

MC/22/2593

Date Received: 1 November 2022
Location: 1 Willow Place High Street
Isle Of Grain Rochester
Proposal: Change of use of a single occupancy residential dwelling (Use Class C3) to a children's care home (Use Class C2)
Applicant Nirvana Care and Support Hub
Agent Nirvana Care and Support Hubs Nathan Glazier
Ward: Peninsula Ward
Case Officer: Chantelle Farrant-Smith
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 8th March 2023.

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 17 November 2022:

Existing Floor Plans (No Change)

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

- 3 The use shall be operated in accordance with the details contained in the Planning Statement received 1 November 2022.

Reason: In the interests of amenity protection in accordance with Policy BNE2 of the Medway Local Plan 2003 and paragraph 130f of the NPPF.

- 4 The number of children cared for and residing on the premises shall not exceed 3 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 130f 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

This application seeks planning permission for the change the use of a single dwelling (Class C3) to a children's care home (Class C2), for 3 children aged between 11 and 18 years old, who suffer from emotional and behavioural disorder, the home will not accommodate children with physical disabilities.

A total of eleven staff would work on a shift basis to care for the children in a setting that would provide a home for children, all staff are to be trained to meet the needs of the service as regulated by Ofsted.

There would be no proposed changes to the building, and the layout would be occupied as current arrangement with the first floor as bedrooms for 3 children with two bathrooms, the ground floor an office/staff bedroom and staff room. The other areas such as games room, lounge/diner, kitchen, and utility room being shared space by all the occupants as a household sharing facility. The intended group will be brought together by mutual need. To the front garden, 4 car parking spaces are provided for staff and visitors.

Relevant Planning History

MC/05/2313	Application for Lawful Development Certificate (proposed) for insertion of dormer to side to facilitate living accommodation in roof space. Decision: Approval with Conditions Decided: 6 December 2005
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MC/04/0129	Conversion of integral garage into a dining room incorporating new window to front elevation. Decision: Approval with Conditions Decided: 23 February 2004
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Representations

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

Four letters of objection received raising the following:

- Impact on neighbouring amenity
- Noise
- Additional traffic
- Anti-social behaviour

St James Isle of Grain Parish Council were also consulted and have raised the following objection:

- Loss of a family dwelling
- Car parking for staff
- Staffing levels
- Main Sewer

KCC Strategic Commissioning have submitted a statement of support.

Three letters of support received stating the following:

- Quiet, Supportive, Good location for children and young adults
- Access to open space for amenity purposes
- Occupancy low, staffing, and secure.

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 (NPPF) and are considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

Planning Appraisal

Use Class

To determine whether this proposed children's home requires planning permission, it is important to define the use.

The term 'dwellinghouse' is not expressly defined in the Use Classes Order (UCO 1987 (as amended)). 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). 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 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 is key and the level of support to be provided is a factor.

Care provision

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.

Turning to the extent of care, according to the planning statement submitted with the application, the accommodation will be for up to 3 children aged between 11 and 18 years old, who suffer from emotional and behavioural disorder, the home will not accommodate children with physical disabilities.

A total of eleven staff would work on a shift basis to care for the children in a setting that would provide a home for children, all staff are to be trained to meet the needs of the service as regulated by Ofsted. There will be at least 4 staff during the day and 2 at night-time to ensure adequate support is provided. The two staff members residing in the property at night-time would not have specific bedroom allocated for them, as such they cannot be considered as residents of the property.

The occupants will live as a family but with the support needed to assist them in daily living would be beyond that considered of a foster home, as such this would be outside the definition of C3(b).

Principle

The main issues to consider are the loss of the residential dwelling, effect that the proposed use would have on the residential amenities of people living adjacent to the site and in the neighbourhood and the highway implications of the proposal.

Policy H2 of the Local Plan relates to the retention of housing and states that loss of existing residential accommodation will not be permitted unless the proposal would provide facilities of significant benefit to the immediate local community.

Policy H8 states that residential institutions will be permitted where the proposal would not adversely affect residential amenity, where adequate amenity space, parking and appropriate occupation is considered. In addition, it also relates to the change of use of properties considered too large to expect its occupation by a single household.

