



Appeal Decision

Site visit made on 26 March 2025

by A O'Neill BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2025

Appeal Ref: APP/L2440/W/24/3355109

11 Eastway Road, Wigston, Leicestershire LE18 1NH

- 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 Mayur Bhatt (Midas Legacy Ltd) against the decision of Oadby and Wigston Borough Council.
 - The application Ref is 24/00125/FUL.
 - The development proposed is described as: the change of use of dwelling (Use Class C3) to children's home (Use Class C2) & extension
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. I understand that the appellant has received planning permission for an extension to the existing dwelling under a separate planning application. During my site visit I observed an extension was under construction at the appeal site. The Council raise no objection to the extension proposed as part of this appeal scheme. Based on the evidence before me, including the observations I made on site, I find no reason to conclude otherwise.

Main Issue

3. The main issue relevant to this appeal is the suitability of the site as a location for the proposed development, with particular reference to the requirements of the Development Plan.

Reasons

4. Policy 11 of the Borough of Oadby and Wigston Local Plan (2019) (LP) seeks to provide the most appropriate housing solutions for the Borough. The policy states: *'All residential development must contribute towards delivering a mix of dwelling types, tenures and sizes that meet the identified needs (and/or demand) of the communities within the Borough'*. Furthermore, the policy supports the development of specialist care accommodation that meets an identified need. Read as a whole, Policy 11 therefore requires proposals for specialist accommodation to meet an identified need within the Borough.
5. The Council's appeal evidence includes data from Leicestershire County Council (LCC), dated 30 September 2024. This states the total number of children from Oadby and Wigston Borough awaiting placement in a children's residential home is 1.

6. The appellant's evidence includes a number of Freedom of Information (FOI) requests from the appellant to LCC. The FOI requests ask about the number of children awaiting placement in a children's residential home in both the Borough and Leicestershire County. The Council determined the planning application based on FOI 007482 dated July 2024. This indicates that, at that time, the number of children from Oadby and Wigston Borough awaiting placement in a children's home was less than 5.
7. Although the evidence from LCC confirms that some young people are placed in residential homes outside of Leicestershire, I note the comments that whilst this is, in part, due to lack of provision, some children are also placed in different districts for safeguarding reasons. Therefore, based on the evidence before me, I cannot be satisfied that there is a need, within the Borough, for a children's residential home for 3 children.
8. I have had regard to the Written Ministerial Statement 'Planning for accommodation for looked after children' made on 23 May 2023, which states that the planning system should not be a barrier to providing homes for the most vulnerable children in society. However, it also states that support should be given to applications that reflect local needs. I find that the submitted evidence does not reflect a local need for the proposed children's home.
9. The appellant has also submitted several documents which they suggest demonstrates an identified need. These documents include: 'Children's Social Care – Placement Market Position and Sufficiency Statement', 2024-27 (LCC, September 2024); 'Children's Social Care – Placement Sufficiency Statement and Market Position Statement', 2021-23 (LCC, 2021), and; 'The independent review of children's social care – Final Report' (Josh MacAlister, May 2022). These documents do highlight a general need for children's care provision in Leicestershire County and across the country. However, they do not quantify the specific need for the Borough of Oadby and Wigston and, therefore, I do not find these documents weigh in favour of the proposal.
10. Although not part of the reason for refusal, in their Appeal Statement, the Council raises concerns regarding the loss of the existing bungalow, to the detriment of the Borough's housing supply. The Council states that the Borough's housing target will increase following the publication of the new standard method for calculating housing need although this is not further substantiated in the evidence submitted as part of this appeal. Nevertheless, Policy 11 supports the development of bungalows that meet an identified need. During my site visit I observed that the area surrounding the site is characterised predominantly by two storey dwellings. The loss of the existing bungalow from the Borough's housing supply would therefore not assist in providing a mix of dwelling types and sizes, as required by Policy 11.
11. I am aware that Policy 11 also requires new residential proposals must demonstrate how they contribute to achieving the identified needs set out in the Housing and Economic Development Needs Assessment (HEDNA). Both main parties agree that the HEDNA does not identify a specific need for children's care provision. The appellant suggests the HEDNA identifies a need for specialist care accommodation within use class C2. The Council contends that the HEDNA finds this is required for older persons as opposed to children.

However, I have not been provided with a copy of the HEDNA and I have reached my decision based on the evidence submitted.

12. My attention has been drawn to an appeal decision¹ relating to a proposed children's care home on another site within the Borough. The appellant states that the Inspector in that case found Policy 11 does not specify that any identified need should be local, based on the evidence submitted. That appeal was dismissed, and I have not been provided with the full details of that decision nor the evidence on which that case was determined. However, even if need should be considered on a larger geographical base than the locality of the site, there is insufficient persuasive evidence before me that would suggest the development would respond to a need in a wider area. As such, I cannot be satisfied that it is directly comparable to the current appeal. In any event, I have reached the conclusion that Policy 11 requires all residential development to meet the identified needs of the Borough.
13. My attention has also been drawn to permissions granted on other sites in the Borough². I have not been provided with information as to whether the circumstances in those cases were the same as the case before me and they are sited in different locations. Therefore, I am not satisfied these cases are directly comparable to the case before me and so I give limited weight to those approvals in my decision.
14. I conclude that the development would not meet an identified need, within the Borough, for the proposed children's home. Furthermore, the loss of the existing bungalow would be detrimental to the dwelling mix in the area. As such, the proposal conflicts with Policy 11 of the LP, which requires all residential development to contribute towards delivering a mix of dwelling types and sizes that meets the identified needs of the communities within the Borough.

Other Matters

15. Some of the submitted evidence refers to the proposed children's home being specifically for children with a learning disability. The description of the proposal does not make this distinction, but this would not preclude the home being occupied by children with a disability.
16. I have had due regard to Article 8 of the Human Rights Act (HRA) 1998, Article 3 of the United Nations (UN) Convention on the Rights of the Child, Article 19 of the UN Convention of the Rights of Persons with Disabilities and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Disability and age are relevant protected characteristics to which the PSED applies. These rights are engaged in reaching my decision. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.
17. I have not been provided with persuasive evidence that the proposed use would meet an identified need, and the loss of the existing bungalow would harm the housing mix in the area. The harm caused by the appeal development outweighs its benefits in terms of eliminating discrimination against persons with the

¹ Appeal Reference: APP/L2440/W/24/3336468

² Application References: 24/00358/FUL and 24/00309/FUL

protected characteristics of disability and age, advancing equality of opportunity for those persons and fostering good relations between them and others.

18. I appreciate the proposal is acceptable in terms of its location, highway safety, parking provision and ecology. However, these points do not outweigh my previous findings.
19. My attention has been drawn to section 3.109 of the Residential Development Supplementary Planning Document (2019) which states the Council's intentions for determining planning applications in the absence of appropriate information. I understand that, as originally submitted, the planning application did not, in the Council's opinion, provide adequate evidence of need. However, the data subsequently obtained from LCC regarding the number of children awaiting placement in a residential home, has informed my reasoning in this appeal decision.

Conclusion

20. For the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations that would outweigh that conflict. Therefore, the appeal is dismissed.
21. Furthermore, I have had due regard to the HRA 1998, the Rights of the Child, the Rights of Persons with Disabilities and the PSED set out under s149 of the Equality Act 2010. However, I conclude that it is proportionate and necessary to dismiss the appeal.

A O'Neill

INSPECTOR