

Hyndburn Borough Council – Committee Report

Application Ref: 11/24/0502

Application Address: 19 Pendle View, Burnley Road, Altham, BB5 5UY

Date for Decision: 28th January 2025 (Extension agreed to 25th February 2025)

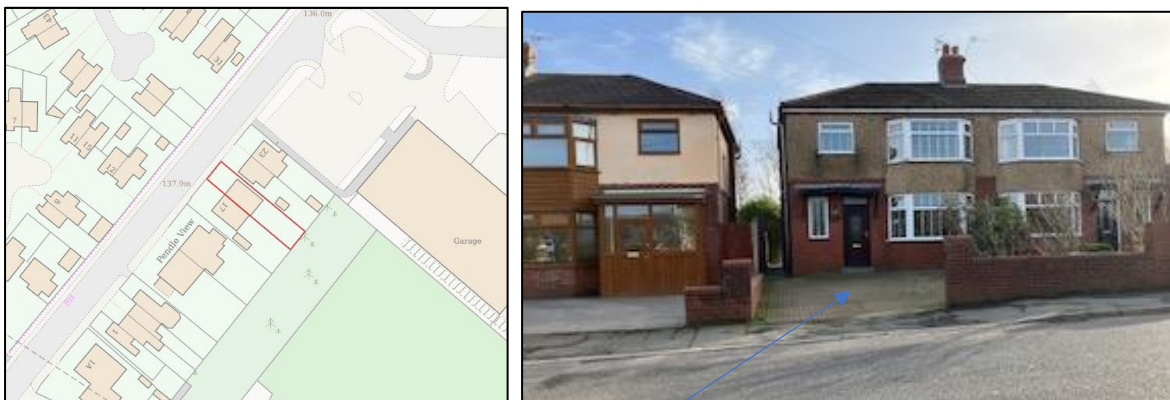
Date of Report: 9th February 2025

Description of Development: Full: Change of use from Dwelling house (C3) to use as a residential children’s care home (C2) for the accommodation of 2 children with 1 sleep in staff member.

The application is brought for Committee consideration at the request of Councillor Alexander because of the local interest and representations about the proposal.

Description of site and proposed development

The application relates to a semi-detached dwellinghouse in a group of properties known as Pendle View, fronting the south east side of Burnley Road, Altham, as shown on the location plan and image as follows.



Application site

Briefly, the dwellinghouse is of two storeys, having a living room, kitchen/dining room, utility, WC and hallway at ground floor level and 3 bedrooms and a bathroom on the first floor. Externally there is a rear garden, with side access from the front, and a forecourt garden adapted to provide 2no parking spaces.

The present proposal is to change the use of the building to a children’s home providing accommodation for 2no children with one sleep in staff member. Carers would attend on a rota/shift basis. There would be no external changes to the building or to the external areas. Two car parking spaces would be retained. There would be no external changes to the appearance of the building

The application is supported by a Planning Statement explaining the proposal. The key points are:

- The proposed care home will be run by proficient staff overseen by a manager with over fourteen years Ofsted approved experience, seeking to provide quality care for young vulnerable people in appropriate comfortable surroundings, supported by a good balance of male and female staff, that individually and as a collective, pride themselves in delivering the highest standard of care, by building positive and lasting relationships.
- The role of staff at this property is almost identical to that of a parent or foster parent, cooking meals, assisting children with schoolwork, transporting children to school and other necessary appointments, and providing emotional and physical support. The children residing at the property are not reliant on any medical care.
- The compatibility and matching of young people living in the property will always be of vital consideration in any admission and discharge situation, alongside the ability of the home to meet the needs of the young people.
- The staff that would be required to look after 2 x children at this property would comprise a Registered Manager, who would be on site between the hours of 9am – 6pm Monday to Friday, and a small team of support workers who would be on site on a rota basis.
- Aside from staff, other visitors to the site would be very limited. A member of the Social Services team would be required to visit once every 4 weeks, with an OFSTED visit taking place every 12 months.
- Staff would use their vehicles to transport children to & from school, clubs & appointments as with a normal family. Given the relatively close proximity to local primary schools and shops, it is likely that some trips will be made on foot, thereby reducing vehicle movements.

Consultation responses (summarised)

Neighbours notified by letter.

Consultation period expired 26th December 2024.

Neighbouring residents

Representations have been received from 7 neighbouring residents making objections and comments summarised and itemised as follows:

1. Noise and disturbance particularly to the attached house through the party wall.
2. Potentially disruptive occupants.
3. Additional traffic on busy main road.

4. Additional street parking; already a problem.
5. Already a home for the disabled close by.
6. Most existing residents are elderly.
7. That publicity for the application was inadequate.
8. Out of character.

Altham Parish Council - objects to this planning application on the following grounds.

Parking along this stretch of properties is at a premium, with space for only 1-2 cars per property maximum. However, these types of homes could have 4+ vehicles, i.e.: 1 service vehicle, 2 staff cars, 1 manager and other professionals, which would all impact on the neighbours' parking, causing anxiety and distress.

There is a property close by that is already used as a care home for the disabled, close to the bus stop, which currently causes parking issues

Another home, albeit it for another type of use, would be disproportionate for a small block of properties.

These older terraced properties are known for their paper-thin walls. This type of service is not that of a normal household and, as such, could result in increased noise at unsociable hours, again negatively impacting on the neighbouring properties on both sides.

The A678 is a very busy main road with no designated crossing points or pavement barriers. As such, in our opinion, this creates a high risk of potential dangers for such a home with vulnerable children.

Hyndburn Borough Council has recently refused similar applications along the grounds of parking issues and dangerous highways outside the properties.

ALTHAM PARISH COUNCIL STRONGLY OBJECTS to this proposal based on the facts put to you.

Highway Authority – Makes the following comments:

The plans and highway related information have been viewed together with a visit to the site; the following comments are made.

Ref. Planning Statement submitted; the above 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 application requests permission for a change to a property where two children from care would reside together, with support staff, in a residential setting. As a result, there is the potential for children from different households to be co-located, with a number of staff, working shifts. The property in question is directly attached to one other.

This could result in disturbance for neighbours from both within the property (voices, music etc) and external of the property, particularly from the garden and due to noise from doors, vehicles etc. Officers from the Council's Environmental Protection Team are dealing with a number of multi-occupancy properties, which have caused, and continue to cause, noise and amenity issues, some serious, for neighbouring properties. In the past 12 months, officers have dealt with noise complaints relating to several premises which would identify as planning use class C2 (residential institutions), with one of them being so severe that a prosecution, in relation to breaches of a noise abatement notice, could have been taken. As a result, my professional opinion is that this application should be **refused**.

Environmental Health Manager – Food and Safety - Makes the following comments:

If planning permission is granted for planning application the applicant should note that it is likely that the premises will need to register as a food business with Environmental Health.

Senior Commissioning Manager for Lancashire County Council:

As the attached Market Position Statement sets out, Lancashire County Council has the highest number of Ofsted registered children's homes than any other local authority in England. There are almost 300 children's homes in Lancashire, which deliver four times as many children's home beds than we require. Despite this, we can still really struggle to find suitable, local, good quality and good value homes for some of our children in care. This is because many of the homes in Lancashire (70%) are not caring for Lancashire children and are instead caring for children from other local authorities, sometimes at a great distance from home. Only 16% of children's home beds in our area are being used for Lancashire children. This has a significant impact on local resources (e.g. health, schools and policing). Also, having so many children's homes in our area does make it challenging to recruit good quality, suitably trained staff, including children's home managers.

Lancashire County Council's Children's Services is firmly of the view that careful consideration should be given to the agreement of new children's homes in Lancashire. New homes need to meet an identified local gap in provision and need to be delivered by providers who offer good quality, good value provision and who are committed to providing local homes for Lancashire children. I note that the proposed home to be opened by 2gether

4children is a 2-bed children's home with a staffing ratio of 1 staff member to 1 child. I can confirm that this is the type of home that we can struggle to find.

2gether 4children have also contacted Lancashire County Council Children's Services to discuss their proposed home, care model and costs and demonstrated a commitment to providing local homes for local young people.

This is therefore a planning application that Lancashire's Children's Services supports. I note that our records indicate there are 2 operational children's homes under 1 mile away from the proposed home.

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

None relevant

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).

The NPPF says in paragraphs 61 to 63 that in respect of housing provision the overall aim should be to meet an area's identified housing need for different groups including looked after children.

Considerations

The application proposes the change of use of a detached dwelling house to a care home for children. The applicant states that a maximum of 2no children would be accommodated. The property is within a residential area, in a main road position. The application is supported by Lancashire Social Services on the basis of a demonstrated need for this form of accommodation. There are objections from

Altham Parish Council and from the Environmental Health Manager. There are representations/objections from neighbouring residents account of which should be taken.

