
Appeal Decision

Site visit made on 17 January 2025

by **David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 February 2025

Appeal Ref: APP/K2420/W/24/3350799

87B & 87C High Street, Barwell LE9 8DS

- 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 Hussein Essajee of Vexford Homes Limited against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref is 24/00476/FUL.
 - The development proposed is change of use from two dwellinghouses Class C3 to Childrens Care Home Class C2.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

Main Issues

3. The main issues are the effect of the proposal on:
 - Parking and highway safety; and
 - The living conditions of future residents with regards to outdoor amenity space.

Reasons

Parking and Highway Safety

4. Various figures have been given for the number of staff who would be on the premises, ranging from 2 in the day and 1 at night, to 4 in the day and 2 at night. The appellant states that these figures are given as likely maxima and minima.
5. There are 4 parking spaces accessed from a courtyard to the rear, although only 2 of these would serve the appeal proposal. The Council's Officer Report refers to a design guide standard of 1 off-street vehicular parking space per 3-bedrooms, plus 1 additional space for each staff member on site. It was therefore considered that the development would require 1 additional off-street vehicular parking space. However, this was based on the minimum number of staff, and the potential maximum would indicate that further parking spaces would be required. The Highway Authority has indicated that it is not concerned about a shortage of

- 1 space, but this does not reflect the spaces required for the potential maximum number of staff.
6. Access to the appeal site is from High Street, which is a main road through the settlement. At the time of my visit High Street was well-trafficked and there was extensive on-street parking of vehicles on this road and in the surrounding area. Although there were some parking spaces available on High Street and side roads, I am mindful that I visited the site during the day whereas the peak demand for parking in this primarily residential area would be during the evening and at weekends. Given the under-provision of off-street parking provided by the appeal proposal, the development would be likely to increase demand for on-street parking in this area, particularly on High Street, and generate unsafe vehicle manoeuvres as drivers attempt to find a parking space.
 7. The appellant refers to a good availability of on-street parking. But even having regard to the submitted photographs, this does not represent substantive evidence that there is convenient and safe access to parking in the area.
 8. Furthermore, due to the location of parking to the rear of the site, drivers would not be aware of the availability or otherwise of parking until they had entered the site. Although there would be sufficient space for vehicles to turn within the site so they could exit in forward gear, this would lead to convoluted manoeuvres on a shared parking area with an increased risk of collisions.
 9. As well as staff, there are also likely to be other visitors to the site due to the nature of the accommodation and associated services. This adds to my concerns on the level of parking generated by the proposal and the nature of traffic movements.
 10. I am mindful that the site is in a location with good access to public transport. But even allowing for the submission of a travel plan, there is no certainty that staff and visitors would use public transport and this does not lead me to a different conclusion about the impact of the proposal on parking.
 11. The appellant refers to parking associated with the use of the properties as family dwellings. However, I consider that the parking and traffic movements associated with the appeal proposal would be materially greater and of a different nature compared to that generated by family housing.
 12. Based on what I have seen and read, the proposal would lead to an increase in parking pressure in the area and would be likely to result in inconsiderate parking and awkward vehicle manoeuvres to the detriment of highway safety, and reduce access to parking that nearby residents could reasonably expect. The proposal would therefore be contrary to Policy DM18 of the Site Allocations and Development Management Policies DPD 2016 (SADMP) in respect of providing an appropriate level of parking. The proposal would also be contrary to the Framework which seeks to create places that are safe and accessible and with regard to an unacceptable impact on highway safety.

Outdoor Amenity Space

13. The gardens to the rear of the appeal site are of a limited size. Although there is an open aspect across the courtyard to the rear of the properties, the small size of

the gardens and the high means of enclosure give the gardens an enclosed and constrained character, which limits their functionality as outdoor amenity areas.

14. The Council emphasises that the gardens fall below the standards for private outdoor amenity areas of its Good Design Guide. That said, the Council approved these gardens as part of a relatively recent planning permission for the development of the site as housing. The evidence suggests that a mitigating factor for the size of the gardens was the proximity of a public park.
15. In respect of a typical family dwelling, although younger children would only have supervised access to public open space, it is reasonable to expect older children to have unsupervised independent access. This gives weight to the proximity of a public park as mitigation for a shortfall in private outdoor amenity space.
16. However, children residing within the appeal proposal would not be allowed to leave the premises without adult supervision. Given the need for such supervision, the ability of children to access public open space would be limited, even allowing for the Ofsted requirements for visits to parks, shops etc. every second day. This emphasises the importance of outdoor amenity areas within the appeal site to cater for children's needs. Given the sensitive nature of occupation of the proposal and the associated restrictions on access to public open space, the limited size and degree of enclosure of the gardens would not provide suitable outdoor amenity space for children residing at the site.
17. The removal of a dividing fence between the gardens would increase the sense of openness of the garden area. But this would not be sufficient to overcome the limited size of the external amenity space given the restrictions on access to public open space.
18. The appellant submits that the appeal proposal would not change the maximum levels of occupancy compared to the permission for housing. However, the appeal proposal is for a different use to a typical family dwelling. Even if a couple or family could occupy the properties and foster children, then I consider that there would be more flexibility in providing supervised access to public open space compared to a care home reliant on staff supervising a number of children.
19. In conclusion on this issue, the appeal proposal would not provide suitable outdoor amenity space for residents, with significant harm to their living conditions. The proposal would therefore be contrary to the Framework which seeks to create places that promote health and well-being, with a high standard of amenity.
20. I find no conflict with Policy DM10 of the SADMP as this does not address the matter of amenity of future residents in relation to amenity space. However, this does not lead me to a different conclusion on the harm arising from the proposal.

Other Matters

21. I note the frustrations expressed by the appellant in relation to the decision process leading up to this appeal. However, this is not a matter for this appeal which I have determined on its planning merits.
22. I am mindful of the benefits of the proposal, including the provision of a children's care facility which resembles a family home type environment with good access to local services. However, given the poor amenity for residents in respect of external

amenity space, these benefits carry only limited weight in favour of the proposal, and would not outweigh the significant harm I have identified.

Conclusion

23. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR