

Report to the Planning Committee

26th June 2024

Subject:	Decisions of the Planning Inspectorate
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1 Recommendations

- 1.1 That Planning Committee notes the decisions of the Planning Inspectorate as detailed in the attached appendices.

2 Reasons for Recommendations

- 2.1 This report is submitted to inform the Committee of the outcomes of appeals that have been made to the Planning Inspectorate by applicants who were unhappy with the Committee's decision on their application.

3 How does this deliver objectives of the Corporate Plan?

		We now have many new homes to meet a full range of housing needs in attractive neighbourhoods and close to key transport routes.
		Our distinctive towns and neighbourhoods are successful centres of community life, leisure and entertainment where people increasingly choose to bring up their families.
		Sandwell now has a national reputation for getting things done, where all local partners are focused on what really matters in people's lives and communities.

4 Context and Key Issues

- 4.1 Applicants who disagree with the local authority's decision on their planning application may submit an appeal to the Planning Inspectorate. An appeal may also be made where the local authority has failed to determine the application within the statutory timeframe.
- 4.2 Appeals must be submitted within 3 months (householder proposals) six months (commercial developments) of the date of the local authority's decision notice.
- 4.3 Decisions on the following appeals are reported, with further detailed set out in the attached decision notice:-

Application Ref	Site Address	Inspectorate
DC/23/68158	26 Barston Road Oldbury B69 0PS	Dismissed
DC/23/68724	85 Newbury Lane Oldbury B69 1HE	Dismissed

DC/23/68216	93 Dingle Street Oldbury B69 2DZ	Allowed
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5 Alternative Options

5.1 There are no alternative options.

6 Implications

Resources:	There are no direct implications in terms of the Council's strategic resources. If the Planning Inspectorate overturns the Committee's decision and grants consent, the Council may be required to pay the costs of such an appeal, for which there is no designated budget.
Legal and Governance:	The Planning Committee has delegated powers to determine planning applications within current Council policy. Section 78 of the Town and Country Planning Act 1990 gives applicants a right to appeal when they disagree with the local authority's decision on their application, or where the local authority has failed to determine the application within the statutory timeframe
Risk:	There are no risks associated with this report.
Equality:	There are no equality implications associated with this report.
Health and Wellbeing:	There are no health and wellbeing implications associated with this report.
Social Value	There are no implications linked to social value with this report.
Climate Change	Sandwell Council supports the transition to a low carbon future, in a way that takes full account of the need to adapt to and mitigate climate change. Proposals that help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure, will be welcomed.

7. **Appendices**

APP/G4620/W/23/3324823

APP/G4620/D/24/3339957

APP/G4620/W/23/3333937



Appeal Decision

Site visit made on 7 May 2024

by **D Wilson BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 May 2024

Appeal Ref: APP/G4620/W/23/3324823

26 Barston Road, Oldbury, Sandwell B68 0PS

- 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 Miss Kashina Smith on behalf of Heartled Children's Residential Care Ltd against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref is DC/23/68158.
 - The development proposed is Change of Use - To a 3/4 Bedded Children's Home.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers with regard to noise and disturbance.

Reasons

3. The appeal property is a semi-detached dwelling located within a dense residential area. There is an extant planning permission for two-storey extensions and a dormer loft conversion which the proposed change of use would utilise to enable three young people to be cared for at the property.
4. Care would be provided by one senior and two support workers and also a manager who would be onsite Monday to Friday. As a result, there would be four staff during the day. Two staff would sleep in the property during the night and the young people would be aged between 8 and 18 years old.
5. The proposed use would result in several staff being required at different times of the day and night which would mean that there would be staff changeovers to facilitate this. There is very little information about when these changeovers would take place however they could potentially be at early and late times of the day, including at weekends.
6. While I note that the property could be used as a family home, with several vehicles, the proposal has the potential to result in six car movements during changeovers. Even if all the staff did not have access to a car, the changeover period would still be noticeable from staff entering and leaving the property. These patterns of movement would be unusual and noticeably different when compared to other residents leaving and arriving home for work, even when taking account of potential visitors albeit these would be less frequent than the twice daily changeovers.

