



Appeal Decision

Site visit made on 9 May 2025

by A. Graham BA(hons) MA IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 June 2025

Appeal Ref: APP/C1055/W/25/3358360

3 Courtland Gardens, Derby, Derbyshire DE24 0LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Irene Mutinda against the decision of Derby City Council.
 - The application Ref is 24/01098/FUL.
 - The application is for change of use from a dwelling house (Use Class C3) to a residential children's home for a maximum of two children (Use Class C2).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from a dwelling house (Use Class C3) to a residential children's home for a maximum of two children (Use Class C2) as set out in application ref: 24/01098/FUL in accordance with the conditions as set out in the Schedule below.

Main Issues

2. The main issue is the effect of the proposed use upon the living conditions of neighbours with regards noise, disturbance and vehicular movements and parking.

Procedural Matter

3. The description of development used in the heading above differs from that used by the Appellant in their original application form and is the description used by the Council in their decision notice. Although similar I consider that this description better reflects the nature of the development proposed.

Reasons

4. The appeal property is a modern, detached bay fronted house with open plan front garden, driveway to the side and detached garage and enclosed garden to the rear. The property is of three bedrooms with master bathroom and en suite to the first floor and living room, dining area and kitchen to the ground floor.
5. The property is located within a pleasant cul de sac location where similarly aged houses, albeit of a variety of design styles, are located around an informal roundel of private amenity space. Most properties have unenclosed, open plan type gardens which contributes to this openness and informal character. As a result of this the road is narrow with no dedicated footway other than for its initial 50 metres or so. Mature trees also add considerably to the aesthetic appearance of the residential enclave.

6. I saw on my site visit that, near the entrance to this cul de sac, there is a much older building and a large institution known as Pine Court. It is my understanding that Pine Court offers accommodation for adults with special needs under a class C3(b) use. I have also been made aware that number 1 Courtland Gardens is also occupied under a similar basis whereby people with learning disabilities are housed within a single home environment.
7. The appeal proposal before me seeks retrospective consent for the change of use of this residential property (use class C3) into a residential property able to house up to a maximum of two children and their carers as a children's home type facility (use class C2). The only significant proposed alteration to the existing house would be the provision of cycle stands in the rear garden.
8. The intention would be to enable the house to provide a safe, secure property for children with learning disabilities, autism, mental health needs or other behavioural disorders. The children living here would likely age between the years of 10 and 17 years old. There would be up to a maximum of two live-in carers who, as a team of six overall, would work in a shift pattern providing 24-hour care for the children living here, and a change in shift would occur in the morning and evening every day. The intention being that the children would have the benefit of good quality accommodation within a family environment.
9. In terms of visitors, the property would function much like any other residential dwellinghouse, although a regular scheduled visit from professional social or medical care staff would be normal between the hours of 9am and 5pm.
10. The National Planning Policy Framework (The Framework) states that the objective of significantly boosting the supply of homes needs to ensure that the needs of groups with specific housing requirements are addressed. Similarly, a Written Ministerial Statement of 23 May 2023 set out the Government's commitment to support the need for children's homes in the right place within a sustainable community.
11. Policy CP3 of the Derby City Local Plan Part 1 recognises the benefits of mixed and vibrant communities in their approach to sustainable placemaking and this also reflects the Framework in its aspirations for good design so long as other policies, such as Policies GD5, H13 and E24 of the City of Derby Local Plan Review (CDLPR), relevant to the protection of safe communities and residential amenities are met.
12. With regards movement of vehicles to and from the site, the property would act in a similar way to that of a residential dwelling under Class C3, whereby several vehicles could be used by the same household. The difference in this case would be regarding the daily transition of staff members at the property, and the implications that this would have upon the safe and efficient use of the highway, as well as the living conditions of neighbours at these hours when the site would be at its busiest.
13. Although I saw on my site visit that the existing driveway is very narrow, even with the hedge trimmed as it was when I visited, the comings and goings of staff would not be sufficiently different to that which could occur under its existing use, where the tandem parking arrangement would inevitably result in the moving of vehicles temporarily onto the road at certain times. I therefore am unable to see how the change in staff would represent a decisive change,

when compared to what could reasonably already occur with regards such vehicle movements.

