its size which could be controlled via a condition, significantly alters the daily function and character including noise levels as set out above which differs considerably from a family dwelling. It would provide staffing/care for under 18 occupiers and increased demand for parking due to staff/visitors which I discuss further in my decision. On this basis and from the evidence before me, I find that the development does not fall within Class C3b and comprises a material change of use.
17. The appellant claims that the existing supported accommodation use for over 16s is lawful and thus forms a fallback position. However, based on the evidence before me, there are doubts regarding the existing use of the property and it is not my role within the context of this appeal to establish the lawful use of the property. I also have limited information to firmly conclude whether reliance can be placed on this as a fallback position. I have therefore considered this appeal based on its own merits. In doing so, it is clear that the evidence demonstrates that the operations unacceptably harms the amenity and character of the area which covers those between the age of 16 – 18 which would not alter going forward given the description of development.
18. In coming to such findings, I have had due regard to the appeal decisions provided but the specific context/circumstances of these appeals differ particularly in relation to the nature of the appeal, occupancy/staffing and evidence of noise and disturbance and thus I do not find them to be directly comparable. I have considered this scheme based on its own merits and circumstances.
19. For the above reasons, I conclude that the proposed development would unacceptably harm the amenity and character of the area. It would therefore be contrary to retained Policy EN10 of the City of Sunderland Unitary Development Plan, 1998 and Policies BH1 and HS1 of the Sunderland City Council Core Strategy and Development Plan 2015-2033, 2020 (CSDP) which together, amongst other matters, seek to achieve high quality design and positive improvement. Development should be of a scale, massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality whilst retaining acceptable levels of privacy and ensure a good standard of amenity for all existing and future occupiers of land and buildings.
20. I am aware of other local and national policies regarding the effective use of land, mixed communities and support for such uses/needs including Policy VC5 of the CSDP. Nevertheless, the appeal scheme would still need to comply with the above policies which this scheme does not.

Highway safety

21. The front of the property comprises hardstanding with a wall to the front. There is no in-curtilage parking available. The development requires 2 in curtilage parking spaces for staff and thus the lack of provision would mean that staff and other visitors would be required to park on the street. The cul-de-sac is small where the end of the highway needs to be used for manoeuvring vehicles and parking space is at a premium. The representations made to the scheme also echo this. Where cars are parked both sides of the road, it would be difficult to get up and down the cul-de-sac. This may be possible where cars straddle the footpath and road, but this is not an appropriate solution for the site. There may be more availability in the wider area, but it is likely that staff/visitors would park within close confines of the property and representations made to the scheme confirm this to be the case already.
22. I appreciate that a family could have a number of cars/comings and goings but when factoring in staff and associated handover periods, visitors including any visits made by other services and also police attendance as evidenced then this would result in additional on-street parking above and beyond that typically generated by a dwellinghouse use. This would therefore be an impediment to other users of the cul-de-sac and gives rise to highway and pedestrian safety issues.
23. The in-curtilage parking space required could be achieved by removing the wall to the front and installing a dropped kerb although I do not have any further information on this. As such, I am unsure if this solution is workable to be able to condition such detail. Some staff may not own cars and walk or use public transport to and from the site but again I cannot be certain of this particularly as some of the tasks identified within the evidence are likely to need private transport such as shopping, family visits and planned activities etc.
24. I have had due regard to the appeal decisions provided but as already set out above, the specific context/circumstances of these appeals differ and thus I do not find them to be directly comparable.
25. For the above reasons, the proposed development would unacceptably harm highway safety. It would therefore be contrary to Policies ST2 and ST3 of the CSDP which together, amongst other matters, explains that development proposals should provide safe and convenient access for all road users, in a way which would not compromise the free flow of traffic on the public highway, pedestrians or any other transport mode. The development should not exacerbate traffic congestion on the existing highway network or increase risk of accidents or endanger the safety of road users.

Other Matters

26. The site may be the ideal location for this operation being close to commercial/leisure opportunities, but this would not alter my findings on the above main issues.
27. In considering this appeal, I have had due regard to the Public Sector Equality Duty (PSED) set out under Section 149 of the Equality Act 2010, in particular the need to eliminate discrimination against persons with the protected characteristics of age and/or disability, advancing equality of opportunity for those persons and

fostering good relations between them and others. Following careful consideration of the scheme. I am satisfied that the impact of dismissing the appeal is proportionate and necessary.

Conclusion

28. For the reasons given above, I conclude that the proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination that outweighs the identified harm and associated development plan conflict. The policies contained within the Council's Local Plan are clear in respect of amenity and character and highway safety. As such, I have no clear reason to consider the appeal proposals not in line with the Local Plan.

29. Therefore, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR