



Appeal Decision

Site visit made on 7 July 2025

by **Les Greenwood MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 July 2025

Appeal Ref: APP/F1040/W/25/3362275

17 Kimbolton Way, Boulton Moor, Derby, Derbyshire DE24 5AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Ms Frances Clegg against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2024/0663 was approved on 17 October 2024 and planning permission was granted subject to conditions.
 - The development permitted is conversion of existing 4 bed dwelling to children's care home for a maximum of 3 children (use class C2).
 - 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 the planning permission Ref DMPA/2024/0663 for conversion of existing 4 bed dwelling to children's care home for a maximum of 3 children (use class C2) at 17 Kimbolton Way, Boulton Moor, Derby, Derbyshire DE24 5AZ granted on 17 October 2024 by South Derbyshire District Council is varied by deleting condition No 2.

Main Issue

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

Reasons

3. 17 Kimbolton Way is a detached 4 bedroom house on a relatively new estate of similar houses. 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. At the time of writing, that time limit is only about 15 months away.

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

4. 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. The Planning Practice Guidance allows that temporary permissions may be appropriate in some circumstances, including where a trial run is needed in order to assess the effect of the development on the area².
5. The Council has approved the use of the property as a children's home, with written documentation including a Good Neighbour Policy. The permission is subject to other conditions to safeguard local amenity: limiting use to a children's home; limiting occupancy to a maximum of 3 children and 4 carers; and requiring further approval of both a noise management plan and a sustainable travel plan. Children's homes are also subject to a range of other legislation.
6. Although this residential estate is fairly densely built up, with neighbours close at hand, the rear garden is well enclosed by buildings and fences to help minimise impacts on neighbours. The Council's Environmental Health Officer refers to experience of dealing with complaints from similar facilities, with challenging behaviour and episodes of shouting and screaming making management difficult. These concerns are valid, but on the other hand the use of the property would remain residential in character, should not be dissimilar to use of the property by a large family and would be subject to more management and controls than a Class C3 residential use.
7. The County Highway Authority considers that parking demand and traffic movements would not be materially different from those associated with use as a 4 bedroom dwelling. The on-site parking spaces are at the front of the property, away from neighbours' rear gardens and rear windows. Traffic movements should not therefore be so frequent or so located as to cause nuisance.
8. There are, furthermore, clear problems with this time limit. The purpose of a facility like this is to provide a stable home for the most vulnerable children in society. Moving children into such a short term situation would not meet that aim. The permission gives no secure basis for any further investment that would be needed for implementation, staffing and occupation. Additionally, the 2 year period would not allow sufficient time for the use to begin and to be effectively monitored before a new planning application would be required.
9. Although trial run type conditions like this are appropriate in some circumstances, I conclude that condition 2 of the planning permission is not necessary to protect living conditions at neighbouring properties and that the 2 year period allowed is not reasonable. The condition therefore fails the tests set out in Framework paragraph 57. I find no conflict between the proposed removal of this condition and 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.
10. I have considered the various other issues raised by local objectors. In particular, it looks like any overflow parking could be reasonably and safely accommodated on the street. I have seen no evidence of problems with on-street parking here and

² Planning Practice Guidance – Use of Conditions - Paragraph: 014 Reference ID: 21a-014-20140306

large numbers of spaces were available at the time of my site visit. Concerns about the welfare of the children themselves are a matter for the operator and the relevant authorities. Any future proposals for signs or extensions would need to be dealt with at that point in time.

11. The appellant has drawn a large number of other appeal decisions to my attention. All of those relate to materially different situations. I have assessed this case on its own merits.
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. This decision modifies the existing planning permission, so needs to be read together with the remaining conditions set out in that decision.

Les Greenwood

INSPECTOR