



Appeal Decision

Site visit made on 25 March 2025

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 20 May 2025

Appeal Ref: APP/G5750/W/24/3350723

13 White Road, Stratford, Newham, London E15 4HA

- 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 Nigel Kennedy (Kennedy/Elliott Partnership) against the decision of the Council of the London Borough of Newham.
 - The application Ref is 24/00514/COU.
 - The development proposed is an application to change the use of a (C3a) dwelling to a children's home for a maximum of one child, with up to three carers, two of whom will sleep overnight, working on a rota basis (C2).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The above description of development is taken from the application form. However, the Council's decision notice described the development as a proposed change of use to a children's home for a maximum of one child. I note that the appellant has entered a similar description onto the appeal form. I have dealt with the appeal on this basis.

Main Issues

3. The main issues are:
 - the effect of the development upon the supply of family housing in the borough; and
 - whether the proposal would encourage the use of sustainable transport modes, with particular reference to cycling

Reasons

Supply of family housing

4. The appeal site is a two-storey terraced dwellinghouse situated in the middle of a predominantly terraced residential street, which is characterised by properties that are suitable for family occupation. The proposal seeks to change the use of the building to a C2 residential institution, providing long term accommodation for a child between 7 to 18 years with emotional and behavioural needs. They would be cared for by a total of 6 carers who would work on a shift pattern together to provide 24 hour care. The plans indicate that the proposed development does not involve any alterations to the exterior or interior of the property.

5. Policy H8 of the London Plan 2021 (“LonP”) and Policy H4 of the Newham Local Plan 2018 (“NLP”) seek to protect existing housing unless it is replaced by new housing at existing or higher densities, with at least the equivalent level of overall floorspace. While the proposed development would provide supported accommodation for a young person with a particular housing need, a child under 18 cannot form a single household on their own and would be dependent on carers. Given the number of carers and their shift-based work schedule, the primary residences of these carers would be elsewhere. Consequently, the development would result in the loss of existing housing, with no proposals before me to replace this with new housing of equivalent floorspace.
6. The size, location and configuration of the house means that it would be suitable for family accommodation. There is no evidence before me that the Council has accepted that the property could not be used for this purpose. While residential institutions play an important role in meeting housing need for certain groups, the C2 use of the appeal site would still result in a net reduction in smaller family housing for which the Council have confirmed that there is a significant need.
7. Policy H1 of the NLP expands on the needs of different groups, stating that the appropriate mix of housing sizes, types and tenures will be determined through several factors, including the need to secure quality, mixed and balanced communities; the existing mix of housing in the area; and the individual circumstances of the site in terms of site conditions, local context and site features, particularly on sites delivering below 10 units. Policy H12 of the LonP states that specialised housing which meets an identified need should be supported and specifically refers to the need to provide accommodation for young people with support needs.
8. Policy H3 of the NLP aligns with this approach, requiring accommodation to be appropriately located in terms of the achievement of mixed and balanced communities and have the ability to meet the needs of its occupants. In assessing the need for specialist housing, the policy expects proposals to be supported by an appropriately detailed and resourced management plan, which demonstrates the residential population mix. Proposals should also demonstrate compliance with the relevant quality standards, which for C2 uses, would be the Care Quality Commission Criteria. Furthermore, proposals should be informed by an assessment of local need, having regard to the Infrastructure Delivery Plan and advice from the relevant service areas within the London Borough of Newham.
9. I recognise that the appellant has consulted with the Council’s Children’s Services Team, which has corroborated the need for smaller sized specialist children’s homes and that they have recognised the appellant as a supplier of such accommodation. I also accept that the proposal could help to meet local need and that the occupancy of the proposed development could be managed to favour local residents.
10. However, there is no substantive evidence before me to demonstrate the suitability of the proposed development in the context of the existing mix of housing sizes, types and tenures. No appropriately detailed and resourced management plan has been provided, nor is there evidence that the proposal would meet the relevant quality standards, or that it has been informed by an assessment of need with regard to the Infrastructure Delivery Plan.

11. While I acknowledge the existence of an identified need for this type of specialist accommodation, this does not, in itself, demonstrate that the proposed development represents an appropriate response to that need, or that it justifies the loss of family housing within the borough. In the absence of robust evidence to demonstrate that the proposal accords with the policy requirements set out in Policy H3, it has not been demonstrated that the need for the proposed development outweighs the policy objective of retaining family housing.
12. In conclusion, the proposed development would have an adverse effect on the supply of family housing in the borough. It would not secure the provision and protection of family housing, contrary to Policies S1, S6 and H4 of the NLP and Policy H8 of the LonP. Furthermore, it would not secure an appropriate mix of housing types, contrary to Policies H1 and H3 of the NLP and Policy H12 of the LonP, due to the lack of robust evidence to justify the proposed specialist use in this location.

Sustainable Transport

13. The plans do not show any space allocated within the appeal site for cycle storage. The appellant has referred to an existing outbuilding which could be used to accommodate up to two bicycles for the carers. However, these buildings are not indicated on the plans, and none were observed at the front of the property.
14. The plans do indicate that there is a form of amenity space to the rear of the property, and it is possible that these outbuildings are located there. However, even if an existing outbuilding at this location was capable of storing two bicycles, it would require carers to carry the bikes through the living space of the building. This arrangement would not be convenient or sufficiently accessible. As such, it has not been demonstrated that the proposed development would effectively promote, encourage, or appropriately facilitate the use of sustainable modes of transport. This would have a negative effect on broader sustainability objectives.
15. I have considered the use of a planning condition to provide a weatherproof cycle storage facility, noting that the appellant has expressed a willingness to provide details of a storage facility prior to the commencement of use. However, without any more precise details regarding the location and size of the outbuilding, I cannot be certain that it would be accessible and sufficiently large. Any alteration to the available space could also result in significant changes to the layout of the proposal, potentially prejudicing interested parties who have not had the opportunity to provide comments. Furthermore, imposing such a condition would be contrary to the Procedural Guide¹, which states that the appeal process should not be used to evolve a scheme. Therefore, I am not persuaded that such a condition would be suitably precise or that it would make the development acceptable in planning terms.
16. In conclusion, the proposed development would fail to encourage the use of sustainable transport modes, with particular reference to cycling. It would not provide an appropriate level of cycle parking that would be fit for purpose, secure, covered and well-located, contrary to Policies T5 of the LonP and INF2 of the NLP. It would not support a significant modal shift towards active modes of travel, contrary to Policy S1 of the NLP.

¹ Paragraph 16: Procedural Guide – Planning Appeals – England

Other Matters

17. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The Act sets out the relevant protected characteristics, which for this appeal, includes age and disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act. I acknowledge the negative impacts of dismissing the appeal, as it prevents the provision of a care home for a child with specific emotional and behavioural needs. Having due regard to this consideration and my findings of harm, my decision to dismiss the appeal is proportionate and necessary having regard to the well-established policy aims in the development plan to protect housing stock and promote sustainable transport. Taken alongside the other considerations forwarded by the appellant, the PSED considerations would not outweigh the harm I have identified.

Conclusion

18. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

S Lo

INSPECTOR