

MC/25/1062

Date Received: 26 May 2025

Location: 42 Malvern Road, Gillingham, Medway, ME7 4BA

Proposal: Change of use from Class (C3) Single dwelling house to Class (C2) Residential Institution (Children's Care Home) for up to 2 children.

Applicant Ms Grace Sekyi

Agent Mr Ed Powell

3d Planning Design

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Ward: Watling

Case Officer: Jacky Olsen

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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 the 22 October 2025.

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:

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Site Location Plan

PFP02 - Proposed Floor Plans and Elevations

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

- 3 The number of residents cared for and residing on the premises shall not exceed two 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 135 of the National Planning Policy Framework 2024.

- 4 The care home shall not be brought into use until details of secure private cycle parking provision in the form of a secure cycle shed/storage have been submitted to and approved in writing by the Local Planning Authority. The

cycle parking shall be implemented in accordance with the approved details before the care home use commences and shall thereafter be retained.

Reason: All new development requires provision of adequate accommodation for cycle storage to accord with Policies BNE1 and T4 of the Medway Local Plan 2003.

- 5 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any order amending, revoking and re-enacting these Orders with or without modification the use hereby permitted shall be restricted to use for a care home and/or nursing home and for no other purpose within Class C2.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity and highway safety, in accordance with Policies BNE2, T1 and T13 of the Medway Local Plan 2003.

- 6 Prior to the care home being brought into use, a Travel Management Plan (TMP) shall be submitted to and approved in writing by the Local Planning Authority. The TMP shall detail measures to incentivise staff to travel to the site by means other than the private car and outline sustainable travel arrangements.

The approved TMP shall be implemented in full prior to the care home first being brought into use and shall be maintained for the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development would not prejudice the amenities of the residents nearby and highways safety in accordance Policy BNE2 and T1 of the Medway Local Plan 2003 and paragraphs 116 and 135 of the National Planning Policy Framework 2024.

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

Proposal

The proposal is for a change of use from a residential dwelling (Class C3) to a children's care home (Class C2). No external changes are proposed to the property.

The accommodation would comprise:

- Basement – Storage.
- Ground Floor – Entrance Hall, living room, office/staff room, kitchen/dining room, WC, and utility room.
- First Floor – Two bedrooms for the children and one staff bedroom.
- Loft/Second Floor – Staff bedroom.

There is a garden to the rear for use by the residents.

There is no parking proposed as part of the development. There is on-street parking available on Malvern Road and the surrounding roads.

Relevant Planning History

MC/24/2536	Change of use from C3 residential dwelling C2 Care Home.	Withdrawn	7 February 2025
MC/24/2114	Application for LDC (proposed) for the change of use from C3 residential dwelling to C3(b) dwellinghouse (up to 6 people living together as a single household receiving care).	Withdrawn	27 November 2024
MC/24/1716	Construction of a single-storey extension to rear, replace windows to front elevation - demolish conservatory.	Approval with conditions	18 October 2024

Representations

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

Five letters of representation have been received giving the following objections:

- Impact on parking.
- Impact on conservation area.
- Increase in traffic and safety issues.
- Increase in comings and goings.
- Noise and anti-social behaviour.

Issues of a restrictive covenant on the property have also been highlighted but this is not a planning reason and so cannot be considered.

Kent Police have commented that if the application is approved, recommendations for Designing Out Crime, Crime Prevention and Community Safety and to meet our Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998 are followed with particular reference to:

- Security and boundary treatments.
- The installation of CCTV.
- Lighting for security.
- Windows and doors.

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 2024 (the NPPF) and are considered to conform. Where non-conformity exists, this will be highlighted and addressed in the appraisal section below.

The Emerging Local Plan has been agreed by Full Council for Reg 19 publication, consultation and, following any changes required as a result of the consultation exercise, submission to the Inspectorate for examination. The policies within this version of the emerging plan have weight in the determination of planning (and associated) applications. However, due to the nature of this proposal, the stage of the emerging Local Plan, the existence of relevant adopted Policies in the Medway Local Plan (2003) and guidance in the NPPF it is considered that the proposal falls to be mainly considered with regard to the adopted policies and guidance in the NPPF.

