

REFERENCE: P/20/299/FUL

APPLICANT: Mr & Mrs N Heard c/o John Matthews,
Anglesey House, 47 Anglesey Way, Porthcawl CF36 3QP

LOCATION: 10 Woodside Avenue, Litchard CF31 1QF

PROPOSAL: Change of use from dwellinghouse (use class C3(a)) to the residential care of 2 children (use class C2)

RECEIVED: 24 April 2020

APPLICATION/SITE DESCRIPTION

The application seeks full planning permission for the change of use of the existing building from Class C3(a) - Dwellinghouse to Class C2 - Care Home providing supported living for two looked after children with two members of staff (1:1 basis) as follows:-

The proposed use will involve the residential care of two children under 18 years of age and who are classed as vulnerable. The use will be subject to registration by the Care Inspectorate of Wales and the two children will be in full-time care with two fully trained carers looking after them throughout the day and night except if and when they are at school. The carers will work to 12-hour shifts with daily shift change-over times taking place at 07.00 and 19.00 hours respectively.

The property is well-suited for the proposed use and already benefits from a garage and driveway which provide adequate off-street parking space for use by the carers. The foul and surface water drainage provision will be as already existing and no external alterations to the property are required.

On the above basis, the proposed use will have no adverse impact on the amenity and privacy of surrounding residential properties or on the general character of the area.

The Agent has further advised the children to be cared for in the property are classed as vulnerable as they come from difficult background home circumstances. While some may have learning difficulties, they are victims of circumstances and are simply in need of proper care and attention. As such, they are not offenders and pose no potential threat to the local community.

The application site is located within the primary key settlement boundary of Bridgend as defined by Policy PLA 1 of the adopted Bridgend Local Development Plan 2013 (LDP) within an established residential street.



The existing dwelling, 10 Woodside Avenue, appears as a traditional semi-detached dwelling that would not be altered externally to accommodate the change of use.

The building has a rendered/stone finish front elevation with off-street car parking taking place on the driveway to the side of the dwelling.



The application plot is located at the head of the cul de sac and benefits from an enclosed rear garden/amenity space and a garage to the side of the dwelling.

PUBLICITY

The proposal has been advertised on site. Neighbours have been notified of the receipt of the application. The period allowed for response to consultations/publicity expired on 4 June 2020

CONSULTATION RESPONSES

None

REPRESENTATIONS RECEIVED

Representations have been received from:-
Woodside Avenue – Nos. 3, 4, 5, 8, 9, 11, 13 & 14
Glenview Nos. 23 & 24

The objections are summarised below:-

- The change of use is totally out of keeping with the area, especially in such a quiet cul-de-sac;
- Very limited off road parking to meet the requirements of the home and ability to manoeuvre regular flow of transport resulting in increased on street parking to the detriment of highway safety;
- Visitors to the house, staff, social workers, home tutors would need to park on the highway;
- Impact of noise in such a quiet cul-de-sac as it will be a 24-hour operation in a quiet residential area with additional comings and goings from staff and visitors in the

mornings and evenings would result in unacceptable levels of disturbance to nearby residents;

