

MC/21/1564

Date Received: 27 May 2021
Location: Hazelbank 189 Princes Avenue
Walderslade Chatham
Proposal: Change of use to residential children's home (Class C2)
Applicant: Safe as Houses Property Investment
Agent: ADC Ltd
Mrs Eve Burns
The Priory
London Road
Canwell
Sutton Coldfield
B75 5SH
Ward: Princes Park Ward
Case Officer: Dylan Campbell
Contact Number: 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 13th October 2021.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Received 27 May 2021:

1318/01 - Proposed Floor Plans
1318/02 - Proposed Elevations
1318/03 Rev A - Proposed Site Plan

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The use shall be operated in accordance with the submitted Planning Statement and Management Plan received 29 July 2021.

Reason: In the interests of amenity protection in accordance with Policy BNE2 of the Medway Local Plan 2003 and paragraph 130 of the National Planning Policy Framework 2021.

- 4 The number of children cared for and resident on the premises shall not exceed 5 at any one time.

Reason: To ensure that the development would not prejudice the amenities of the residents nearby in accordance Policy BNE2 of the Medway Local Plan 2003 and paragraph 130 of the National Planning Policy Framework 2021.

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report

Proposal

The application seeks full planning permission for the change of use of the dwellinghouse (Class C3) to residential children's home (Class C2).

This application proposes the provision of a children's home for 5 young people (aged 7 to 17) with 1 to 1 support during the day and supervised at all times. At night children would be supervised by 2 waking nightshift staff. A waking nightshift means the staff member must stay overnight and work as they would during the day with often no chance to sleep. A total of 20 staff would work on a shift basis to care for the children. The home would be operated by Prime Calibre Care (PPC). The setting would provide a home for children with physical disabilities, learning disabilities and sensory impairment. The service is controlled under Ofsted regulations, and it is legally impossible for PPC to accept placements which do not meet the criteria outlined above.

There are no external changes proposed to the building itself, but the proposal would utilise first floor rooms as bedrooms for 5 children with a room on ground floor level used as a staff office/bedroom. One room on the ground floor would be subdivided to provide 2 sitting rooms. The kitchen, sitting rooms, living, and dining area would be shared by all occupants as a household sharing facility. The intended group will be brought together by mutual need. To the front, up to 4 car parking spaces are provided for staff and visitors.

The applicants propose a management plan which covers the level of care, number of children, age range for children, staffing and management responsibilities, vehicle management, parental contact management and a commitment to designing for crime prevention. They confirm that PCC have a locked door policy, keeping the front and back doors locked. Full CCTV would be installed in all communal areas inside and outside of the home along with restrictions on all windows and 24/7 staff supervision. Additionally, there would be a security gate from the garden to the frontage of the house and staff would be fully trained to deal with any issues that may arise.

The staff would consist of one registered Manager, one Deputy Manager with at least five years' experience, two team leaders with at least three years' experience and support staff. All staff working with children will be qualified to a minimum of NVQ level 3 as well as being trained in safeguarding and working with young people.

PCC are legally obliged to address any issues of concern raised by Ofsted. If they fail to do this, they will lose their registration and would not be able to operate the children's home. There is a shortfall of suitable, registered, children's homes in North Kent/ Medway, which specialise in the category of children proposed to be supported. The current proposal for the small home in Princes Avenue would assist in addressing this need. Kent County Council Social Services are well aware of this problem and have confirmed that more children's homes are needed in the local area. Kent have previously requested that PCC develop further children's homes, with a letter of support from Senior Commissioner.

Relevant Planning History

MC/17/1034	Construction of single storey extension to side and first floor extension; extension to existing crossover and dropped kerb with landscaping to front with new hardstanding and relocation of access steps; construction of patio to rear with landscaping and replacement of external windows and doors Decision: Approval with Conditions Decided: 15 May 2017
MC/16/2553	An application for a Lawful Development Certificate (existing) for the conversion of garage to a habitable room Decision: Approval Decided: 24 August 2016

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties. Kent Police have also been consulted.

87 letters of objection have been received, including a petition containing 41 signatures, outlining the following concerns:

- Anti-social Behaviour
- Crime
- Noise and disturbance
- Traffic increase
- Inappropriate property for such a use
- Refuse issues

- Loss of privacy
- Air pollution
- Impact on local facilities

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2021 (the NPPF) and are considered to conform.

Planning Appraisal

Use Class

The term 'dwellinghouse' is not expressly defined in the Use Classes Order (UCO). Whether a particular building can be held to be a dwellinghouse will therefore depend on the facts of that case. The criteria for determining Class C3 classification include both the manner of the use and the physical condition of the premises. In this case, the current primary use of the land is as a domestic dwelling, which according to the UCO falls within use Class C3 (a) (residential dwelling).