7. I am also mindful that during staff changeover that people could be arriving and leaving at slightly different times which could result in the changeover period being extended and therefore being more noticeable, particularly as four members of staff are required during the day. This level of turnover would be unusual in the residential context of the area and therefore result in noise and disturbance to neighbouring occupiers.
8. I acknowledge that the young people would attend school during the day which would be normal in the context of the residential character of the area. However, they would also be required to attend appointments on and off the appeal site. While I note that these are every six to eight weeks, it is unlikely they would take place at the same time for each young person and therefore would result in further movements which would worsen the already high frequency of comings and goings.
9. I note the Council raise concern over the use of three floors which could lead to noise and disturbance issues to neighbouring occupiers. However, the dense residential character of the wider area means that a home occupied by a large family would not be unusual, especially in a large five-bedroom home. There is therefore no evidence to suggest that there would be an increase in noise and disturbance from the property itself above that of a normal large family home.
10. Notwithstanding my findings on noise and disturbance from inside the property itself, I conclude that the proposed development would harm the living conditions of neighbouring occupiers with regard to noise and disturbance from the frequent comings and goings. It would be contrary to Policy SAD H4 of the Site Allocations and Delivery Development Plan Document Adopted December 2012 which amongst other things, seeks to ensure that development is compatible with adjacent uses.

Other Matters

11. The Council consider that sufficient car parking would be provided for the proposal for which I have no reason to conclude otherwise. However, this is a neutral matter.
12. I note that the proposal is intended to be managed in order to provide essential support and care for young people, which aims to positively impact their lives. However, these benefits do not outweigh the harm I have identified.

Conclusion

13. For the reasons given above the appeal should be dismissed.

D Wilson

INSPECTOR



Appeal Decision

Site visit made on 13 May 2024

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

Appeal Ref: APP/G4620/D/24/3339957

85 Newbury Lane, Oldbury, B69 1HE

- 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 A Ali against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/23/68724, dated 2 October 2023, was refused by notice dated 24 January 2024.
 - The development proposed is described as 'double storey side/rear extension'.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The Council's decision describes the proposal as 'Proposed two storey side/rear and single storey front/side extensions and pitched roof to existing front porch'. As this describes the development more accurately, I have determined the appeal on this basis.

Reasons

3. The main issue in this appeal is the effect of the proposed development on the living conditions of the neighbouring occupier/s at 83 Newbury Lane with regard to outlook and sunlight. The appeal dwelling and the neighbouring dwelling at no 83 are both two storey, hipped roof semi-detached dwellings of the same original design that are sited on the same ground level and almost the same building line on both front and rear elevations. The appeal dwelling lies in close proximity to the south-west of no 83. Each dwelling has an attached flat roof garage and kitchen extension to the side that are almost conjoined. A 2m or so high fence separates the properties at the rear.
4. The garage and kitchen extension at the appeal site would be replaced under this proposal by a two storey, hipped roof side extension that would project beyond the main rear wall by some 2.8m, according to the submitted plans.
5. The Council's Revised Residential Design Guide 2014 Supplementary Planning Document (SPD) advises that ground floor extensions will be determined using the 45° code and that increased storey heights will be judged on their individual merits. The SPD provides no detailed guidance on the 45° code but whilst it constitutes guidance only, in my experience, it is generally taken to be i) in plan, a line of 45° taken from the quarter or centre point of the nearest