- No public transport available;
- Property would damage community cohesion - there is no proven need for this facility;
- Concerns about the successful integration of the occupants of Care Home - children would be from a variety of environments some of which do not seem conducive to a quiet residential area;
- Proposals do not appear to safeguard amenities to the occupiers of nearby properties - elderly people nearby could result in intimidation;
- Depending on the age of the children and the reason for care for them (children who are sometimes placed in residential children's homes can be the most challenging of children), there could be an increase in noise, levels of crime, vandalism and anti-social behaviour and this would have a detrimental impact on the character of the area and the community;
- There is a lack of details with regards the type of children who will occupy the property. We can only assume they will be the very worst level of problems without any information, which will affect how secure I feel in my own house/garden and result in anxiety levels and would affect my mental health;
- What current area are these young people being brought from, if outside of BCBC then we could assume they had to leave for reasons which are negative. They obviously need support, but we cannot put our own young granddaughters and the community at risk;
- Concerned about the potential behaviour of the children, especially if the children had mental health issues. Children are likely to have challenging behaviour and likely to abscond, especially if in need of one to one supervision;
- Would result in far heavier year round use of the property than normally would be the case, and as such would substantially conflict with its residential surroundings;
- Lack of appropriate recreational facilities within surrounding area - is there adequate recreation area to the rear of the property. Our garden backs onto the garden of 10 Woodside and I wouldn't have the expertise to deal with difficult situations, if one did occur, with the children who will be placed into care;
- Is the Care Home registered with OFSTED? To comply with all the necessary legislative requirements of OFSTED would result in significant comings and goings generating unacceptable levels of noise and disturbance to nearby residents;
- Have the following been consulted - South Wales Police Authority, Fire and Rescue, Social Services, Highways, Public Health and Protection?
- No Secondary schools nearby therefore children aged 11yrs plus would need transport to school;
- Have the applicants any experience and links with Social Services and the local community?
- The owners had previously let the property to what we all considered a dysfunctional family whose behaviour necessitated callouts by the police on a number of occasions – a situation none of us would like to see a recurrence of;
- Risk that if approved the property could change use to other more problematic types of residential care within the same use class without the need for planning permission;
- The proposal would have a negative impact on property values and one resident will sell his house to the Council for £195,000 cash or whatever the Council are paying the applicants;
- Covenant on house restricting change of use.

COMMENTS ON REPRESENTATIONS RECEIVED

The objections raised are addressed in the Appraisal section of the report.

PLANNING POLICIES

Local Policies

The Development Plan for the area comprises the Bridgend Local Development Plan 2006-2021, which was formally adopted by the Council in September 2013, and within which the following policies are of relevance:

- Strategic Policy SP1 – Regeneration-Led Development
- Strategic Policy SP2 – Design and Sustainable Place Making
- Strategic Policy SP3 – Strategic Transport Planning Principles
- Policy SP12 – Housing
- Policy PLA1 – Settlement Hierarchy and Urban Management
- Policy PLA11 – Parking Standards
- Policy COM3 – Residential Re-Use of a Building or Land

Supplementary Planning Guidance

SPG02 – Householder Development

SPG17 – Parking Standards

National Planning Policy and Guidance

National planning guidance in the form of Planning Policy Wales (Edition 10, December 2018) (PPW) is of relevance to the determination of this application.

Technical Advice Notes:

Technical Advice Note 12: Design (2016)

Technical Advice Note 18: Transport (2007)

Other Relevant Policies:

Biodiversity/Ecology

Section 40 of the Natural Environment and Rural Communities Act 2006 states that 'every public authority must, in exercising its function, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. This "duty to conserve biodiversity" has been replaced by a "biodiversity and resilience of ecosystems duty" under Section 6 of the Environment (Wales) Act 2016 which came into force on 21st March, 2016.

Section 6 (1) states that "a public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions." Section 6(2) goes on to state that "In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular (a) diversity between and within ecosystems; (b) the connections between and within ecosystems; (c) the scale of ecosystems; (d) the condition of ecosystems (including their structure and functioning); and, (e) the adaptability of ecosystems.

Regulation 9 of the Conservation of Habitats & Species Regulations 2010 requires LPAs to take account of the presence of European Protected Species at development sites. If they are present and affected by the development proposals, the Local Planning Authority must establish whether "the three tests" have been met, prior to determining the application. The three tests that must be satisfied are:

1. That the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment".

2. That there is "no satisfactory alternative"
3. That the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range"

Given the nature of the development in this instance (change of use proposal of an existing building), it is considered that there will be no significant adverse residual impacts on biodiversity. Therefore, the proposal is considered to comply with the requirements of the Habitats Regulations 1994 (as amended), Section 6 of the Environment (Wales) Act 2016, guidance contained within TAN 5: Nature Conservation and Planning (2009) and relevant LDP policies.

Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5).

The well-being goals identified in the Act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of wellbeing goals/objectives as a result of the proposed development.

APPRAISAL

The application is referred to Committee to consider the representations made by local residents.

The application seeks full Planning permission for the change of use of the existing residential unit (dwelling) to a care home for 2 children and 2 carers.

The following main issues will be considered as part of this report:

- The principle of development – use class
- The impact on the amenities of neighbouring residents
- Perception/fear of crime and antisocial behaviour
- Parking and Highways Safety
- Impact on visual amenities.

The Principle of development – Use Class

The proposal seeks to change the use of the existing dwelling from Class C3 - Dwellinghouse to Class C2 - Care Home providing supported living for two looked after children with two members of staff (1:1).

The C2 use class encompasses a number of different uses, including other types of residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.

The C2 use class is distinct from the C2a use class, which groups together secure residential institutions, such as prisons, young offenders' institutions and secure hospitals. Some local residents have raised concerns that the use could be changed to a C2a use, such as a young offenders institute at a later date, without Planning permission.

It should be noted that C2a is a different use class and a separate grant of Planning permission would be required to change a C2 use (residential institution) into a C2a use (Secure Residential Institution).

In some circumstances, residential dwellinghouses can be converted into children's care homes without the need for Planning permission. Each proposal has to be assessed on its own merits taking account of various factors, such as level of and operational aspects of care. The C3 use class, which encompasses residential dwellinghouses, is split into the following three categories:-

- A dwelling house lived in by a single person or family. This category would include foster families.
- Up to 6 people living as a single household and receiving care. This includes supported housing schemes, such as for people with mental health issues or learning disabilities.
- Up to 6 people living as a single household, which do not fall within a C4 use (small house in multiple occupation), such as religious communities.

A recent Court judgement concluded that, although adult carers will be present at all times, they would not be living permanently at the property as part of the household and a group of young people containing individuals under eighteen could not reasonably be regarded as being capable of living together as a single household.

In addition, the level of daily activity at the site would be more intensive and constant than what might reasonably be expected by even a large dwellinghouse and as such, the overall character of the use would differ materially from that of a dwellinghouse and such a proposal represents a material change of use. Therefore, the use would fall within Class C2.

In this case however, the property is to accommodate 2 children and 2 adult carers in a residential area which would display many features associated with a family dwelling. The changeover of carers would occur every 12 hours at 7pm and 7am.

The application site is located within the settlement boundary of Bridgend, as defined by Policy PLA1 of the Bridgend Local Development Plan (LDP) 2006-2021 and, as such, the conversion of this existing building into a small scale care home of the nature proposed is considered to accord with the criteria set out in Policy COM3 of the LDP and Planning Policy Wales (2018) which supports the use of suitable previously developed land for residential purposes as it can assist regeneration and at the same time relieve pressure for development on greenfield sites.

Furthermore, Strategic Policy SP1 seeks to encourage regeneration led development within the settlement hierarchy and it is considered that the proposed change of use of the existing building to another form of residential use in such a locality is compatible with surrounding land uses and is acceptable. It is considered that the proposed development is located within a sustainable location being located close to public transport links (400m at Osborne Close) and local amenities which would be of benefit to potential future occupiers and staff at the premises.

In view of this, the proposed development is considered to accord with Strategic Policy

SP1 and Policies PLA1, COM3 and SP10 of the Bridgend Local Development Plan (2006-2021) and can be supported in principle.

As detailed, the application building is situated within the settlement boundary of Bridgend and it is considered that the conversion of an existing semi-detached property to a care home, with no major external or internal works and the retention of the visual character of the property, would provide a valuable and additional/alternative type of living accommodation to the locality whilst not harmfully or significantly eroding the character and appearance of the existing area as a whole.

The essential character of the area is derived from single households and the introduction of a small scale care home of the nature proposed is appropriate in a residential area and therefore, there is no objection in principle to this use. Furthermore, the proposal is for a small two person care home which is residential in nature and as such, it would not result in an undue concentration of incompatible uses in this location.