The proposed care use could fall within either Class C3 (b) (residential dwelling with an element of care) or Class C2 (residential institution). In order to determine which class is applicable the facts/details of the proposed use need to be considered in light of the current guidance and case law.

Class C3 (b) *Dwellinghouses* provides for houses where the use is by no more than 6 residents living together as a single household (including a household where care is provided for residents). Direction on the definition of a C3 (b) single household may be deduced from the Court of Appeal case of *R (Hossack) v Kettering BC and English Churches Housing Group* 25/06/2002. Here it was found that the precise relationship between residents, although clearly a material consideration, was not necessarily a determinative matter and even where residents were not a preformed group, they could live as a single household, in this case where they were brought together simply by mutual need. The lesson from *Hossack* is that, regardless of the origins of a given group of people, a fact and degree assessment is required as to whether, in the circumstances, they live together as a C3 (b) single household receiving care or the use is a C2 care home.

Each case must be determined on its own circumstances as a matter of fact and degree. In this case, the children will live in a homely environment where all facilities are shared. They will of course have their own bedrooms and the mode of living would be communal. The communal areas will allow for the cooking and sharing of meals, socialising and entertainment. They would have commonality as each child would be cared for and live

within a communal setting as one household, sharing facilities and household tasks. However, the number of residents (which include staff as residents for the purposes of numbers) is key and also the level of support to be provided is a factor.

Staffing / residential provisions

In the case of *R v Bromley LBC EX p Sinclair [1991]* it was confirmed that if carers are resident then they must be included as residents for purposes of numbers. While care and support will be provided by two to three support staff it is not clear whether they would all be a resident and thus that this would take the number of people in the building to 7/8 at any one time outside the definition of Class C3 (b).

Care provision

Turning to the extent of care, occupants will live as a family unit but with the support needed to assist them in daily living beyond that considered of a foster home. The individuals would not have the capacity or ability to live independently on their own in view of their level of care, supported 24/7 by a team of specialist support workers. The level of support would be 1 to 1 care throughout the day and 1 to 3 during the night. Whilst the extent of living may be common to single household living, the extent of care required by up to 5 trained staff to support a group of 5 children with such needs would exceed Class C3(b) criteria in terms of care provided and numbers. The very fact that staff need to be specially trained rather than being looked after by guardians/foster parents reinforces this.

Use class conclusion

Accordingly, with this being the case, planning permission is required for the change of use to Class C2. The main issues to consider are the principle of change of use, the effect that the proposed use would have on the residential amenities of people adjacent to the site, in the neighbourhood and the highway implications of the proposal.

Principle

The application site is situated within the urban area and is a 2-storey, detached property with an in and out driveway for several vehicles and a rear garden. It is located towards the centre of Princes Avenue. The area consists of residential houses, primary schools and a supermarket. Paragraph 8 of the NPPF supports strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. Paragraphs 60 and 62 of the NPPF are also relevant and seek to significantly boost the supply of homes and support the provision of housing for different groups. Specialist housing need is not specifically referenced in policies in the Local Plan, nevertheless the emerging plan highlights the importance of bringing forward adequate accommodation to meet the housing need of residents with specialist needs. However, Policy H8 of the Local Plan sets out the criteria

for residential institutions and hostels, and Policy H2 of the Local Plan relates to the retention of housing.

The proposal would result in the loss of a C3 dwelling however it would provide care and support for up to five children. Policy H8 of the Local Plan states that the dwelling would need to be too large for the use of a single household, however due to the specific nature of the proposed use and the need for specialist accommodation, there is no objection based on the size of the property in this regard. In view of the above there are no in principle objections to this proposal which has been further reinforced by an appeal decision for a similar development at 20 Pattens Lane allowed on appeal (APP/A2280/W/19/3222409), albeit on a limited time basis.

Design

Policy BNE1 of the Local Plan states that development should be satisfactory in terms of scale and mass and should respect the visual amenity of the surrounding area and paragraphs 126 and 130 of the NPPF emphasises the importance of good design.

There are no external changes proposed to the property, with the building retained and being brought back into use, no objection is therefore raised in terms of Policy BNE1 of the Local Plan and paragraphs 126 and 130 of the NPPF.

Amenity

There are two main amenity considerations, firstly the impact of the proposed development on neighbours and secondly the living conditions for the future residents of the development itself. Policies BNE2, H2 and H8 of the Local Plan and paragraph 130 of the NPPF relates to the protection of these amenities.

