



Appeal Decision

Site visit made on 8 April 2025

by **S Simms BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6th June 2025

Appeal Ref: APP/B0230/W/24/3357758

6 Andover Close, Luton LU4 9EQ

- 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 Lyncroft Developments Ltd against the decision of Luton Borough Council.
 - The application ref. is 24/01085/COU.
 - The development proposed is change of use from a HMO (Use Class C4) to a children's residential home for up to four children with no internal or external alterations (Use Class C2).
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Decision

1. The appeal is allowed, and planning permission is granted for a change of use from a HMO (Use Class C4) to a children's residential home for up to four children with no internal or external alterations (Use Class C2) at 6 Andover Close, Luton LU4 9EQ in accordance with the terms of the application, ref. 24/01085/COU, 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 the following approved drawings and documents:
 - DC01 Site Location Plan
 - DC02 Block Plan
 - DC04 Proposed Floor Plans
 - 3) The premises shall be used for residential accommodation and care for no more than four children, and for no other purpose (including any other in Class C2 of Schedule 1 to the Town and Country Planning (Use Classes) Order 1987 (as amended) or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
 - 4) The premises shall not be occupied for the use hereby permitted until any steps found necessary to mitigate noise have been implemented in accordance with an assessment, design and post installation verification, which must first have been submitted to and approved by the Council in writing. Any mitigation so approved must thereafter be permanently retained.
 - 5) The premises shall not be occupied for the use hereby permitted other than in accordance with a management plan, which must first have been submitted to and approved in writing by the local planning authority and which must include arrangements for its periodic review.

Preliminary Matters

2. The submitted drawings did not have reference numbers. The Council numbered them sequentially and I have used its numbering together with a description.
3. The appellant's Statement of Case refers to the appeal property as semi-detached. It was clear on site that it is, in fact, the end house of three in a terrace.

Main Issues

4. The main issues in this appeal are the:
 - provision of needed housing types
 - sustainability of the location

Reasons

Housing Need and Types

5. The proposal would lead to the loss of a family-sized house used to meet general needs, whether within Class C3 or C4. However, it would result in accommodation of a similar type for four children. Whilst I acknowledge the difficulty the Council reports in delivering larger houses and the extent of under-delivery it reported in 2019, I am mindful that the Borough is tightly bounded and that different types of provision might be expected across the wider Housing Market Area (HMA).
6. I do not have before me the Strategic Housing Land Availability Assessment or the Strategic Housing Market Assessment that the Council refers to in its Report and reasons for refusal. It is not clear what proportion of total or family-sized stock either the need or the shortfall comprises or, indeed, what the up-to-date position is. Therefore, I cannot be sure a need for family-sized housing remains or, if it does, that its proposed loss is likely to entail any more than a minor harm.
7. Policy LLP15 of the Luton Local Plan 2011-2031 addresses the housing needs of the Borough and HMA. It allows the residential development of unallocated sites that are not in other uses for which there is a recognised local need and prohibits the redevelopment of housing unless the need for other uses is greater. Policy LLP1 of the Luton Local Plan 2011-2031 creates a presumption in favour of sustainable development and welcomes growth in homes, jobs and services.
8. Whilst the proposal is residential, so also is the use that would be lost. Similarly, the proposal does not involve redevelopment, unless this is taken to include changes of use. Even if the use lost is protected, evidence of a local need for it is limited, and if redevelopment includes changes of use, there is good evidence of an over-riding need for children's residential homes. It is also material that the house will not be physically altered and could be re-used by a family in future.
9. The shortage of children's residential homes nationally appears to be common ground. The Borough is central to a wider urbanised area administered by other districts and counties, whose councils also have responsibilities for looked-after children. The Borough is expected to address cross-boundary needs, including some unmet regional demand across the wider south-east. Therefore, I attach only modest weight to the current absence of a waiting list for the Borough.

10. Paragraph 63 of the National Planning Policy Framework states that the need for housing for looked after children should be assessed by reference to the local authority's Children's Social Care Sufficiency Strategy. The Ministerial Statement of 23 May 2023 makes clear that this should also be reflected in decisions. The Luton Strategy for the period from 2021 to 2024 indicates some of the Borough's needs are met more than 20 miles away. To varying degrees, this is corroborated in other evidence.
11. Consequently, and despite the Council's involvement in pathfinders and its own commendable plans for provision, a need currently exists for the proposal that overrides the need for a family-sized house, whether in multiple occupation within Class C4 or in use as a dwellinghouse within Class C3. Therefore, I find no conflict with Policies LLP1 or LLP15 of the Luton Local Plan 2011-2031.

Sustainability

12. The Ministerial Statement makes clear that looked after children should ideally be accommodated as close to where they would call home as possible. The regional shortage across the south-east and the Council's Sufficiency Strategy indicate that this is not always the case. Whilst the Ministerial Statement is directed primarily at avoiding the isolating effects of remote placements on children, reducing regional imbalances in provision will also reduce journey lengths.
13. Consequently, whilst a limited number of additional trips into Luton Borough may be created, this must be set against commutes by the existing residents and the reduction in much longer journeys to provision in other regions. On this basis, the proposal will better meet the sustainability objectives of Policy LLP31 of the Luton Local Plan 2011-2031 than the Council or others nearby continuing to rely upon provision further afield. I therefore find no conflict with this policy.

Other Matters

14. Several neighbours have raised concerns about road safety and the adequacy of parking for the proposal. I note that the Council's relevant officer anticipates no highway implications and that it complies with the closest relevant standard.
15. Some neighbours reported that the road in the vicinity of the site was prone to flooding, but as no physical development is proposed, and children's residential homes are in the same vulnerability class as dwelling houses, the proposal will neither exacerbate this nor be any more vulnerable to it than the existing use. I also note that the Lead Local Flood Authority did not object to the proposal.
16. I also note concerns about the consultation process. However, several neighbours, including those adjoining the site, responded and I have no evidence that the law or the Council's Statement of Community Involvement was not followed.

Conditions

17. I have amended the conditions suggested by the Council for clarity and brevity. I have not included an age limit in the condition restricting the use because it is not necessary to restrict occupation by 16- or 17-year-olds and children are otherwise defined in law. Otherwise, I am content that the condition is necessary to prevent potentially greater-impact uses within Class C2.

18. The Council's environmental health officer suggests conditions requiring noise assessment, mitigation and verification to ensure adequate insulation from railway noise and alternative ventilation. In view of the certainty that children will reside at the premises, their limited choice in doing so and a lack of evidence as to their relative vulnerability to noise, I consider an amended condition necessary.
19. I note that several neighbours have raised concerns in respect of noise, changes in patterns of activity, safeguarding, anti-social behaviour and parking, including a resident concerned about the impact on a child with special educational needs or disabilities. There is no evidence that these impacts are inevitable, and I consider a Management Plan could avoid, minimise or mitigate many of them.
20. Such a Plan was submitted, stating that shift changes would occur around 8am and 8pm, but to secure the ongoing input of relevant consultees, I shall impose a condition requiring its submission, approval, implementation and periodic review. I am content that any residual impact to a disabled child is proportionate in view of the need to accommodate looked-after children.

Conclusion

21. Whilst the proposal would lead to the loss of a family-sized house, evidence of a shortage of these is limited, whereas there is good evidence of a shortage of children's residential homes. Furthermore, the proposal is likely to lead to fewer and shorter journeys overall in comparison with the current position.
22. Consequently, the proposal complies with the development plan as a whole. I attach significant weight to this and there are no other material considerations that outweigh it. Therefore, I conclude that the appeal should be allowed.

S Simms

INSPECTOR