Notwithstanding the above, whilst the principle of a residential use, such as a care home, within a residential area is accepted and common place, it is necessary to consider the aspects of this proposed use which may have the potential to adversely affect the amenities of the area.

Impact on the amenities of neighbouring residents

Planning applications must be determined in accordance with the adopted Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 refers).

Policy SP2 (Design and Sustainable Place Making) in particular states:

All development should contribute to creating high quality, attractive, sustainable places which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment by:

- 1. Complying with all relevant national policy and guidance where appropriate;*
- 2. Having a design of the highest quality possible, whilst respecting and enhancing local*
- 3. distinctiveness and landscape character;*
- 4. Being of an appropriate scale, size and prominence;*
- 5. Using land efficiently by:*
 - (i) being of a density which maximises the development potential of the land*
 - (ii) whilst respecting that of the surrounding development; and*
 - (iii) having a preference for development on previously developed land over*
 - (iv) greenfield land;*
- 6. Providing for an appropriate mix of land uses;*
- 7. Having good walking, cycling, public transport and road connections within and outside the site to ensure efficient access;*
- 8. Minimising opportunities for crime to be generated or increased;*
- 9. Avoiding or minimising noise, air, soil and water pollution;*
- 10. Incorporating methods to ensure the site is free from contamination (including invasive species);*
- 11. Safeguarding and enhancing biodiversity and green infrastructure;*
- 12. Ensuring equality of access by all;*
- 13. Ensuring that the viability and amenity of neighbouring uses and their users/occupiers will not be adversely affected;*
- 14. Incorporating appropriate arrangements for the disposal of foul sewage, waste and water;*

15. Make a positive contribution towards tackling the causes of, and adapting to the impacts of Climate Change; and

16. Appropriately contributing towards local, physical, social and community infrastructure which is affected by the development.

The local residents have raised a number of concerns regarding the impact that the care home would have on the residential amenities of neighbouring properties. There are three main strands to these concerns:-

- the potential noise and disturbance caused by additional comings and goings, relating to the institutional use of the site;
- the potential disturbance, resulting from the children's behaviour; and,
- the age group of existing residents.

The supporting statement advises that the home would accommodate up to two children between the ages of 0 and 18. The applicant has confirmed that the home would be registered with the Care Inspectorate of Wales if Planning permission is granted. It should be noted that registration with the overseeing body is not a requirement to grant planning permission but is a separate regulatory process.

There would be a maximum of two carers on the premises at any one time, providing one to one supervision for the children during waking hours. Overnight there would be two carers on the site. The staff handover would take place at 7am and 7pm. Parking will be provided for vehicles at the side of the property however, at handover time, there would be a maximum of 4 members of staff at the premises. On the basis that the staff could all arrive and leave individually, that would result in a minimum of 8 staff movements to and from the property per day.

The handover times (7am and 7pm) are at the quieter times of the day, where comings and goings could be more noticeable and disruptive to nearby residents. However, the property is located at the head of a cul-de-sac with its own off-street parking and the hand over will take place at times when residents are likely to be leaving for or returning to work. These changeover hours are, therefore, considered to be reasonable.

In terms of the level of amenity, the plot benefits from an enclosed rear garden that would provide a form of external amenity area and waste/recycling bin storage areas to potential future residents of the premises.

No details have been provided of any regular visitors to the property however, it would not be reasonable or enforceable in Planning terms to restrict, by use of a Planning condition, who could visit the property and when, as well as the number of visitors present on the site at any one time. Such a condition would go beyond the remit of the Planning system as it could potentially interfere with the operational functioning of the home, affecting how and when key visitors, such as social workers and health visitors could attend the property. It would also be impossible to monitor.