Impact on neighbouring Amenity

In considering the impact of this proposal on the amenity of neighbouring occupiers, it is important to take into account the recent appeal decision for a similar development at 20 Pattens Lane. Within the appeal decision the Inspector states "*The proposed change of use would allow the use of the property as a care home for up to a maximum of 5 children (aged 8 to 16), with 2 carers on site at any one time when the children are present. As the property is currently a 7-bed dwelling, the levels of occupation would be similar to that of a large family home. Given that the children would not be of an age where they can own a car, and the limited number of staff, the proposal would be unlikely to generate significantly more traffic movements than would be the case if the property was being used as a dwelling*".

Furthermore, and when also considering the noise that would be generated from the proposal the Inspector concluded that "*the noise generated within the house and garden from the occupiers would be unlikely to be significantly different from that created by its use as a single dwelling, possibly with five or six children. In such circumstances the use*

of the house and garden, and the potential for any noise and disturbance arising from them, would be likely to be the same as with the proposal for a residential home for up to six children”.

It was therefore concluded that the proposal would not result in harm to the living conditions of the occupants of neighbouring houses. As this current application is very similar to the application allowed at appeal, in terms of the number of children and staff on site and considering that this proposal relates to a detached property, there would be no objections regarding the use of this property as a children’s care home in terms of noise and disturbance or vehicle movements.

Objections were received via the public consultation process, many of these highlighted concerns with anti-social behaviour and fear of crime. It should be noted that in the supporting Planning Statement and Management Plan, the applicants have outlined the level of care and the needs of children that would live in the home. The category of children in the placement would not allow them to be known to the police, have criminal records or have been arrested. The children also do not have the capacity to take drugs. In order to register with Ofsted, it is mandatory for PCC the provider to complete a Location Risk Assessment to ensure that it is safe and secure for the children in placement and the service is suitable for the local area, and the local area will provide the best amenities for the children in PCC care. Every potential placement sent to PCC must have a matching assessment conducted. The matching assessment allows PCC to see the children’s suitability to the placement, the area and the levels of care and support. The supporting document also outlines the level of security that would be afforded to the property.

In assessing neighbouring amenity and fear of crime it is also worth noting the appeal decision in relation to 20 Pattens Lane as the Inspector also addressed the matter of fear of crime, stating that *“The courts have held that the fear of crime is only a material consideration where the use, by its very nature, would provide a reasonable basis for concern. It is not a foregone conclusion that the use of land as a children's care home in the manner proposed would inevitably result in an increase in crime, and the fear must therefore be supported by evidence”*. Taking into account the management practices and staff training programme, the Inspector was satisfied that any concerns should be tempered and that activity on the site can be regulated subject to conditions.

In view of the above there are no objections to the proposal regarding anti-social behaviour or fear of crime. In the interests of amenity, it is therefore considered appropriate to impose conditions restricting the number of children residing at the premises at any one time, and to ensure the residential home is operated in accordance with the management plan submitted.

Impact on future occupants

By virtue of there being no internal alterations it is considered that the property is of a sufficient size to suit the requirements of this specific care home need. It should also be

noted that CCTV would be fitted in the interests of security and safety. Additionally, a core aim is to create a home as close to a conventional family unit as possible and provide a stable family life for the children. To this end, the children and carers would live together, be able to take meals together, and share all facilities and matters of housekeeping and socialising. In more general terms, the management of the home would also be required to operate within the minimum national standards for children's homes and would be subject to Ofsted regulation and inspections. It is considered that these practices and safeguards would provide for adequate living conditions and that there would be sufficient opportunity for private one-to-one tuition or counselling either in the individual bedrooms or in the separate living rooms on the ground floor

In view of the above the proposal is considered acceptable and no objection is raised under the provisions of Policies BNE2, H2 and H8 of the Local Plan and paragraph 130 of the NPPF.

Highways

The proposed development would utilise the existing driveway to the front for the use for staff and any visitors, and as the children would not be old enough to drive it is unlikely that the development will generate significant additional levels of vehicle movement over that of a large family home. In consideration of this, no objection is raised with regards to the objectives of Policies T1 and T13 of the Local Plan and paragraph 111 of the NPPF.

Bird Mitigation

In consideration of the nature of the use, whilst the site falls within the catchment area for developer request towards Wildlife Mitigation, no request has been made as no additional planning unit would result from the development. No objection is therefore raised under Policies S6 and BNE35 of the Local Plan and paragraphs 180 and 181 of the NPPF.

Conclusions and Reasons for Approval

In summary, there is no objection in principle to the proposed change of use to a children's care home and the impact of the development with regard to the design, impact on amenity and highways safety is acceptable. The proposal is in accordance with Policies CF2, H8, BNE1, BNE2, BNE12, BNE14, BNE18, BNE35, T1, T13 and S6 of the Medway Local Plan 2003 and paragraphs 8, 60, 62, 111, 126, 130, 180 and 181 of the NPPF.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of representations received expressing a view contrary to officer's recommendation.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>