Planning Appraisal

Background

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) 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 with the adults present. The children will each have their own bedroom, and the mode of living would be communal. The communal areas will allow for the cooking and sharing of meals, socialising, and entertainment. 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 Supporting Statement submitted with the application, staff would be in the property 24/7, however, this will be on a shift rota pattern. Up to six members of staff would work at the premises. Staff would work on a 12-hour shift pattern with three arriving at 08:00 and departing at 20:00 each evening and two arriving at 20:00 and departing at 08:00. A manager would also arrive in the morning and leave in the evening each day. Two members of staff are proposed to sleep in the property overnight.

The layout of the property allows for shared areas, and the occupants will live as a family but with the support needed to assist them in daily living. On the basis of this information and that care is provided by shift workers rather than permanent residents, this situation would be beyond that considered a foster home and, as such, this would be outside the definition of C3(b).

Principle

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

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 61 and 63 of the NPPF are also relevant and seek to significantly boost the supply of homes and support the provision of housing for different groups including looked after children. 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 H8 of the Local Plan 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; and

- (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 Policy sets out that residential institutions would only be supported where the property is too large to reasonably expect occupation by a single household. Whilst Policy H8 doesn't state what is considered too large for single household occupation, elsewhere in the Local Plan it states that "the Council considers that dwellings of less than 120sqm gross floor area in predominantly residential areas should be retained for families and single households. In this case, the property is 173sqm.

Notwithstanding that, the preceding paragraphs to Policy H8 refer to care in the community in small self-contained households. In this respect, the accepted practice is not for large scale children's institutions, but for children in care to be brought up in small households as close in character to a family home as possible.

Policy T4 of the emerging Regulation 19 Local Plan relates to supported housing and specifically refers to looked after children and states that proposals will be supported if:

- Meets a proven need for that particular accommodation.
- Is well designed to meet the specific requirements of residents.
- Is easily accessible to public transport and services.
- Does not adversely affect the character and amenity of the area or the health and well-being of residents (new and existing).
- Complies with national space standards with communal space of at least one reception room.

The preceding paragraph (6.4.11) to the policy states that Medway is seeing an increase in looked after children, and a need for additional specialist accommodation or children and young people. Modelling estimates suggest that the number of looked after children will increase by just under one-fifth over the Plan period.

The need for the accommodation is proven and the principle is, therefore, accepted. The proposal must, therefore, be assessed against the criteria set out in both policy H8 of the Local Plan and Policy T4 of the emerging Plan.

Heritage and 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 135 of the NPPF. The application site lies within the Gillingham Park Conservation Area. Policy BNE12 of the Local Plan states that special attention will be paid to the preservation and enhancement of the character and appearance of Conservation Areas. Policy BNE14 sets out that development in Conservation Areas '*should achieve a high quality of design which will preserve or enhance the area's historic or architectural character or appearance*'. Paragraph 210 of the NPPF explains that in determining applications, great weight

should be given to the heritage assets conservation and the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

The proposal would not involve any external alterations and as such 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, BNE12 and BNE14 of the Local Plan and paragraphs 131, 135 and 210 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 future residents of the development itself. Paragraph 135f of the NPPF states that achieving well-designed places should include creating a high standard of amenity for existing and future users. Policy BNE2 of the Local Plan expects all development to secure the amenities of its future occupants and protect those amenities enjoyed by neighbouring properties. The design of the development should have regard to privacy, daylight and sunlight, noise, vibration, light, heat, smell and airborne emissions and activity levels and traffic generation. Policy H8 of the Local Plan and T4 of the emerging Plan also refer to the need to protect amenity.

Neighbouring Residential Amenity

The proposal and accompanying submission make it clear that the use would make provisions for two children/young persons. There would be two staff members working in the care home during the daytime and two members of staff during the night. The carers would work on a rota of 12-hour shifts with the change of staff at 08:00 and 20:00 each day. A manager would also visit the site each weekday between 09:00 and 17:00. It is noted that there may be residents staying who would require additional care and this may result in one additional member of staff on site in the daytime depending on the residents' needs.

This arrangement is not considered to generate more activity in terms of the comings and goings of the residents and staff compared to the possible comings and goings from a single household occupation of this six-bedroom property.

By virtue of the level of occupation of the care home and there being no external alterations, there would be no detrimental impact on neighbouring amenities regarding sunlight, daylight, outlook, or privacy.

Therefore, the proposal is considered acceptable in regard to neighbouring amenity and in accordance with Policies BNE2 and H8 of the Local Plan, Policy T4 of the emerging Plan and paragraph 135f of the NPPF.