In terms of the likely impact on the residential amenities of the neighbouring properties with particular reference to the immediate residents of Woodside Avenue, it is considered the proposed use, by virtue of the low number of residents, would not unreasonably compromise the level of amenity that is currently enjoyed and can be reasonably expected in such a locality. It is considered the level of activity and other likely effects of the use would not significantly exceed what might be expected from the occupation of the existing house by a normal family. Given the relatively small scale nature of the use, the level of movement to and from the property may not intensify the use to the extent that it would be incompatible in this a residential area

Whilst the maximum number of children placed at the home is limited to two (and this can be controlled by a Planning condition), the precise operational requirements of the use are not known and will ultimately be controlled by the requirements of the Care Inspectorate of Wales. These requirements could result in additional staff, visitors or vehicles movements over the estimates given by the applicant and different shift patterns at times of day which could be more disruptive for nearby residents.

In some circumstances a temporary Planning permission may be appropriate. This includes where a "trial run" is needed in order to assess the effect of the development on the area. In this case the precise day to day functioning of the care home is not known and there are limited existing examples within the vicinity. The information provided by the applicant indicates that the use could function without materially harming the amenities of nearby residents in terms of noise and disturbance from comings and goings. However, given the proximity of the site to nearby properties, in the event of any significant increase in comings and goings caused by the actual operational requirements of the care home could potentially result in unacceptable levels of noise and disturbance to nearby residents. There are no conditions, except for a cap on the maximum number of children, which could reasonably be imposed to ensure that the information submitted by the applicant is adhered to.

Taking into consideration the above, a two year temporary permission would enable the Local Planning Authority to fully assess how the care home functions in practice and whether it operates in a manner compatible with the surrounding residential area. Given that the home is not yet registered with the Care Inspectorate for Wales, the precise impact of the use is not fully known and cannot be assessed, a full permanent Planning permission cannot be justified in this particular case. A temporary consent is therefore considered appropriate to allow the impact of the proposal to be fully assessed over a period of time.

Residents' perception/fear of crime and antisocial behaviour

Many of the objections raise concerns that the proposed use will result in antisocial behaviour from the children and from potential visitors to the property. The risk of crime and disorder and the perception of it arising from the proposed use is a material Planning consideration.

In order to carry weight in the determination of a Planning proposal, fear of crime must be based on sound reasons and there needs to be reasonable evidential basis for that fear. Objectors' concerns and anxiety about the proposed use are acknowledged but there is no solid evidence to demonstrate that the change of use of the dwelling to a children's care home would result in a spike in antisocial behaviour in the neighbourhood. Proposals for care homes are not uncommon nationally and Planning appeal decisions relating to similar proposals have concluded that it cannot be assumed that children living in care would be more likely to behave antisocially or create levels of noise over and above children living in a 'traditional' family unit. Inspectors seem to take note that in a care home children would be cared for by specialist supervising staff and care workers who are able to deal with any situations that might arise.

It is the case that in addition to holding the relevant Planning permissions, residential children's homes, which accommodate children under 18 years old must be registered with the Care Inspectorate for Wales and it is a criminal offence to run a children's home which is not registered with this body. As part of this registration process, the applicant must demonstrate that they meet certain legal requirements set out within The Care Standards Act 2000 (Notification) (Wales) Regulations 2011, The Regulation and Inspection of Social Care (Wales) Act 2016 and The Children's Homes (Wales) (Amendment) Regulations 2017. The Care Inspectorate for Wales can take enforcement

action where care homes have been shown to not meet the legal requirements set out within the Acts and can remove a care home's licence.

How the care home would function is a process which would need to be agreed as part of the registration process and as this is controlled by other legislation, it is not within the remit of the Planning system to seek to control the day to day functioning of the care home.

No evidence is available to demonstrate that the children living at this care home would create disturbances or cause antisocial behaviour. As such, whilst the fear and perception of crime is a material Planning consideration, there is no reasonable evidence base for the fear in this instance. A refusal reason cannot be justified on the grounds of residents' fear of crime in this case.

