

Hyndburn Borough Council – Committee Report

Application Ref: 11/24/0340

Application Address: 2A Allsprings Drive, Great Harwood, BB6 7RN

Description of Development: FULL: Change the use of a (C3a) dwelling to a children's home for a maximum of two children, with three carers, two of whom will sleep overnight, working on a rota basis (C2)

Date of Report: 20th September 2024

The application is brought for consideration of the Committee at the request of Councillor Scott Brerton because of concerns about residential amenity, highways, parking and traffic.

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right to peaceful enjoyment of possessions and protection of property.

Description of site and proposed development

The application relates to a semi-detached dwelling house, one of a pair set at the junction of Allsprings Drive with Harwood Lane (B6535). The pair are attached at an angle, forming a 'corner unit', each fronting the different highways. The dwelling is part of a mature residential area composed of a mix of detached, semi-detached and terraced dwellings.

The property is of 2-storeys having two living rooms, either side of a central hallway, and kitchen on the ground floor, and 3 bedrooms and a bathroom on the first floor. There is a single car garage at the side, with storerooms attached at the rear. There is an enclosed rear courtyard and a forecourt garden. There is a driveway parking space in front of the garage.

The application proposes the change of use of the dwelling house to a Children's Care Home. The applicant states that a maximum of 2 children would be accommodated. Care would be provided by staff working on a shift/rota basis.

The applicant's Statement includes that:

- The proposed children's home seeks to replicate as closely as possible a normal family environment to provide consistency and stability to the children who live there (similar to a fostering model). This type of provision, which government policy is promoting, is to help children who may not have had good parenting in their early years.
- The property would be registered as a children's home for a maximum of two children aged from 11 until their 18th birthday.
- They would be looked after by a maximum of two carers and a manager, two of whom would sleep overnight, working on a rota basis - on a shift pattern of 48 hours on, 96 hours off.
- Company policy encourages staff to use public transport (by offering free bus passes or subsidised taxi fares) and not to allow on street parking.
- An electric/hybrid vehicle would be available to transport the children when necessary to school or for other visits.
- The company indicates that they seek to work with Lancashire County Council Social Services and that they would operate a Good Neighbour Policy.

The applicant is owner of the attached house and indicates that (if such need arises) overflow car parking could be provided in the large forecourt of that property.

Consultation and responses (summarised)

Neighbours notified by letter

Site Notice displayed

Consultation period expired 9th September 2024.

Representations have been received from 5 neighbouring residents, making objections and comments summarised as follows:

- Inadequate parking. One driveway space only. Additional parking at the applicant's adjoining house cannot be guaranteed.
- Concerns about the qualities of the applicant's company in relation to child care.
- Concern about out-door noise, music playing and such.
- Concern about anti-social behaviour.
- Not the right location for a children's home.
- No need is demonstrated.
- The care home could be extended into the applicant's adjoining house in the future.
- That Highways have not objected because overflow parking is provided in a gated area at Park House, and the Environmental Health Officer have dismissed noise nuisance because Park House is in the same ownership.

Highway Authority – Makes the following comments:

The plans and highway related information have been viewed together with the history of the site. The proposal raises no highway concerns. Therefore, the Highway Development Control Section would raise no objection to the proposal on highway safety grounds.

Environmental Health Officer – Makes the following comments:

This property is a semi-detached property, with another residential property next door. A children's home could operate differently to a family home and has the potential for noise from residents, carers, vehicles and visitors. Noise problems can occur in neighbouring properties when airborne or structural transmission of noise can occur due to the proximity of premises. I note the adjoining property is in the same ownership and as such the potential for disruption is minimised. I therefore have no objections to this application.

Lancashire Fire and Rescue Service – Gives advice for the information of the applicant about measures to be put in place, including provision of water supply and emergency access, that would be required for approval under the Building Regulations.

Relevant Policies

National Planning Policy Framework (NPPF)

Core Strategy – Adopted January 2012

Env6: High Quality Design

Env7: Environmental Amenity

T1: Improving Connectivity

Development Management DPD

DM26: Design Quality and Materials.

DM29: Environmental Amenity

DM32: Sustainable Transport, Traffic Management and Highway Safety (including

GN8: Car parking standards)

Planning history

11/24/0236: Certificate of Lawful Use; Proposed: Change of Use from Dwelling to Children's Home providing accommodation for two children with care provided by staff attending on a rota - Refused 10/07/2024

Observations and assessment

Procedural

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration (NPPF paragraph 2).

NPPF defines sustainable development (paragraph 8), sets a presumption in favour of such development, requiring that: proposals in accordance with an up-to-date development plan be approved without delay (paragraph 11); and, that decisions should be approached in a positive and constructive way (paragraph 38).

NPPF (paragraph 60) says it is important that [...] the needs of groups with specific housing requirements are addressed; and that (paragraph 63) the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. Whilst the development plan is generally silent as regards specific policies for the proposed residential child care use the well-founded general policies regarding character, appearance and residential amenity are in place to guide consideration of the application.