- habitable room window and ii) in elevation, a line of 45° from the centre point of the nearest habitable room window.
6. The nearest ground floor rear window in the neighbouring house is a glazed door to the kitchen but as that is obscurely glazed, I have based my assessment on the impact on the next nearest window, which is the main kitchen window, some 2.5m from the side wall of the proposed extension. Although the Council contends that the proposal would fall within that line in plan, the appellant's drawing in his statement shows that it would lie just outside that line. From what I have seen, in elevation it would also lie just outside the 45° line.
 7. The outlook from the rear windows of no 83 would mostly encompass its rear garden and as the proposal would be outside the 45° line from those windows, I am satisfied that the light to and outlook from the neighbouring windows would not be significantly harmed.
 8. As the 45° code generally applies to windows only, I have also considered the effect of the proposal on the rear garden of no 83. I have noted the appellant's point that as the rear elevations of the properties and the closest part of their gardens face north-west, they are presently in shadow all year round until later in the evening when the sun is shining. Although the proposal would result in only a small additional loss of late evening sunlight during the summer months, even a small loss would be significant. Unlike the appeal dwelling, no 83 has a small rear garden and its patio area is closest to the house. It is reasonable that the neighbouring occupier/s could expect to enjoy sitting out on that patio during the late evening in summer months given the lack of sunlight there at other times.
 9. For these reasons, I conclude that the proposed development, by reason of its height, length and proximity to 83 Newbury Lane, would significantly harm the living conditions of the occupier/s of that property with regard to sunlight to the rear patio. As such it would conflict with development plan policies ENV3 of the Black Country Core Strategy (2011) and SAD EOS9 of the Site Allocations and Delivery Development Plan Document (2012) which seek to ensure that development is of a high quality and compatible with its surroundings.
 10. The Council has not raised any objection to the front elevation of the proposal and from what I have seen that would be acceptable. However, I am unable to issue a split decision in favour of that part of the development because it is not physically and functionally separate from the rear part.

Conclusion

11. For the reasons given above, I conclude that the proposal is not in accordance with the development plan and there are no material considerations that would outweigh that. The appeal should be dismissed.

Sarah Colebourne

Inspector



Appeal Decision

Site visit made on 15 May 2024

by **H Wilkinson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 June 2024

Appeal Ref: APP/G4620/W/23/3333937

93 Dingle Street, Sandwell, Oldbury B69 2DZ

- 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 Quintella Thompson of New Era Residence against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref is DC/23/68216.
 - The development proposed is the change of use from C3 dwelling to C2 children's care home.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from C3 Dwelling to C2 children's care home at 93 Dingle Street, Sandwell, Oldbury, B69 2DZ in accordance with the terms of the application, Ref DC/23/68216, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The decision hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 01-00 PL1 – Site Location Plan, Drawing No. 11-00 PL1 – Proposed GA Plans and 08-00 PL3 – Proposed Site Plan.
 - 3) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that order with or without modification) the premises shall only be used as a children's residential home for up to three children aged 8-17 and for no other purpose (including any other use falling within Class C2 of the Order, but may revert back to C3 (dwellinghouse) on cessation of the use).
 - 4) Prior to the first occupation of the development hereby permitted, the vehicular parking as shown on Drawing No. 08-00 PL3 – Proposed Site Plan shall be provided and shall thereafter be retained for the purposes of parking.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. However, the policies therein which are material to this case have not fundamentally changed. I have therefore proceeded to determine the appeal having regard to the revised Framework.

3. The evidence suggests that the use of the appeal property as a residential care home has begun. However, for the avoidance of doubt, I have assessed the proposal based on the submitted plans.

Main Issues

4. The main issues in this appeal are the effect of the proposed development on:
 - the living conditions of the occupiers of neighbouring properties, with particular regard to traffic movements and disturbance; and,
 - highway safety with particular regard to the adequacy of the on-site parking provision.

Reasons

Living conditions

5. The appeal site comprises a reasonably well-proportioned corner plot and lies in a residential area characterised by a mix of house types including detached, semi-detached, and terraced units. It is occupied by a two-storey detached, four-bedroom property and includes an area of hardstanding to the front and private garden to the rear.
6. The care facility would provide residential accommodation for 3 young people between the ages of 8 and 17 years old. Twenty-four-hour care provision would be provided and would comprise of three staff members during the day and a maximum of two members of staff overnight. Visits would be made to the premises by social workers and other professionals on a case-by-case basis by appointment.
7. The area is relatively well served by public transport and is within reasonable walking distance of services and facilities including schools, parks, and shops. To reduce car dependency residents would be taught independent living skills and staff members would be encouraged to use public transport. Nevertheless, due to the shift patterns, changeover of staff and perhaps at the beginning and end of the school day, I consider it likely that the proposed use would generate some limited additional traffic movements, over and above that associated with a four-bed house, including arrivals/departures later in the evening.
8. Whilst it has been put to me that the area is a quiet, suburban environment, passing traffic noise and the manoeuvring of vehicles would not be uncommon in this area owing to the housing density and inevitable variation in work patterns and social activities of neighbouring occupiers. Indeed, it would not be unusual for residents to hear the comings and goings of their neighbours throughout the day, including the evenings. Given the limited traffic anticipated, and the staff numbers, I find that the anticipated movements would not be disproportionately large or significantly greater than those associated with a 3-child family in a property of this size, carrying out their day-to-day activities.
9. In all respects, the internal layout of the proposed care home would not be dissimilar to the existing 4-bed dwelling, and the external appearance would be unaltered. Despite the potential emotional and behavioural needs of the children, there is no compelling evidence to indicate that the use of the property or the associated outside space, including early morning outdoor play

