



Appeal Decision

Site visit made on 26th March 2025

by **S Burch BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 May 2025.

Appeal Ref: APP/D4635/W/24/3356237

80 Wrottesley Road, Wolverhampton WV6 8SH

- 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 Jabber Mir against the decision of City of Wolverhampton Council.
- The application Ref is 24/00115/FUL.
- The development proposed is described as 'Proposed change of use of C3 (domestic dwelling) to C2-4 persons'

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. The appellant and the Council have had the opportunity to comment on any implications for this appeal and I have taken any comments made into account in my reasoning.
3. The appellant states that the scheme would not result in a material change of use. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the proposed development requires planning permission. If the appellant wishes to ascertain whether the development is lawful, they may make an application under section 192 of the Act. I have assessed the appeal accordingly.
4. During appeal proceedings the appellant provided amended information regarding the number of staff and cars associated with the existing use and the proposed development. However, I am mindful that it is not the purpose of the appeal process to evolve a scheme, and it is therefore important that what is considered by the Inspector is essentially what was considered by the Council. I have therefore proceeded to determine the appeal on the basis of the information as originally submitted and originally approved under the certificate of lawfulness.
5. In the application form the applicant is listed as Mr Jabber Mir of Wrottesley Care Ltd whilst in the appeal form the appellant is listed as Mr Jabber Mir of Evergreen Children's Home Ltd. For clarity, I have referred only to Mr Jabber Mir in the banner heading above.

Main Issue

6. The main issue is the effect of the proposed development on the living conditions of neighbouring occupants in terms of noise and disturbance.

Reasons

7. The appeal site is a detached dwelling located within a residential area of Wolverhampton. The dwelling benefits from a certificate of lawfulness (reference: 17/00747/CPL) which allows for up to three young people living together as a single household and receiving care. Surrounding development comprises of residential dwellings on large spacious plots. The surrounding area is suburban in character.
8. The scheme would result in the creation of a residential institution for four persons (use class C2). Although there would only be one additional child at the property, there would be a maximum of five staff working at the premises on weekdays, and four at weekends. Information assessed under the certificate of lawfulness advised that there would be two members of staff, and one manager who would make occasional visits, caring for the occupants. Therefore, this would be a substantial increase in staffing numbers from the lawful use.
9. The appellant has advised that normal shift changes would occur at 8am and 10pm. I am mindful that during shift changes staff could be arriving slightly earlier and leaving slightly later which would result in an extended turnaround period. During this period additional noise and disturbance such as audio systems, voices, cars engine sounds and doors opening and closing is likely. This would be particularly noticeable during the evening shift change at 10pm when background noise has decreased, and neighbours could reasonably expect some peace and quiet.
10. Although the appellant has indicated that only six cars would be allowed on the property at one time, this would still be more than associated with a three to four bedroom property in a suburban area. In addition, if five staff are finishing their shift, and five staff are starting their shift at the same time this would be difficult to control. If unable to park on the premises, staff may park outside it on the road and noise and disturbance would remain an issue. At worst, there could be ten cars arriving/leaving at a similar time. These numbers are also likely to be higher from time to time due to visits from social workers and family members. Whilst the appellant states that these visits would be no more frequent than those to a typical family member by friends or relatives, coupled with the staff numbers, the number of vehicles would be much higher than normally associated with a modest three to four bedroom family house.
11. Although the property is set on a large plot, other properties are within relatively close proximity, particularly given the presence of backland development to the rear. The resultant noise and disturbance from the additional staff arriving and leaving the site, as well as visits from social workers and family members, would therefore be unusual within this residential context and would detrimentally impact the living conditions of neighbours.
12. For the reasons given above, I conclude that the proposed scheme would cause increased noise and disturbance beyond what neighbouring occupants could reasonably expect, particularly late at night. This would be out of character within the residential context of the area. Accordingly, the proposal would conflict with Policy EP5 of the Wolverhampton Unitary Development Plan (UDP) and Policy ENV3 of the Black Country Core Strategy. Collectively, amongst other matters,

these policies seek to ensure that new development responds to the identify of each place and does not give rise to unacceptable levels of noise pollution.

13. Policies B5 and D9 of the UDP are cited in the Council's refusal reason. Policy B5 relates to design standards for employment sites whilst Policy D9 relates to the appearance of development. I find no conflict with these policies.

Other Matters

14. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination and to advance equality of opportunity. As the proposal would provide a home for children and young people, it would relate to persons who share a relevant protected characteristic.
15. I have given considerable weight to this identified benefit. However, it remains that such a use should not detrimentally impact the living conditions of neighbouring occupiers. As such, I do not consider that the identified benefit would outweigh the significant harm outlined above.
16. The Council is required to provide a safe environment for young people who require care and I acknowledge the important role these facilities play in society. However, this does not justify the approval of a development which is contrary to planning policy, nor does it outweigh the harm that I have found. Increased demand for such developments also does not outweigh the harm found.
17. The successful running of the facility over the last number of years and the absence of complaints from neighbours, Social Services, police, Neighbourhood Safety Coordinators or OFSTED does not justify the harm that I have found. The scheme would result in a significant increase to staffing numbers which is likely to result in increased noise and disturbance. In any instance, a number of representations from interested parties voicing concerns associated with noise, anti-social behaviour etc were received in response to this appeal.
18. Another appeal (Ref: APP/C4235/A/11/2162636) has been cited in support of the appeal. However, effect on neighbouring occupants with regards to noise and disturbance was not a main issue in this appeal. It is therefore not directly comparable to this the appeal before me and reference to it has not altered my view. Another children's home is also referenced by the appellant. However, I have limited information such as precise location or the circumstances under which it was granted planning permission. I am therefore unable to make any meaningful comparison between that scheme and this appeal.
19. The appellant references fear of crime and how any reference to this has no foundation. However, the Council have not raised concerns regarding fear of crime in their decision notice or appeal statement. I am dismissing the appeal on the basis of increased noise and disturbance and its effect on the living conditions of neighbouring occupants and the character of the area.

Conclusion

20. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be determined other than in accordance with it. Therefore, for the reasons given above, the appeal is dismissed.

S Burch

INSPECTOR