Considerations

The application proposes the change of use of a semi-detached dwelling house to a Children's Care Home for a maximum of two children. Care would be provided by staff working on a shift/rota basis. The property is in a mature residential area.

The principle of housing cared-for-children in a sustainable location, as part of an existing residential area, close to services and schools, is not under question. It is existing government policy, regulated and administered under specific legislation. As such, that principle is not a planning consideration. That said, it is helpful, for completeness, to outline the current practice.

Briefly, a Social Services department would normally place children in need of such care in a Local Authority or privately operated care home. Such residential provision is overseen under the Ofsted/Care Commission regime. It is reasonable to regard the loss of the dwellinghouse to the housing stock of the Borough as being balanced by the provision of a children's care home for which there is a need.

The proposal is for a change of use from a dwellinghouse (Class C3) to a care home for children in need of care (Class C2). Both uses are identified as residential classes. The distinction between the uses, for planning purposes, is that a property has to be occupied as a household to remain within with the C3 dwellinghouse use class. There are many instances where foster children are looked after by existing families and such arrangements would not amount to a change of use of a dwellinghouse. Therefore, the question for the present purpose is to consider how a small children's care home differs from a dwellinghouse in terms of planning impacts, noting, in particular, that it would be a staffed workplace with routine comings and goings of staff, with additional professional visitors, in addition to being a home.

The main consideration for this application are the impacts on neighbours and the residential area generally arising from the character and operation of the proposed use; highway safety; and consideration of representations and any other matters arising from consultations or otherwise.

Character and operation

No changes are proposed to the external appearance of the building. There may, however, be minor additions in the nature of alarms, door key pads and the like, that would have little, if any, impact on the visual character of the building.

The applicant states that the proposed residential care facility would provide accommodation for up to two children in need of support or care, with staff employed to provide that care.

In operation, the main likely impacts would arise from the vehicle movement of staff and others connected with the care home. Policy Env7 requires that new development will be permitted only if it is demonstrated that the material impacts arising by reason of traffic, visual impact, noise, [...] and other nuisances, will not give rise to unacceptable adverse impacts or loss of local amenity.

The main movements to/from the Care Home would be at staff shift change-over. Two arrive and two leave – this is indicated to occur every two days. Also a Manager would arrive and leave daily. There would be other visitors on occasions. This is likely to cause some noise and disturbance for a brief period. However, it is a form of movement not dissimilar to that arising from a household occupying a dwellinghouse, as people leave for work, school runs or shopping trips, and receive occasional visitors.

Representations refer to possible noise disturbance. Noise is emitted from time to time in domestic circumstances, however, experienced professional care staff would be 'in loco parentis' as would any parent. Additionally, complaints may be put to a care organization (and to Registering bodies such as Ofsted) in a way that is sometimes rejected by a private household. As such, it would be unlikely to cause any significant degree of harm to neighbours; and, it is likely that there would be little, if any, loss of amenity to the residential area generally.

It is also noted in this case that the adjoining property is owned by the applicant. Should the neighbouring property come up for sale any prospective buyer would be expected to have done due diligence and would purchase the property in full knowledge of the permitted use at the application property.

On that basis the proposed development would be in accordance with Policy Env7.

Highway safety and car parking

Policy DM32 expects that proposals do not have an adverse impact on highway safety and meet local car parking standards.

The adopted car parking standard for a C2 use is 1 space per 5 beds for residents plus 1 space per 10 beds for visitors /staff. Assessment against that policy indicates the need for 2 car parking spaces. That is provided in the proposed development.

The small children's home differs from the wide range of C2 uses for which the car parking standard has been derived, because the staff to occupant ratio is significantly higher for the care of children. This is balanced to a degree as the resident children do not drive; and, in any event, the indicated car parking standard

is met. A recommendation for approval should include a condition to require that the garage and car space are kept available for use in connection with the Care Home.

The property has a garage and one forecourt parking space which would be reasonably sufficient to provide for the routine staffing of the Care Home without recourse to parking at the applicant's dwellinghouse. It is necessary that the proposed use should have 'stand-alone' car parking provision as an informal indication that car parking would be available at the attached house would not be enforceable under planning law.

The Highway Authority raises no highway safety concerns about the proposal. On that basis the proposal would be in accordance with DM32.

Other matters

The proposed use is within Use Class C2 identified in the Town and Country Planning (Use Classes) Order 1987 (as amended). The C2 class includes a wide range of residential institution uses (such as hospitals, nursing homes, residential school, training centre) for which the property would not be suited. Therefore, a recommendation for approval should include a condition to restrict the use to that proposed.

Representations

The representations of neighbouring resident as itemised above, are considered as follows, with comments in italic script.