would result in disturbance which would be materially different to that which could be reasonably expected of a domestic family residence.

10. Accordingly, I find that the appeal development would not harm the living conditions of neighbouring occupiers, with particular regard to traffic movements and noise disturbance. It would therefore accord with Policy SAD H4 of the Sandwell Allocations and Delivery Development Plan Document 2012 where it seeks to ensure that proposals for specific needs housing is compatible with adjacent uses. It would also be consistent with paragraph 135 of the Framework which promotes a high standard of amenity for existing occupiers.

Highway safety

11. Access to the proposed development would be via an existing access off Dingle Street. A fence has been erected around the site frontage which I am told is the subject of a separate planning application. As these works do not form part of the appeal proposal, I have limited my considerations to the change of use only.
12. I saw at my site visit that many of the properties along Dingle Street benefit from off-street parking provision. However, there are equally many which do not. Owing to the width of the road and on-street parking, two-way vehicular movement is restricted in places. Having said that, and whilst mindful that the demand for on-street parking may be higher at other times of the day, I observed limited on-street parking stress at the time of my visit, in the mid-morning.
13. The evidence sets out that there would be 3 staff members on site during the day and a maximum of 2 on the premises overnight. The submitted site plan indicates that 3 off-street parking spaces would be provided within the site frontage. Based on the shift patterns and staff numbers, I am satisfied that the proposed parking arrangements and on-site provision would allow staff to park within the site on a day-to-day basis. Visits to the property by social workers and other professionals would be by appointment only and less frequent. Even if these visits were to generate demand for additional on-street parking, given the limited scale and likely frequency, I am satisfied there would be sufficient opportunity to park on the road without adversely impacting highway safety. In addition, whilst there may be deliveries to the site, there is no evidence to suggest that these would be any different to than those which could be expected at a domestic property.
14. Consequently, I find that the proposed development would not harm highway safety with particular regard to the adequacy of the on-site parking provision. The proposal would therefore be consistent with the highway safety objectives set out within the Framework.

Other Matters

15. The Framework seeks to ensure that development is inclusive, and the fear of crime does not undermine the quality of life, community cohesion and resilience. Although the fear of crime and anti-social behaviour are material considerations, there must be some reasonable evidential basis for that fear. In this case, whilst mindful of the concerns put to me by interested parties and alleged previous incidents, there is no substantive evidence before me to demonstrate that the proposed use would give rise to anti-social behaviour or

criminal activity. I am also mindful that the local Police force did not object to the proposed development on such grounds. In addition, whilst I recognise the concerns regarding house prices, this has no bearing on my considerations of the merits of the proposal.

16. For the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended), the proposed care home use is classed as residential. Therefore, whilst it has been put to me by interested parties that the proposed business use would not be compatible in a residential area, it would not fall within either a commercial or business use. In any case, for the above reasons, I have found that the proposal would not generate activity materially different to a family home.
17. In determining the appeal, I am required to consider the merits of the scheme before me. Therefore, whilst it may be the case that there are alternative sites available in the area, this does not affect my consideration of the main issues.

Conditions

18. In addition to the standard time limit condition, and in the interests of certainty, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. To ensure that the intensity of the use of the site is managed in the interests of living conditions, it is necessary to restrict the use of the site and the number of children to reside at the property. For reasons of highway safety, a condition requiring the provision of the off-street parking prior to first occupation of the development is imposed.

Conclusion

19. For the reasons given above the appeal is allowed.

H Wilkinson

INSPECTOR