14. Staff who come to work by private car would effectively 'cross over' with shift changes and this would likely lead to such temporary on street parking whilst such transition is happening. However, the suggested management plan could set out the practicalities of such staff movements to further remove any potential for disturbance during these transitional periods, or at times of visitations by other professional staff or visitors. Ultimately, the movements of vehicles would not be sufficiently different to that which could reasonably occur under a Class C3 use, and there would be no conflict with the Local Plan in this regard.
15. Several residents raised concerns with regards noise and associated visits to this property by emergency services. I have differing perspectives before me as to whether these occurrences resulted in blue light attendances or not, but I consider that the occurrence of such issues could occur whether this property was used for housing under use class C2 or C3. I also consider that the incidents of loud music would be common, or perhaps more common, were this property to remain in its current use class without the custodianship of the professional staff. With regards the tipping of waste and other such matters, I saw on my site visit an exceptionally quiet and tidy site, and consider such incidences have since been addressed.
16. In considering this very sensitive case, I was struck by the amount of other, similar, facilities that exist within close proximity to the appeal site, both at number 1 Courtland Gardens, Pine Court and other such facilities along Shardlow Road that are within 100m from Courtland Gardens itself. I have no evidence before me as to whether this proximity is either required or desirable by the operators of this appeal property, but it does mean that the local area already accommodates a significant proportion of similar uses.
17. Although I find it understandable therefore that local residents and the Police are concerned about another facility of the same use class being located nearby, there is no specific policy within the Local Plan that seeks to specifically address such issues of proximity of uses. Although Policy CP3 suggests that a mix of uses needs to be balanced in order to be sustainable, the Council have not included this policy in their reasons for refusal, and there is nothing before me setting out the appropriate levels of use in this regard. Even were I to attribute further weight to this policy, however, it would not lead me to conclude that the amount of similar uses nearby would be sufficient to dismiss this appeal by itself.
18. Ultimately, this is a finely balanced case with very sensitive and emotive issues at stake for all parties. There are, however, other regulatory regimes and mechanisms that could help manage some of the operational issues as mentioned by the parties, that are without the remit of the planning application. As such, on assessing the evidence before me, the proposal would appear to be in general accordance with the requirements of the Local Plan and would not represent such a tangible change in the existing use class to bring it into conflict with Policies GD5, E24 or H13 of the CDLPR. As such, the scheme would be in accordance with the Development Plan and the Framework itself.

Conditions

19. In assessing the proposed conditions as suggested by the Council I have included the standard conditions regarding approved plans. I have also included the important conditions with regards a suitable management plan to ensure that staff transitions avoid congestion or impacts upon highway safety, and the conditions with regards the control of the property in terms of use and occupancy.

Conclusion

20. In conclusion, for the reasons given above, taking into account all other matters raised and the sensitive nature of this proposal, I must conclude that the proposal before me would not result in a significant contradiction with the development plan nor a harmful impact upon the living conditions of neighbours or highway safety. As such the appeal is allowed.

A Graham

INSPECTOR

Schedule of Conditions

1. The development shall conform in all aspects with the plans and details shown in the application as listed below.
- Location Plan - PP-13303620v1
 - Proposed Plans – P-002 and P-101
 - Site Plan – P-004
2. Within 2 months of the date of this decision, a management plan shall be submitted to and approved in writing by the Local Planning Authority which deals with the operation of the use and how staff and visitors will be managed at the site. The management plan could include measures such as staggering staff changeovers and implementing appointment systems to ensure that staff or professionals do not attend simultaneously, thus preventing undue disturbance or parking issues. The management plan shall also include details of the manager(s) at the care home to ensure that local residents can contact those individuals to address any concerns they may have with the operation of the use. The management plan shall be implemented, updated when required and retained for the life of the development.
3. The car and cycle parking arrangements for the site as shown on the approved Site Plan drawing ref P-004 shall be retained as such for the lifetime of the development.
4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 2015 (as amended) the property 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. Proposals to use the property for any other purpose within that class shall not take place unless a separate formal planning application has

first been submitted to and approved in writing by the Local Planning Authority. The use hereby approved shall accommodate a maximum of 2 children and 2 carers within the site at any one time (subject to staff change over and other cross over times) and this arrangement shall be retained as such for the life of the development.