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# Appeal Decision

Site visit made on 5 December 2023

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 December 2023**

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**Appeal Ref: APP/A3010/W/23/3322527**

**34A Dukeries Crescent, Worksop, Nottinghamshire S80 2QW**

- 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 Mohamed Kamara, Sal Integrated Care against the decision of Bassetlaw District Council.
  - The application Ref 22/01493/COU, dated 31 October 2022, was refused by notice dated 18 April 2023.
  - The development proposed is the change of use of a (C3a) dwelling to a children's home (C2) for a maximum of four children with two carers sleeping overnight working on a rota basis.
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## Decision

1. The appeal is allowed and planning permission is granted for the change of use of a (C3a) dwelling to a children's home (C2) for a maximum of four children with two carers sleeping overnight working on a rota basis at 34A Dukeries Crescent, Worksop, Nottinghamshire S80 2QW in accordance with the terms of application Ref 22/01493/COU, dated 31 October 2022, subject to the attached schedule of conditions.

## Main Issue

2. The main issue is whether the proposal would be suitably located to accommodate vulnerable children with particular regard to levels of crime and anti-social behaviour in the locality.

## Reasons

3. The appeal property comprises a two-storey detached dwelling located on a corner plot within a large residential estate. The appeal proposal is for a change of use from a domestic dwelling to a children's home for the care of up to 4 children. The home would employ 6 carers operating on a shift basis with 2 of the carers sleeping overnight. No external alterations to the dwelling are proposed.
4. The Council identifies that the locality within which the appeal property is located is within the 79.149 percentile for all crime and anti-social behaviour in the United Kingdom where 0 equals the lowest and 100 equals the highest ranked crime. Although Nottinghamshire Police did not formally object to the planning application, they did raise concerns that if resident children have established behavioural issues, the support workers may have difficulties managing this successfully. In particular, the Police identified that if the

children attend mainstream education in the area they will potentially be associating with some of the main protagonists which can impact their behaviour management by staff. Furthermore, the Police identify that the children may witness, and be influenced by, inappropriate conduct throughout the area which again may influence their behaviour.

5. As a consequence of the above, the Council considers that the appeal property is not suitably located for the proposed use. It has also made reference to an Office of National Statistics report 'The educational background of children in care who have interacted with the criminal justice system' which demonstrates that more than half (52%) of children in care had a criminal conviction by age 24 compared to 13% of children who had not been in care.
6. The Appellant sets out that operation of the care home would require to be registered with, and regulated by, OFSTED. Before OFSTED give approval, a Location Risk Assessment would be required to determine the suitability of the area for a children's care home in consultation with the Police and social services departments. In addition, there would be an impact risk assessment for each child in which local crime would be considered.
7. In my view, any sense of enhanced risk associated with crime and disorder in the locality and the effect that this may have on children in care cannot be wholly eradicated but it can be suitably controlled with adequate management and care that would be subject to regulation by OFSTED. On the basis of the evidence before me, I agree with the Appellant that there is legislation, other than that contained with the Planning Acts, and another regulatory body that more appropriately deals with the safeguarding and welfare of children in care.
8. I have taken into account the advice provided in paragraph 92 (b) of the National Planning Policy Framework (the Framework). This sets out that planning decisions should aim to achieve inclusive and safe places so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. I accept that the individual vulnerabilities of children in care could be greater than those in a typical family dwelling. However, their exposure to crime would be the same for any occupants of the appeal property who may wish to use it as a family home, or indeed any other children residing in the vicinity of the appeal property.
9. Furthermore, there is no conclusive evidence to suggest that children who are likely to occupy the proposed care home would undermine community cohesion particularly as they would be subject to prior risk assessment and supervised through the proposed caring regime. As such, I do not consider that there is any compelling evidence to suggest that the proposal would be contrary to the provisions of paragraph 92 (b) of the Framework.
10. I have also taken into account the fact that Nottinghamshire County Council, in its capacity as Corporate Parent for the children, were supportive of the proposal, particularly in circumstances where there are insufficient residential settings within the County to provide a local home for all of the children that are taken into local authority care. The County Council also confirmed that the benefit of a planning permission would not in itself enable a residential home to operate at the appeal property as strict regulatory requirements of OFSTED would also need to be met. This would involve the home being registered with, regulated by, and regularly inspected by OFSTED. Against the above background, I consider that the provision of a children's home, in

circumstances where there is evidence of a shortfall, carries significant positive weight.