Policy CF2 of the Local Plan supports the introduction of new community facilities subject to amenity, access, and size.

In this case, the existing property is a five-bedroom detached dwelling house, located within the rural settlement of Grain. The size of the property means that it could be used as a single-family dwelling however, taking into consideration the specific nature of care and the need for specialist accommodation for carers there is no objection in principle to the use of this property for a Class C2 which is akin to a residential home albeit with care provision.

Whilst it would result in the loss of a single household dwelling, it would create an alternative housing accommodation to meet the demand in the Council for such accommodation.

The site is located within a rural settlement as defined in the local plan proposal's map, there are amenities including a shop and a post office within a short walking distance of approx. 10mins, a church, a primary school together with access to public transport within the immediate area. The site is also located in close proximity to Grain Coastal Park providing additional opportunities for amenity.

In view of the above there are no in principle objections to this proposal.

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, further emphasised by paragraph 130 of the NPPF.

The proposed development does not seek to make any external alterations to the property. It is noted that a boundary fence has been erected which is below 2m in height and as such falls within the criteria for fence under permitted development. As such, given that the fence would benefit from permitted development rights, there is no objection to this being retained.

The proposal would not result in any additional harm in terms of the appearance of the host dwelling or the surrounding area and would therefore be in accordance with 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. Policy BNE2 of the Local Plan and paragraph 130f of the NPPF relates to the protection of these amenities.

Neighbouring Residential Amenity

By virtue of the level of occupation of the home and there being no external alterations, there would be no detrimental impact on neighbouring amenities in relation to sunlight, daylight, outlook, or privacy. Similarly, the five-bedroom nature of the property allows for the proposed maximum of 3 residents to be comfortably housed at any one time.

Should a capacity of 3 residents be reached, it is not considered that the proposal would generate significantly more activity above what would be expected from the comings and goings of the residence being in single household occupation given the age of the residents. The planning statement sets out that between the hours of 07:00 to 22:30 there would be a ratio of 1:1 staff member to child plus a manager on site, during the night hours of 22:30 – 07:30 two members of staff will be on the premises. In addition to this, there will be an internal security system that will notify sleep-in staff should a child wake up in the night and exit their bedroom.

In view of the above and in the interests of amenity it is therefore considered appropriate to impose conditions restricting the number of children residing at the premises to no more than 3 at any time, and to ensure the residential home is operated in accordance with the management plan as set out within the submitted design and access statement.

Amenity of Future Occupiers

The proposal does not intend to alter the internal layout of the property and as such the development would not result in the loss of residential amenities such as daylight or outlook, it is considered that the property is of a sufficient size to suit the requirements of this specific care home need. The bedrooms would be above minimum space standards as set out within the Technical Housing Standards.

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 127 of the NPPF.

Highways

St James Isle of Grain Parish Council have raised concerns in relation to the existing parking provisions together with the volume of staff using the car parking.

The proposal would result in a 1:1 ratio of carer to child together with a manager being on site resulting in 4 members of staff being present on site at any one time. The proposed development would utilise the existing driveway to the front which can accommodate up to 4 cars for the use for staff and any visitors. In addition to this there is a public car park adjacent the site which could further accommodate visitors to this site.

It should also be noted that the children would not be of driving age, it is therefore 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, H2, H8, BNE1, BNE2, T1, T13 and S6 of the Medway Local Plan 2003 and paragraphs 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 for Approval and the Parish Council objecting to the proposal.

This application was deferred from the 8 February Planning Committee to allow for additional information to be obtained from Medway Council's Children Services to gain better understanding around suitable locations for children's homes. Both Kent County Council and Medway Council's Children's Services have emphasised the need for regulated children's homes within Medway and Kent and it is acknowledged as a strategic priority for KCC commissioned service. A range of placements for children are commissioned in accordance with their needs. In this case, the children's home would need to be registered with Ofsted to provide care, Nirvana Care Group are Ofsted registered and staff would be trained to Ofsted standards which is included within the applicants supporting statement.

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/>