- Inadequate parking. One driveway space only. Additional parking at the applicant's adjoining house cannot be guaranteed. Highways have not objected because overflow parking is provided in a gated area at Park House.
[Comment – Car parking is considered in the main report.]
- Concerns about the qualities of the applicant's company in relation to child care.
[Comment – This is not a planning matter. The proposed use is required by law to be registered with Ofsted/Care quality Agency. The oversight of staff training is a matter for the Regulatory body and is not a planning matter.]
- Concern about out-door noise.
[Comment – This is considered in the main report.]
- Concern about anti-social behaviour/crime.
[Comment – Fear of crime and anti-social behaviour is a material consideration in determining planning applications. The concern expressed by residents is understandable as children at times may exhibit a variety of behaviours. However, the proposal is for a children's home for 2 children. The Care Home has parental responsibility for the children in its care.]
- Not the right location for a children's home.

[Comment – The proposal is for a residential use of a property sustainably located in a robust, mature residential area, thereby being appropriately located.]

- No need is demonstrated.

[Comment – The applicant is not required to demonstrate a need for the proposed development. The national need for children’s care homes is outlined above in the main report.]

- The care home could be extended into the applicant’s adjoining house in the future.

[Comment – That would require the submission of an application for planning permission]

- The Environmental Health Officer have dismissed noise nuisance because Park House is in the same ownership.

[Comment – This is considered in the main report.]

Conclusions

The proposed change of use of the dwelling house to a Children’s Care Home would be likely to have minimal adverse impact on the amenity of neighbouring dwelling houses or the residential area generally. The Highway Authority is content with the proposal as regards matters of highway safety. Conditions are recommended in order to secure retention of two car parking spaces and restrict the use. The proposal would be in accordance with the development plan

Recommendation

That the application be Granted subject to the following conditions:

Conditions:

1. The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following documents:
 - (a) The planning application forms and location plan received by Hyndburn Borough Council on 8th August 2024.
 - (b) Submitted drawings, namely: Drawing(s) number:
 - 2433 72 01 (Existing Ground Floor Plan);
 - 2433 72 02 (Existing First Floor Plan);
 - 2433 72 04 (Existing Elevations);

2433 72 05 (Proposed Ground Floor Plan);
2433 72 06 (Proposed First Floor Plan); and,
2433 72 07 (Proposed Site Plan), received by Hyndburn Borough Council
on 8th August 2024.

Reason: For the avoidance of doubt and to enable Hyndburn Borough Council to control the development and to minimise its impact in accordance with policies Env6, Env7 and T1 of the Hyndburn Core Strategy and DM29 and DM32 of the Hyndburn Development Management Development Plan Document.

3. The building shall only be used as a Children's Care Home for a maximum of 2 children (as described in the application) only and for no other purpose including any purpose within Use Classes C2 of the Schedule to the Town & Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: Notwithstanding that the proposed use (as described and defined in the application) would be an acceptable use of the building, the application does not demonstrate (taking account of its characteristics, including its location, its amount of internal accommodation and layout) that the building would be suitable for other uses within those Use Classes in accordance with the development plan, including policies Env6, Env7 and T1 of the Hyndburn Core Strategy and DM14, DM26, DM29 and DM32 of the Hyndburn Development Management Development Plan Document.

4. The garage and driveway parking space shall be kept available at all times for use in connection with the use of the property hereby permitted, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that parking provision is made for staff and/or visitors in the interests of the amenities of neighbouring dwelling houses and the residential area generally in accordance with Policies Env7 of the Hyndburn Core Strategy and DM29 and DM32 of the Development Management DPD of Hyndburn Borough Council.

Informatives

1. Reasons for approval of the application

Subject to conditional control the proposal would not cause demonstrable harm to visual / residential amenity or highway safety or to any other matter of acknowledged importance and accordingly would suitably accord with local and national planning policies and in particular Policies Env6 and Env7 of the Hyndburn Core Strategy and the Hyndburn car parking and access standards.

2. Strict accordance with approved plans

This planning permission is granted in strict accordance with the approved plans. It should be noted however that:

- (a) Any variation from the approved plans following commencement of the development, irrespective of the degree of variation, will constitute unauthorised development and may be liable to enforcement action.
- (b) You or your agent or any other person responsible for implementing this permission should inform Development Control immediately of any proposed variation from the approved plans and ask to be advised as to the best method to resolve the matter. Most proposals for variation to the approved plans will require the submission of a new planning application.

3. Conditions

This consent is granted subject to conditions and it is the owner and the person responsible for the implementation of the development who will be fully responsible for their compliance throughout the development and beyond.

4. Building Regulations may be required

The enclosed approval is issued under the Town & Country Planning Act 1990. You may also require Building Regulation approval which is dealt with by this Department's Building Control Section (Tel: 01254 380194). You must ensure that all necessary permissions are obtained BEFORE starting work, otherwise abortive expense may be incurred.

5. Coal Authority

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at www.coal.decc.gov.uk

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine

entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website www.coal.decc.gov.uk