Amenity of Future Occupiers

The proposed bedrooms have been considered against the Technical Housing Standards - Nationally Described Space Standard dated March 2015 (the national standard). The gross internal floor area (GIFA) for the property has been measured

from the submitted floor plans and totals 173sqm which exceeds the minimum GIFA of 130sqm for a four-bedroom, eight person, three-storey dwelling. All habitable rooms have been provided with adequate outlook. All the bedrooms exceed the minimum requirements for floor area when compared to the National Standard minimum of 7.5sqm.

The layout of the care home gives a reasonable amount of shared space for the two resident children/young person's where the ground floor would have a kitchen/dining area and living room for the children/young persons to socialise and undertake their leisure activities. In addition, there is outdoor space in the form of the private rear garden area for the residents. The office/staff room and two staff bedrooms would allow enough space for the carers to carry out their duties whilst being present for the children.

As such, it is considered that the proposal would result in an acceptable level of occupier amenity in accordance with Policies H8 and BNE2 of the Local Plan, Policy T4 of the emerging Local Plan and paragraph 135f of the NPPF.

Highways and Parking

Policy H8 states that residential institutions should provide adequate parking for staff, visitor and service vehicles taking into account the accessibility of public transport. Whilst Policy T13 relates to vehicle parking standards and states proposals will be expected to make vehicle parking provision in accordance with the adopted standard. Policy T4 of the emerging Local Plan does not specifically refer to parking requirements but does refer to a location being needed close to public transport facilities and services.

No parking is proposed as part of the application. The property sits on Malvern Road which is a street formed of semi-detached housing with on-street parking. The proposal would generate a potential for up to six members of staff over the course of the day plus visitors at varying times within the month. There is, therefore, a concern that the proposals could generate additional vehicles at staff change over times leading to an increase in parking pressure in an area where there is known parking stress. However, the numbers of movements are unlikely to be significantly higher than that undertaken by a family of a six-bedroom property. It is also acknowledged that the proposal is well positioned for sustainable transport options as it is close to the bus stop on Watling Street being approximately 5 minutes' walk from the property. There are several bus routes through to Gillingham, Chatham and further afield making public transport options for staff a viable option.

The supporting statement sets out that staff will be made aware that driving to work is not permitted and that incentives toward public transport or other sustainable forms of travel will be provided in the way of reimbursements on travel expenses.

Although this approach to reduce parking pressure is welcomed, it is acknowledged that this would be difficult to enforce. A condition is, therefore, recommended for a Travel Management Plan to be submitted detailing the measures to incentivise staff to travel to the site by means other than the private car.

There are no specific cycle parking standards for care homes but in recognition of the high level of parking stress at the location and to enable sustainable travel by staff, a condition is recommended to ensure that cycle parking is provided.

It is considered that the proposal is in accordance with Policies H8, T1 and T13 of the Local Plan and T4 of the emerging Plan for the reasons set out above.

Biodiversity Net Gain

As of 2 April 2024, all sites were subject to Biodiversity Net Gain (BNG) as per the conditions of Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

Notwithstanding, de minimis exemptions wherein BNG does not need to be provided are set out in the Biodiversity Gain Requirements (Expeditions) Regulations 2024, confirming within subsection 4:

- “(1) The biodiversity gain planning condition does not apply in relation to planning permission for development which meets the first and second conditions.*
- (2) The first condition is that the development does not impact an onsite priority habitat.*
- (3) The second condition is that the development impacts:*
 - (a) less than 25 square meters of onsite habitat that has biodiversity value greater than zero; and*
 - (b) less than 5 metres in length of onsite linear habitat.”*

In this instance, both of the above conditions set out by the Act are considered of relevance and as there are no external changes, the application does not meet the threshold for the requirement of a BNG statement and, therefore, no objection is raised to this with regard to paragraph 193 of the NPPF.

Conclusions and Reasons for Approval

It is considered that there is a proven need for accommodation for looked after children and that the property meets the size and other criteria required by policy to provide a good standard of amenity for residents in as close to a family environment as possible, but without impacting unacceptably on the character of the area or the amenities of neighbouring residents. The proposal for a change of use from dwellinghouse (Class C3) to Care Home (Class C2) would be in accordance with Policies BNE1, BNE2, BNE12, BNE14, H8, T1, T2, T4 and T13 of the Local Plan, Policy T4 of the emerging Plan and paragraph 8, 61, 63, 116, 131, 135 and 210 of the NPPF. The application is, therefore, recommended for approval.

The application would normally be determined under delegated powers but is being referred to Planning Committee due to the extent of the representations received expressing a view contrary to the 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/>