



Appeal Decision

Site visit made on 28 May 2025

by **Les Greenwood MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 June 2025

Appeal Ref: **APP/F1040/W/25/3361524**

73 Coton Park, Linton, Swadlincote, Derbyshire DE12 6RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr Adil Abbasi for the Roots Care Group Ltd against the decision of South Derbyshire District Council.
 - The application Ref is DMPA/2024/1471.
 - The application sought planning permission for change of use from dwelling (Use Class C3) to children's home (Use Class C2) without complying with a condition attached to planning permission Ref DMPA/2024/0771, dated 4 June 2024.
 - The condition in dispute is No 2 which states that: *The use hereby permitted is granted for a limited period of 2 years expiring on 16 October 2026, when on this date, the use hereby permitted use shall cease and the use shall revert back to residential use (Class C3).*
 - The reason given for the condition is: *The Local Planning Authority considers that a permanent planning permission is not appropriate in this case. Accordingly, this permission is granted for a limited period only in the recognition of the particular circumstances of the proposal concerned to enable evaluation of management of any potential amenity impacts arising from the change of use in the context of BNE1.*
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Decision

1. The appeal is allowed and planning permission is granted for change of use from dwelling (Use Class C3) to children's home (Use Class C2) at 73 Coton Park, Linton, Swadlincote, Derbyshire DE12 6RF in accordance with the application Ref DMPA/2024/1471, without compliance with condition number 2 previously imposed on planning permission DMPA/2024/0771, dated 4 June 2024, and subject to the conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by Mr Adil Abbasi for the Roots Care Group Ltd against South Staffordshire Council. This is the subject of a separate Decision.

Main Issue

3. The main issue is whether the condition is necessary and reasonable to protect living conditions at neighbouring properties.

Reasons

4. 73 Coton Park is a detached house sitting at the end of a ribbon of houses, with other houses to the front, rear and opposite plus an extensive play area to the other

side. Planning permission has been granted for a change from a single family dwelling (Use Class C3¹) to a children's home for up to 3 children and their carers (Use Class C2). Condition 2 of the permission limits this use to a 2 year period expiring on 16 October 2026, to give the Council a chance to review the potential amenity impacts. I understand that the permission has not yet been implemented, so that at the time of writing there is less than a year and a half left before the permission potentially expires and any children living in the home would have to leave.

5. As set out in paragraph 57 of the National Planning Policy Framework (the Framework), planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
6. In this case, the Council has approved the use of the property as a children's home, with written documentation including a Management Plan, a Good Neighbour Policy and a Noise Reduction Policy to help ensure proper management and to minimise the impact on neighbours. The Council has not stated any specific concerns about particular impacts from the approved use or produced evidence of other similar children's homes causing unacceptable problems for neighbours. The use of the property would remain residential in character and would be subject to more controls than a Class C3 residential use. No 73's main garden area is set away from the neighbouring houses, next to the public play area, which should also help to minimise noise and disturbance.
7. There are, furthermore, clear problems with a temporary permission here. The appellant rightly submits that the purpose of a facility like this is to provide a stable home for the most vulnerable children in society. Moving these children into such a short term situation would be unreasonable. The permission furthermore gives no secure basis for any investment that would be needed for implementation.
8. For all these reasons, I conclude that condition 2 of the permission is neither necessary nor reasonable to protect living conditions at neighbouring properties. It therefore fails the tests set out in Framework paragraph 57. I find no conflict with South Derbyshire Local Plan Part 1 policy BNE1's aim to ensure that developments do not have an undue adverse effect on the privacy and amenity of existing nearby occupiers.
9. There are also local concerns about parking and highway safety. The site's access and parking have evidently been improved in line with the Council's requirements. The site lies within a 30 mph speed limit and the access appears to have adequate visibility in both directions. At the time of my site visit, traffic was light and there were ample opportunities to park safely on-street. Like the Council, I find no highway safety objection here, subject to conditions.

Conditions

10. As this decision establishes a new, free standing permission for the use of the property, it is necessary to revisit the whole set of conditions. There has been no debate regarding any of the other existing conditions, so I repeat them - with changes as necessary for clarification and to reflect the up-to-date situation.

¹ Town and Country Planning (Use Classes) Order 1987 (as amended)

11. The list of approved plans and other documents is needed to define the approved development. I have updated the 3 conditions regarding noise management, access improvements and a sustainable travel plan to reflect the approval of those details by the Council. These conditions are necessary to protect neighbours' living conditions and highway safety and to encourage sustainable travel, respectively. Conditions restricting the use to a children's home and limiting occupation are also needed to protect neighbours from potential noise and disturbance. Finally, a condition regarding parking provision is needed for highway safety.

Conclusion

12. I find that the condition fails to meet the tests set out in Framework paragraph 57 and that its proposed removal accords with the development plan. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Les Greenwood

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby approved shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with plans/drawings: Location Plan (received 4 June 2024); Existing Floor Plans (LUX_029, 02 00 01, P01); Proposed Floor Plans (LUX_029, 20 00 01); Site Block Plan as Proposed (LUX_029 00.00.01 P01) Parking Plan (LUX_029, 00 20 01, P02); Planning Statement (LUX Architecture, June 2024); Good Neighbour Policy (Roots Care Group, Version 1.0, April 2024); Management Plan (Roots Care Group, received 17 June 2024), unless otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.
- 3) The approved Noise Reduction Policy (Roots Care Group, v 1.0) and additional response statement received by the Council on 17 December 2024, which together have been approved by the Council as a Noise Management Plan on 23 December 2024, shall be fully implemented before first use of the development hereby approved and thereafter operated in accordance with the approved details, with any mitigation maintained in situ and in working order.
- 4) The access widening which has been implemented and then approved by the Council on 23 December 2024 shall be retained for the duration of the development hereby approved.
- 5) The Sustainable Travel Policy (Roots Care Group, v 1.0 April 2024) approved by the Council as a Sustainable Travel Plan on 23 December 2024 shall be fully implemented prior to the first use of the development hereby approved and the development shall thereafter be operated in accordance with the approved details.
- 6) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) the premises shall be used solely for the purposes of a

children's home, as defined by Class C2 of that legislation, and for no other purposes whatsoever including any other purpose within that use class.

- 7) The use hereby approved will accommodate a maximum of 3 children and 3 carers (including 1 manager) within the site at any one time (excluding staff changeover times) as per the Design and Access Statement. This arrangement shall be retained for the lifetime of the development.
- 8) The parking arrangement shall be retained in accordance with the approved Parking Plan (LUX_029, 00 20 01, P01) for the lifetime of the development hereby approved.