11. In considering the planning balance, it is clear that there is a defined need for care homes that resemble typical family homes in the County. Furthermore, the OFSTED regime provides the appropriate regulation to consider the suitability of the use of the appeal property as a care home and the welfare of each individual child who may occupy it. The exposure to crime in the locality would be the same for any children who may occupy the appeal property, or other dwellings in the locality, as a family home. In addition, my attention has not been drawn to any specific policies to suggest that the appeal property is sited in a location that is defined in the development plan as being unsuitable for use as a care home.
12. I recognise that the Council may have a perception that children who may occupy the appeal property would be exposed to crime and anti-social behaviour of an extent that would be demonstrably unsupportive of the use of the appeal property as a care home. However, such perception needs to be soundly based on evidence and relevant to the provisions of the development plan if I am to attach any significant weight in the planning balance.
13. In this case, I do not consider that there is any material evidence to suggest that the proposal would demonstrably conflict with the provisions of the development plan, when taken as a whole. In my view, the appeal property is of a suitable size and type to be used as a care home. It would resemble a typical family home to enable the children who may occupy it to lead subsequent independent lives, particularly as another more appropriate regulatory regime would specifically consider in detail the Council's concerns. As such, the planning balance weighs in favour of allowing this appeal.
14. Taking the above matters into account, I find that there is no compelling evidence before me to suggest that the appeal property would be an unsuitable location for use as a children's home in land use planning terms. Consequently, there would be no conflict with Policy DM5 of the Bassetlaw District Local Development Framework, Core Strategy and Development Management Policies DPD (2011). This policy, amongst other things, identifies that proposals for new housing development will be expected to deliver housing of a size, type and tenure appropriate to the site and locality informed by the local demographic context and that proposals for new housing for supported and specialist accommodation, will be supported in suitable locations, in line with the role and size of the settlement.

#### *Other matters*

15. I have also taken into account the concerns of nearby residents that high levels of anti-social behaviour are well documented within the area and that the walkway (Jitty) adjacent to the appeal property, which connects Dukeries Crescent to Manton Crescent, is used by youths who regularly congregate at night and which is considered to negatively affect the appeal proposal. However, such circumstances apply to any future occupants of the appeal property but, in this case, these are matters that would be taken into account by OFSTED. Whilst I recognise the community concerns regarding the use of the public walkway, I do not consider that its presence provides any demonstrable basis to dismiss this appeal on land use planning grounds.

## **Conditions**

16. I have considered the proposed planning conditions, including a number of pre-commencement conditions, that have been provided by the Council. I have considered these against the advice given in paragraph 56 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the PPG. Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability.
17. In addition to the standard time limit, I have imposed a condition (No. 2) relating to the approved plans in the interests of certainty. A condition is also necessary to restrict the number of children that may occupy the appeal property to prevent intensification of the proposed use (No. 3).
18. In order to ensure that the appeal property is properly managed suitable for its use, a condition is necessary to require the submission of a management plan , security enhancement details in accordance with the 'Secured by Design' standard and details of landscaping (No. 4). In the interests of highway safety, a condition is necessary requiring that the southern boundary hedge to the front of the driveway gates is maintained at 1m height (No. 5).
19. Also, in the interests of highway safety, the Council has suggested a condition requiring that the area in the front of the property be hard surfaced in a bound material and drained to prevent discharge of surface water onto the public highway. At my site visit, I observed that a large part of the area to the front of the property was surfaced with block paving. However, owing to access restrictions, I was unable to confirm whether this extends to the full area shown for parking on the Block Plan (Revision A) or whether this area has adequate surface water drainage. Consequently, I have imposed the Council's suggested condition (No. 6).

## **Conclusion**

20. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

*Stephen Normington*

INSPECTOR

### **CONDITIONS SCHEDULE**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Site Location Plan (Published 1 November 2023)
  - Proposed Floorplans Rev A (Published 13 February 2023)
  - Proposed Block Plan Rev A (Published 13 February 2023)
- 3) There shall be no more than 4 children residing at the property at any one time.
- 4) Notwithstanding the submitted information, the property shall not be brought into use until a management and security enhancement plan has been submitted to and approved in writing by the Local Planning Authority. This shall include:
  - A management plan for the day-to-day operations of the site
  - Details of how complaints will be managed by the provider
  - A plan for security enhancements to be implemented in accordance with the Secured by Design standard
  - A scheme for improvements for hard and soft landscaping (including boundary treatments) at the property

The approved details shall be retained for the lifetime of the development.
- 5) The section of southern boundary hedgerow to the front of the driveway gates shall be cut to 1 metre in height and maintained for the lifetime of the development, unless otherwise agreed by the Local Planning Authority in writing.
- 6) The dwelling shall not be brought into use until the area shown to the front of the property on the approved site layout plan has been laid out and hard surfaced. The driveway shall be surfaced in a bound material (not loose gravel) and shall be drained to prevent the unregulated discharge of surface water onto the public highway. That area shall not thereafter be used for any purpose other than the parking of vehicles.