Parking and Highways safety

Criterion (6) of Policy SP2 states that developments should have good walking, cycling, public transport and road connections to ensure efficient access to the site and this is supplemented by Supplementary Planning Guidance 17 which requires 1 space per resident staff, 1 space per non-resident staff and 1 visitor's space per 4 beds. As the existing driveway/garage could accommodate 2 vehicles, it is considered that the requirements in respect of parking can be met.

Concern has also be raised with respect to secondary school children not having access to public transport, however, there is a bus stop at Osborne Close some 400m away which is not an unreasonable walk for children aged 11+.

Visual amenities

No material changes are proposed to the exterior of the building, and as such, it is considered that there would be no material harm to the character and appearance of the area.

Other Matters

Some of the other objections have raised concerns regarding the impact of the proposal on local house prices/devaluation of property. This is not a planning consideration and has not been assessed as part of the application.

The suitability of the location of the care home in respect of the current age group of the residents and access/transport to education facilities is for the developer to assess and not a material consideration in the determination of this application. Similarly the involvement of OFSTED is a separate issue and the all necessary statutory consultations have been carried out in accordance with regulations. This is a residential area and the Local Planning Authority cannot control who purchases a property. As such, no weight can be attached to this matter in terms of decision making.

Reference has also been made to a covenant on the Deeds preventing business use from the property. Covenants are not part of the Planning process and are a private legal matter.

CONCLUSION

The proposed children's care home would be a residential type use in a residential area. There is no objection in principle to this use in this location.

Given the relatively small scale nature of the use and on the basis of the information provided by the applicant, the proposal may not result in any comings and goings in excess of the levels which could reasonably be expected in a residential area. However, given the extent of local concerns about activity and that the operation of the business has not been confirmed, as it has not been registered with the Care Inspectorate of Wales, the extent of any noise and disturbance resulting from the movements associated with the use cannot be fully assessed. With this in mind a two year temporary permission is suggested to enable the impact of the proposal to be fully assessed.

There is no tangible evidence to demonstrate that the creation of a children's care home in this location would result in anti-social behaviour or crime. Whilst the perception, and fear, of crime can be a material Planning consideration it must be based on sound evidence.

It is not within the remit of the Planning system to manage the operational running of the care home, as this is covered by other legislation and managed by the Care Inspectorate of Wales. The care home would have to be registered with the Care Inspectorate of Wales and comply with all the necessary legislation that ensures the care home is managed to an appropriate standard.

The proposed parking arrangements would meet the standards set out within Supplementary Planning Guidance 17 and the Highway Authority has not raised any highway safety concerns.

In addition to the Planning condition limiting permission to two years, a condition is also suggested restricting the use to a children's care home only and limiting the number of children living in the home to a maximum of two at any one time.

Accordingly, it is considered that the proposed development is acceptable in terms of the likely impact on neighbouring amenity levels and therefore accords with Policy SP2 (12) of the LDP and the Council's Supplementary Planning Guidance SPG02: Householder Development.

RECOMMENDATION

(R11) That permission be GRANTED subject to the following condition(s):-

1. The use hereby permitted shall be discontinued on or before 31 December 2022.

Reason: To enable the Local Planning Authority to assess the impact the development has on the amenities of the area and to enable the matter to be reviewed at the end of the period of the temporary consent.

2. The premises shall be used as a residential care home for a maximum of two children as specified in the application details and for no other purpose including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: To enable the Local Planning Authority to retain effective control over the use of the premises in the interests of safeguarding the general amenities of the area.

3. An up to date register shall be kept at the residential care home (use class C2) premises from the first beneficial C2 occupation of the property. The register shall be made available for inspection by the Local Planning Authority upon request. The register shall contain details of the names and occupations of all visitors to the property, the date, the

time of arrival and the time of departure from the property.

Reason: To inform the Local Planning Authority of the use of the property at the end of the temporary period.

JONATHAN PARSONS
GROUP MANAGER PLANNING & DEVELOPMENT SERVICES

Background Papers

None