

**MC/23/0479**

**Date Received:** 27 February 2023  
**Location:** 22 Hurstwood Horsted  
Chatham Medway  
**Proposal:** Change of use from dwelling house (Use Class C3) to children's home (Use Class C2) together with the conversion of the existing garage into a staff office.  
**Applicant** Ardent Residential Children's Services Ltd  
Mr. Asad Nijabat  
**Agent** Cityscape PA  
Other - Cityscape PA 6 Spencer Way  
London  
E1 2PN  
**Ward:** Fort Horsted Ward  
**Case Officer:** Sam Pilbeam  
**Contact Number:** 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 30th August 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 27th February 2023:

19/199/001 - Site Plan and Block Plan  
19/199/004 - Existing Elevations  
19/199/005 - Proposed Elevations

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

- 3 All materials used externally shall match those of the existing building.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 4 The number of residents cared for on the premises shall not exceed four 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**

This application seeks planning permission for the change the use of a single dwelling (Class C3) to a children's care home (Class C2), serving four children aged between 12 – 17 years old. The site will have two – three staff present onsite at all times with further access to an on-call support manager 24/7. The only proposed external changes relate to the infilling of the existing garage door, to allow for the conversion of the garage to a staff office.

The existing property has 5 bedrooms at first floor and the change of use will have 4 of the bedrooms used for the children under care with the 5<sup>th</sup> being used as a bed/office for staff.

## **Relevant Planning History**

No relevant history.

## **Representations**

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

**17 letters** of objection have been submitted on the following grounds:

- Increased levels of noise and disturbance
- Relationships of the proposed care home with existing establishments within the area
- Intensification of care homes in immediate area
- Quality of care for the proposed residents
- Existing anti-social behaviour and frequency of emergency services being called to Hurstwood
- Increased parking demand
- Increased pressure on schools

**Cllr Trevor Clarke** has written in expressing the following concerns with the proposed development:

- Unsuitability of the location
- Increased parking pressures
- Increased noise
- Cumulative impact of the proposed use against existing social care uses within the area
- Size of the premises and garden topography
- Lack of information and risk assessments
- Poor local schooling provisions or specialists within the area
- Application goes against Medway's child friendly aspirations, thereby, requesting the Committee to consider a site visit ahead of any decision

In response to the numerous letters of objection the **applicant** has submitted a letter outlining their position summarised below:

- Consultees have called into question the managers qualifications; in response the applicant has highlighted that he has been managing in children's care for over 7 years. Moreover, managers are vetted by the relevant Social Services departments and must comply with their stringent standards.
- The applicant has also pointed out the need for care facilities in Medway, as outlined within Medway Council's Outline Sufficiency Strategy 2020-2025: Children on the Edge of Care, Children in Care and Care Leavers, which states that Medway has seen an average of 5% annual increase over the last two financial years (since 31 March 2019) in the number of Children Looked After (CLA).
- Children considered for No. 22 will be placed by the local authority, not externally, and subject to the consideration of risk assessments and placement matching.
- Admission criteria will also ensure homes do not accept placements for children with high-risk behaviours or circumstances rendering them unsuitable in this local environment; severe mental health issues; or who are younger than 12 years of age or over 17.
- Accepted children would include those with mild and/or moderate learning disabilities; in need of individualised support on a medium to long-term basis; have been poorly treated; needing routines; structure; and stability.
- That the home would be staffed by trained professionals and that Ardent RCS will be hiring a registered manager who will be registered with Ofsted.
- The applicant also commented on consultee concerns relating to the level of existing activity reported at numbers 14 and 16 Hurstwood; stating that should existing activity fall within permitted development rights of owners the control of anti-social behaviour, statutory regulations and standard of the proposed development would be greater than that of the standards for an HMO or C3 dwellinghouse. Thereby, allowing for greater control and regulation of any potential anti-social behaviour.

**The Head of Children's Services Commissioning** initially commented on the application raising no objections.

**The Head of Childrens Services Commissioning** has emailed further to advise that they are only just aware of the provider who have a history of running supported accommodation in London. They have some concerns and would welcome dialogue with the applicant to get reassurance on those area of concern. *(In this respect members are advised that this is separate from the planning process and they should only consider those material planning issues set out in the briefing note from legal).*

## **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 generally 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 design and access statement submitted with the application, the accommodation will be for up to 2 children aged between 9 and 17 years old.

A total of two 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. Any staff members residing in the property at night would have a separate bedroom allocated for them.

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*

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. A care home falls within the housing need for the Council and the emerging evidence of the Local Plan suggests that there is a need in coming years for more specific care needs within the Medway Towns. Policy CF2 of the Local Plan also supports the introduction of new community facilities subject to amenity, access, and size while Policy H8 of the Local Plan sets out the criteria for residential institutions.

