



Appeal Decision

Site visit made on 8 July 2025

by **R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30TH July 2035

Appeal Ref: APP/P4605/W/25/3361221

Acocks Green Nursing Home, 1079-1081 Warwick Road, Acocks Green Olton, Birmingham B27 6QT

- 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 Pete Hughes of Midland Living CIC against the decision of Birmingham City Council.
 - The application Ref is 2024/00722/PA.
 - The development proposed is the change of use from care home (Use Class C2) to supported exempt accommodation (Sui-Generis).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The change of use has already occurred, and planning permission is sought to regularise this development. On visiting the site, I am satisfied the plans represent how the building is being used. It is also noted that there is an ongoing enforcement investigation¹. I, however, have a duty to deal with the scheme before me.

Main Issues

3. The main issues are whether the proposed development would provide appropriate living conditions for the occupants with specific regard to internal communal space, and the effect of the proposal on the living conditions of surrounding residents in relation to a fear of crime.

Reasons

Living conditions - occupants

4. The proposal has repurposed the existing building and does not seek to alter the form or layout of that building. It provides accommodation for 75 vulnerable women and their dependent children, with no limit to how long they can stay. This type of accommodation is classed by the Council as 'exempt accommodation'.
5. There are 75 ensuite bedrooms, and internal communal space is provided across 8 kitchens, 2 larger kitchen / mixed use spaces, 1 reception / sitting area, a children's play area and 10 storerooms. In combination the Council estimated the

¹ 2022/0236/ENF

communal space as approximately 200sqm and the appellant has not disputed this.

6. However, within the development plan and the Council's Design Guide internal communal space standards are not specifically specified for exempt accommodation. The appellant has therefore submitted the Council's own 'Property and Management Standards Applicable to Privately Rented Properties, Including Houses in Multiple Occupation' ('The Standards') which sets out housing standards for licensing purposes. The appellant confirms the proposal would fall under Category D housing and there is nothing before me to conclude otherwise.
7. The space requirements for communal living rooms within Category D housing where occupants tenure is not limited by time, is 15sqm for the first 4 persons in occupation and 2sqm for each additional person thereafter. Therefore, if the appeal buildings maximum occupancy were limited to 1 person per bedroom, it is highly probable that the proposal would provide adequate communal living space.
8. However, this does not take into account the unspecified number of children. 'The Standards' state that all children count as one person (para 2.52 ii) and provides limits to how many persons can be accommodated in any one room depending on its size (para 2.53). It also sets out that shared kitchen facilities should have a minimum floor area of 7sqm. Such facilities should be provided for every 5 occupants (para 2.54 (b) 2) and are considered separately to other communal living rooms (para 2.53).
9. Therefore, without knowing the maximum occupancy of the 75 rooms taking account of children, nor what proportion of the existing 200sqm of communal living space is allocated to kitchens, it can not be concluded whether the proposal would comply with 'The Standards'.
10. The appellant states that the occupants if not housed at the appeal site would likely be housed with little or no amenity provision. Notwithstanding a deficiency in evidence to support this, that other provision in the area is suboptimal does not justify a lack of compliance for the scheme before me.
11. For the reasons given above, it cannot therefore be concluded the proposal would comply with Birmingham Development Plan 2017 (DP) Policy PG3, and the Development Management in Birmingham Development Plan Document Policies DM2, DM10 and DM12² insofar as they seek high design quality and adequate provision for the amenity of residential occupants, including those in specialist or exempt accommodation.

Living conditions – surrounding residents

12. The appeal site is located in a mixed-use area surrounded by residential development. It sits between an adult education centre and a residential property followed by offices. Opposite is a church and to the rear a primary school.
13. DP Policy TP37 seeks to improve quality of life by addressing the fear of crime and interested parties have referred to a fear that the type of accommodation proposed attracts anti-social behaviour. However, the comments submitted are anecdotal and are largely concerned with the increase in number of exempt properties in the

² Although DMP Policy DM12 is not specified in the reasons for refusal, the main parties have considered it within their evidence, and I find it applicable in this case.

area, rather than specifically the appeal site, although there are some references to previous occupants. Nevertheless, it is relevant to note that the Police have not objected to the proposal even though they have some history with the site.

14. The Council has drawn my attention to comments made by an Inspector in light of an appeal at 3 Wye Cliff Road. However, in that instance the Police involvement was considered heavy which would not align with the lack of Police objection in relation to the scheme before me.
15. Therefore, with regard to the vulnerable nature of the proposed occupants and that it is not for this proposal to amend ongoing issues within the wider area, a management plan could be conditioned. This could be used to control the impact of the proposal on surrounding residents and so ensure their living conditions are tenable. The proposal could therefore comply with DP Policy TP37.

Other Matters

16. It is recognised that the proposal is well located in terms of services, facilities and public transport, and the use of the building as exempt accommodation in some form is, in principle, compliant with the development plan. However, this does not overcome the harm related to the living conditions of occupants.
17. No harm has been identified in relation to character and appearance, and highway safety. However, a lack of harm cannot weigh for or against the proposal.
18. Matters relating to the business practices of the owner, and the quality of other regulations are not directly relevant to this appeal, which must be dealt with on its own planning merits. Finally, from the information provided, the appeal and planning application have been submitted in accordance with appropriate planning legislation, so is not an exploitation of the system.

Conclusion

19. In making this decision 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, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Nevertheless, it does not follow from the PSED that the appeal should succeed.
20. Whilst I have found for the appellant in relation to the second main issue, as identified this would constitute a lack of harm thus, by definition, is incapable of weighing against the harm that I have found regarding the first main issue. Consequently, the appeal scheme would conflict with the development plan as a whole. There are no material considerations, including the National Planning Policy Framework, worthy of sufficient weight, which would indicate a decision otherwise. The appeal should, therefore, be dismissed.

RJ Redford

INSPECTOR