



Appeal Decision

Site visit made on 15 July 2025

by **E Heron MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 July 2025

Appeal Ref: APP/N4205/W/25/3364152

71 Hawthorne Road, Bolton BL3 5RF

- 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 Bhuta (Nurturing Souls Care LTD) against the decision of Bolton Council.
 - The application Ref is 18635/24.
 - The proposed development is described as: "Proposed change of use from dwelling to childrens assisted living home at 71 Hawthorne Road, Bolton"
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site visit was arranged as an 'access required site visit,' although I was not able to proceed on that basis. However, I was able to see all that I needed from public areas, hence my visit was carried out unaccompanied and I left a note to that effect at the appeal property.
3. The appellant has put forward a case that the scheme would not result in a material change of use. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the proposed development requires planning permission. If the appellant wishes to ascertain whether the development is lawful, they may make an application under section 191 or 192 of the Act. I have assessed the appeal accordingly.

Main Issue

4. The main issue is whether adequate living conditions would be created for future occupants with particular reference to outdoor space.

Reasons

5. The appeal site is a mid-terraced dwelling in a residential area of similar properties. The rear of the site backs onto a street corner within a small network of cobbled lanes. These lanes are bounded almost entirely by high walls, gates and garage doors, creating an enclosing effect within the street scene. There are no dwellings fronting the lanes, and as such there is no natural surveillance at ground floor level.
6. The rear yard of the appeal site is a small space, enclosed on all sides by tall features comprising a high wall and gate, the kitchen extension within the site, and the adjoining neighbouring extension. As such, the resultant space has an oppressive enclosing effect. There is little relief beyond the site boundary to the

rear, due to the enclosures and lack of surveillance of the wider lane. The poor quality and small size of the external space available to the occupants would not be suitable for use for childhood activities such as play and exercise, and more generally, for taking fresh air. I find this to be the case even though the supplementary guidance cited by both parties is not directly relevant to this appeal.

7. I am told that the site is relatively close to additional outdoor spaces and community facilities. I have not been provided with information as to the potential age of the children in care, however all of the facilities are a walk from the appeal site and would involve crossing roads. Children of a younger age would therefore only have access to these outdoor spaces and facilities with the discretion and supervision of support staff.
8. The yard is an existing feature and part of a dwelling that can be occupied by a family household. It is also typical of other external spaces within the locality. The appellant contends that the proposal should be treated as no differently to the existing use as to do otherwise implies that the rights and needs of children in care are greater than those of children not in care.
9. Nevertheless, the emphasis of the proposed use is centred on occupation by looked after children. As such, there is a high degree of certainty that the house would be consistently occupied by a number of children. This is different to a C3 use whereby that is less certain, and even if children formed part of a family group, as they grow over time their play requirements would change. These amount to notable differences between the use classes rather than the individual children themselves. It is in this context that I have made my assessment as to whether there would be adequate access to outside space. I have also given weight to the consultation response from the Council's Children's Services team, which highlights that a mid-terraced property is not considered to be conducive for a children's home, relating to size and space amongst other things.
10. Furthermore, whilst I note that the appellant states that the comings and goings from the property would be no different than a C3 dwellinghouse, there is no substantive evidence before me to indicate that the looked after children would not have emotional or behavioural difficulties. In this respect I consider that access to adequate outdoor space provision is an important aspect of assisted living.
11. For these reasons, the proposal would not create adequate living conditions for future occupants with particular reference to outdoor space. As such it would conflict with the relevant provisions of Policy JP-P1 of Places for Everyone Joint Development Plan, 2022-2039. This requires new development to be socially inclusive, responding to the needs of all parts of society, enabling everyone to participate equally and independently, amongst other things. This is supported by guidance in the National Planning Policy Framework (the Framework), which seeks to ensure developments create places with a high standard of amenity for existing and future users.

Other Matters

12. I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination and to advance equality of opportunity. As the proposal would assist in providing care for children in need, it would relate to persons who share a

protected characteristic by way of their age.

13. I have given considerable weight to this identified benefit. However, this should not be to the detriment of the quality of accommodation afforded to the occupants. As such, I do not consider that the identified benefit would outweigh the significant harm outlined above.
14. The Council considers the proposal to be acceptable in other respects such as noise and vehicle movements as well as the internal space provision. On the basis of the evidence before me, I see no reason to disagree.
15. I have been referred to paragraphs from various appeal decisions¹ by the appellant, in respect of outside space and noise, and whether a change of use would be material and best interests of children. Full details of these cases is not provided, and I am unable to establish if there are any direct parallels. The cases are not determinative in any event, as my decision is made on the specifics of this case.

Conclusion

16. It is in the best interests of children to provide suitable accommodation which meets their needs. In this case, I have found that the poor quality of outdoor space would not be in their best interests.
17. The proposal conflicts with the development plan. There are no other material considerations that lead me to conclude that a decision should be taken other than in accordance with the development plan. Consequently, I conclude that the appeal should be dismissed.

E Heron

INSPECTOR

¹ APP/B2355/D/22/3310288, APP/M1520/W/23/3330592, APP/P2365/W/24/3336302, APP/K2420/X/11/21558499.