Policy H8 sets out that residential institutions and hostels will be permitted subject to the following criteria:

- (i) the proposal would not adversely affect nearby residential amenity; and
- (ii) in appropriate cases, where the occupants have a degree of mobility and independence, the property is within reasonable walking distance of shops, public transport and other facilities; and
- (iii) adequate amenity space is provided for residents.

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- (iv) parking is adequate for staff, visitors and service vehicles, taking into account the accessibility of public transport; and
- (v) for changes of use, the property is too large to reasonably expect its occupation by a single household.

The property, while suitable for use by a single household is for the use by up to four children (aged 12 to 17) and is not a large institution that would require more rooms. As a 5-bed property it could already be used for a family including at least 4 children. All the other criteria in policy H8 are met with the proposal. The space within the property will provide ample communal space and an office for meetings as well as including a rear garden area. The property is well located within the urban area in terms of proximity to local facilities and public transport. Therefore, it is considered that there will be no additional amenity impact and noise disturbance generated.

It is therefore considered that the loss of the dwelling in single household would be acceptable in principle, as it would provide alternative housing to meet the Councils housing need.

### *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 only external changes proposed relate to the alterations of the garage door, which is to be infilled with brick and mortar and a window. The proposed alteration would not result in any detriment to either the host property or wider street scene. Consequently, no objection is therefore raised in terms of Policy BNE1 of the Local Plan and paragraph 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 130 of the NPPF relates to the protection of these amenities.

### Neighbouring Residential Amenity

By virtue of the minimal extent of the proposed alterations to the property itself it is not considered the proposal would result in any detriment to neighbouring adjoining amenity in regard to sunlight, daylight, outlook or privacy. The predominant concern is regarding noise and disturbance. In this vein, the five-bedroom nature of the property allows for the proposed maximum of four residents – one room retained for staff – to be comfortably housed at any one time. This coupled with the 24-hour care residents will receive from members of staff mitigates concerns that the proposal would result in an unacceptable impact on neighbouring amenity in terms of noise and disturbance.

Moreover, should the capacity of four 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. Subject to a condition restricting the maximum number of children in care to four at any one time, no objections would be raised relation to noise, disturbance and levels of activity.

### Amenity of Future Occupiers

The proposal does not intend to alter the internal layout of the first floor of the property and the bedroom accommodation is all of a size which is suitable for the prospective residents. There is also an external garden area to meet the needs of the proposed residents. It is considered that the property is of a sufficient size to suit the requirements of this specific care home need. As stated above, a condition is recommended limiting the number of residents under care at any one time to a maximum of four to ensure the development does not prejudice occupier and neighbouring amenity. Subject to this condition there is no objection raised to with regard to Policy BNE2 of the Local Plan or paragraph 130 of the NPPF.

### *Highways*

The existing property contains five bedrooms and two off-street parking spaces and although the plans show an internal garage, the dimensions are too constrained to accommodate a typical family car. Comparatively, the proposed change of use would utilise the existing driveway for staff and visitor parking, 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 respect to the visitors, it is understood that the care home is unlikely to attract more than two visitors (social workers) to the property over a two-month period. 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, 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 and is recommended for approval.

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 at the request of Councillor Trevor Clarke, who is concerned due to the nature of existing pressures of social care within Hurstwood, potential of the application to increase noise and disturbance, increased highways pressures and gradient of the garden posing as unsuitable and unsafe for children.

This application was reported to the meeting of the Planning Committee on 5 July 2023. The application was deferred for consideration to be given to the questions and concerns of Planning Committee members and the ward Councillor. This included questions regarding the use of 14 and 16 Hurstwood.

In the Representations section above sets out the response by the applicants to the concerns raised.

In relation to 14 and 16 Hurstwood these are properties being used as supported living homes, each supporting three or four beds. These homes are not required to obtain Care Quality Commission (CQC) status and are typically leased to a care provider, whereby adult residents will rent a room and are supported by the care provider accordingly – providing intrinsic care. Residents at these properties will be a mix of individuals with mental health conditions, and/or learning disabilities and sometimes physical disabilities. However, from the information currently presented to the council the use of these properties would fall within Use Class C3(b): covering uses of up to six people living together as a single household and receiving care. This includes supported housing schemes such as those for people with learning disabilities or mental health problems. As such they would not require planning permission.

Notwithstanding that the use of the properties at 14 and 16 fall within class C3(b) and do not require planning permission, it is not considered that 3 properties within a street of this size represents an unacceptable level of homes being used for residential care related uses such that the character of the area is fundamentally changed from one of primarily the provision of family homes.

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## **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/>