



Appeal Decision

Site visit made on 22 July 2013

by Sukie Tamplin Dip TP Pg Dip Arch Cons IHBC MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 September 2013

Appeal Ref: APP/F5540/A/13/2194912

16 Walnut Tree Road, Hounslow, TW5 0LR

- 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 Mr Ishtiaq Fazal against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 01163/16/P2 dated 31 May 2012, was refused by notice dated 25 September 2012.
 - The development proposed is described as change from family house to Residential Care home for Children who are developmentally challenged. It will be 24hr staff base.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application as described in the supporting statement or *Program Description* (PD) and refused by the Council, was for a residential care home for up to 6 children and 2 support staff. However, in his grounds of appeal the appellant describes the development as the change of use of the building from a dwelling house to a residential care home for up to three to four children with special needs, with a staff ratio of 1 staff to 3 children¹.
3. He further says that the proposal (as described in the grounds of appeal) does not constitute a material change of use and therefore does not require planning permission. Because the Council has also said² that this lesser scheme may not require planning permission I sought clarification from the appellant regarding whether he wished to proceed with the appeal.
4. The courts have held that the only way in which a binding determination as to whether planning permission is required is the submission of a formal application under S191 or S192 of the Town and Country Planning Act 1990³.
5. The appeal before me is an appeal under S78 against the refusal of planning permission, and as no formal request has been made to alter the nature of the proposed development I am bound to come to my decision on the original proposals as described in the supporting information submitted with the application. Therefore I shall consider the appeal proposal as being for the change of use from a family house to a residential care home for children who

¹ Appellant's Grounds of Appeal March 2013, paragraph 2.3

² Council's statement dated 1 May 2013

³ R (Reprotech (Pebsham) Ltd v. East Sussex CC [2003] 1 WLR 348

are developmentally challenged, with one staff member to 3 children, as clarified in the supporting PD.

Main issues

6. The main issues in this appeal are the effects of the proposed conversion on:
- the living conditions of future occupiers;
 - the availability of housing to meet the needs of residents in Hounslow.

Reasons

Living conditions

7. No 16 is located on the west side of Walnut Tree Road, which is a street of low density, primarily two storey, semi-detached housing. The house appears typical of the road and provides two double bedrooms and one single bedroom, comprising a maximum of 5 bed spaces upstairs, together with a bathroom. On the ground floor is a through reception room and live-in kitchen. A further small shower room is located under the stairs. The house has a generous back garden together with a substantial outbuilding, but that building is not intended to provide any residential accommodation.
8. The PD says that the house would provide a community residential treatment program to serve the needs of children experiencing various difficulties and ranging in ages from 4-18 years old. The building would accommodate up to six children, both boys and girls and have staff support at the ratio of 1 member of staff per 3 children, 24 hours a day.
9. It is therefore likely that at times accommodation would be required for vulnerable children of different ages and sexes, with a wide range of different personal, mental, developmental and physical issues. I note that children are likely to be referred from many sources including teachers, parents, treatment and assessment facilities and by general practitioners. In my view, the nature of the proposed use would frequently require less than maximum use of bedroom space. Not only would the sharing of bedrooms not be feasible for such reasons but the limited size of the dwelling would not enable effective separation of up to 6 potentially disruptive children and their carers.
10. Whether or not the accommodation would meet the requirements of the Children's Homes Regulations or the requirements of Ofsted⁴ is a matter for other regulators, but the intensity of occupation would be likely to impact on living conditions. Although some children could be accommodated on the ground floor, the feasibility of this is limited by the layout and size of the building. The PD indicates that supervised activities would be undertaken and the premises would be attended by students on placement. In the circumstances of 24 hour care it is likely that there would be a need for staff rest rooms, an administration area and quiet or treatment space for referred children. Although some of these supporting uses could be accommodated, as suggested, in the outbuilding, there would, in my view still be an over-intensive use of the main building. Consequently, I find it unlikely that good living conditions for up to 6, possibly unrelated, children could be provided in this modestly sized building.

⁴ The Office for Standards in Education, Children's Services and Skills

11. Accordingly I conclude that the building would not provide good living conditions for up to 6 vulnerable children. Although the appellant has suggested that the number of children could be restricted to no more than 3 children at any time, this suggested condition would mean the permission would have no purpose as the Council has confirmed that it would be happy to consider granting a Certificate of Lawfulness for such a continued C3 use. Such a condition would also have the effect of negating the planning permission now sought in this appeal. I thus conclude such a condition is unnecessary and because it fails the tests set out in Circular 11/95, *The Use of Conditions in Planning Permission* it should not be imposed.
12. Consequently, the proposals would conflict with the Hounslow *Unitary Development Plan* (UDP) Policy H.4.1, which seeks to encourage adequate internal space arrangements. Neither would the development provide a good standard of amenity for future occupiers as sought by the National Planning Policy Framework (the Framework)⁵ and thus it would not be sustainable development for which the Framework indicates there is a presumption in favour.

Housing need

13. UDP Policy H.7.1 is broadly supportive of an increase in the provision of a variety of managed accommodation for people with special needs subject to taking into account various criteria, including (i) the current use of the site, in this case a C3 residential use. The Council's Housing Market Assessment indicates that there is a lack of 3 bed (or larger) dwellings in Hounslow and that families are being forced to leave the Borough in order to find suitable accommodation⁶. In contrast, whilst the appellant challenges the Council's contention that there is not a need for the proposal, he provides no substantive evidence that there is such a need and merely indicates that the Council should also take into the account the needs of neighbouring authorities.
14. The Council indicates that the development would be a C2 use and as a residential use there would thus be no conflict with UDP policy H.3.1 (which presumes against the loss of residential uses) and policy C.1.4, which concerns social and community facilities, is therefore not relevant. Nonetheless, given that it would result in the loss of a type of residential accommodation for which there is an identified need and replace it with a type for which such a need has not been clearly demonstrated, I conclude that the scheme would harm the availability of housing to meet the needs of residents in Hounslow. Although the loss of one family sized house in itself would not have a significant effect on the availability of housing to meet identified needs, such incremental reduction in the family housing stock could be repeated were I to allow the appeal resulting in a widespread loss of such housing and an exacerbation of the significant shortfall of family housing. Having regard to criteria (i) this therefore significantly reduces the support that policy H.7.1 gives to the scheme and is a factor weighing against the development. In reaching this conclusion I have also borne in mind that the Framework is supportive of the provision of housing to fully meet objectively assessed needs based on current and future demographic change⁷.

⁵ The National Planning Policy Framework paragraph 17

⁶ Council's delegated report paragraph 6.4

⁷ The National Planning Policy Framework paragraphs 47 and 50

Conclusion

15. I have taken into account all other matters raised, including the character and appearance of the area, residential amenities of neighbouring properties, parking and road safety. I have also noted the in-principle support for accommodation to meet the needs of those with special needs and the appeal decision regarding another site in the Borough. But none of these matters alters my conclusion on the two main issues and for the reasons I have given, I shall dismiss the appeal.

Sukie Tamplin

INSPECTOR