The principle of providing high quality accommodation for cared-for-children in the midst of well-founded residential areas 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. Private care homes may be business ventures, however, the operation of business of any description is manifestly not a planning matter. 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 the amenity of neighbours; impact on 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.

Neighbour amenity

DMDPD Policy DM29 requires that proposals do not does not create an unacceptable level of noise.

Clearly there is potential for noise transmission through a party wall to an attached house. Separation by distance and air gap means that noise transmission is less likely to an adjacent house. The Environmental Health Officer expresses concern about potential noise from within the building and from the garden area. This opinion needs to be balanced against the applicant's stated intention of providing a suitably

trained staff intent on providing a family setting for two children, and, to thoughtfully match and select the children to be accommodated.

In general a bad neighbour in a private household may be difficult to approach. In contrast, in the present proposal, there would be trained staff and a Manager with whom to discuss any issues of noise and disturbance. The Manager is registered with Ofsted so that the care home's Regulatory body could be contacted where necessary. It follows that whilst some element of disturbance may appear marginally more likely; any matter arising is more likely to be simply resolved.

In this context, the matters raised by the Parish Council are understandable. An attached property is not ideal and a detached building may work better. However, the applicant has chosen to operate within the community in which the property is located. There is no cause to expect that the care regime indicated in the application details would result in other than a caring surrogate family setting for the young people to be accommodated, as they propose. As such, it is not considered that the proposed use would, by its very nature, be contrary to DMDPD Policy DM29.

Character and operation

In operation, the main likely impacts would arise from the vehicle movement of staff and others connected with the care home. Core Strategy 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.

No changes are proposed to the external appearance of the building. The applicant states the intention to provide a living environment as close as possible to a family setting. That is an understandable and achievable aspiration. Therefore, the building itself, would likely continue to have a visual character consistent with that of a dwellinghouse.

The applicant has submitted that the movement would not be dissimilar to that generated by a family occupied dwelling house.

The proposed use would not be likely to cause significant harm, in that respect, to the amenities of neighbouring dwellings or the residential area generally. A condition is recommended to require retention of car parking space to minimise parking conflict and inconvenience to neighbours. On that basis the proposed development would be in accordance with Policy Env7.

Highway safety

DMDPD Policy DM32 (as relevant to the proposal) expects all development proposals to encourage sustainable travel and meet with local car parking standards. There are representations about the inadequacy of car parking provision.

The adopted car parking standard for a C2 use is 1 space per 5 beds plus 1 space per 10 beds for visitors /staff. Assessment against that policy indicates the need for 2 car parking spaces which is provided in the proposed development. However, for completeness, it needs be said that the proposed small children's home differs from the wide range of C2 uses for which the car parking standard has been derived.

Obviously, the children do not drive; and, the staff to occupant ratio is significantly higher for the care of children. That is a material consideration for this application. In this case, in any event, the indicated car parking standard is met by implementation of the proposal and the recommended condition.

The Highway Authority has no objection to the proposal. A condition is recommended to require retention of the car parking spaces,

On that basis the proposal would be in accordance with Policy 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. A condition is, therefore, recommended to restrict the use to that proposed.

Conclusions

The proposal is for two children to be cared for by staff working on a rota, with always one staying over-night. The home and staff would be over-seen by a manager registered with Ofsted, which in turn would require a regulated standard of operation. There are objections to the proposed use and there is support for the use. The comments of Lancashire County Council Social Services points to the real need for the form of accommodation proposed – a family setting for two looked after children.

With the diligence of the care operator, the 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 retain car parking and to restrict the use. The proposal would be in accordance with the development plan and the recommendation is made on that basis.

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 3rd December 2024..

(b) Submitted drawings, namely:

Location Plan; and Floor Plan drawing, received by Hyndburn Borough Council on 3rd December 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 two car parking spaces shall be retained and kept available for use are all times in connection with the purpose now granted.

Reason: To provide for car parking in connection with the use in the interests of the amenities and convenience of neighbouring dwelling houses and the residential area generally, and of highway safety, 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

6. Environmental Health- Food Safety

A food business can be registered by completion of an online registration form at the following link: <https://register.food.gov.uk/new>. This should be completed at least 28 days before a business trades.

If the applicant requires any further advice regarding this or any other food hygiene requirements then the Council's Food and Safety Team can be contacted at food_team@hyndburnbc.gov.uk.

7. BNG

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) A Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) The planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Hyndburn Borough Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements is/are considered to apply.