

WELWYN HATFIELD BOROUGH COUNCIL ASSISTANT DIRECTOR (PLANNING)

DELEGATED APPLICATION

Application No: 6/2024/0192/FULL

Location: 182 Dragon Road Hatfield AL10 9NZ

Distance: 0

Proposal: Change of use from a dwelling house (Class C3) to a children's

home (Class C2)

Officer: Ms Ashley Ransome

Recommendation: Refused

6/2024/0192/FULL	6/2024/0192/FULL					
Context						
Site and Application description	The application site is located on the south-eastern side of Dragon Road within a residential area of Hatfield. Opposite the site is Howe Dell School with Freemans Acre Open Space sited to the west of the site approximately 2 minute walk away. The application dwelling is a two storey, mid-terrace property with a small courtyard garden which incorporates a parking space. A parking court lies to the rear of the property outside of the application site. This application seeks planning permission for the change of use of the property from a dwelling house (Class C3) to a children's home (Class C2). The property would become a long-term home providing 24-hour care for up to three vulnerable children (ages 8 to 18). Two staff will be present at any one time working shift patterns which includes waking night staff, with the home manager available between 9am-5pm. A previous application under reference 6/2023/1889/LAWP for 'Certificate of lawfulness for the change of use from C3 dwellinghouse to C2 residential institution (childrens home)' was refused for the following reason: 1. The proposed use of the property as a children's home (C2 Residential Institution) is considered to represent a material change of use from that of the existing C3(a) (dwellinghouse) for the reasons set out within the report. Planning permission is therefore required.					
Constraints	SAG - 0 - Distance: 0 LCA - Landscape Character Area (De Havilland Plain) - Distance: 0 PAR - PARISH (HATFIELD) - Distance: 0 Wards - Hatfield Villages - Distance: 0 A4HD - Article 4 HMO Direction - Distance: 0 A4DAS - Hatfield Additional Storeys Article 4 Direction - Distance: 0 HAT - Hatfield Aerodrome - Distance: 0 HEN - No known habitats present (medium priority for habitat creation) - Distance: 0 SAGB - Sand and Gravel Belt - Distance: 0 HHAA - Hatfield Heritage Assessment Area (Hatfield Business Park) -					

Relevant planning history	Application Number: S6/2010/2067/LU Decision: Granted Decision Date: 12 October 2010 Proposal: Certificate of Lawfulness for a proposed single storey rear extension Application Number: S6/2011/0131/LU Decision: Granted Decision Date: 14 February 2011 Proposal: Certificate of Lawfulness for a proposed single storey rear extension Application Number: 6/2020/0287/FULL Decision: Refused Decision Date: 22 April 2020 Proposal: Retention of converted garage as a self-contained residential unit Application Number: 6/2023/1889/LAWP Decision: Refused Decision Date: 23 November 2023 Proposal: Certificate of lawfulness for the change of use from C3 dwellinghouse to C2 residential institution (childrens home)				
Consultations					
Neighbour	Support: 1	Object: 1	Other: 1		
representations	Cita Natice Discless D. (40.45			
Publicity	Site Notice Display Date: 12 April 2024 Site Notice Expiry Date: 3 May 2024 Neighbour Letters				
Summary of neighbour responses	 The area is already plagued with antisocial behaviour, drugs and constant litter. Comparing the Application for Planning Permission (PP-12761170) with the Planning Statement of ThreeOaks Care Ltd raises a number of discrepancies: Availability of parking in the rear yard. This is used by eight dwelling houses and by the Mosquito Way flats (2-28) managed by Trinity Estates. Under the block of flats is a car park for about 12 cars. There are two additional spaces in the yard for numbered flats, and two visitor spaces which, I believe, are for the sole use of the flat owners / tenants. Some of the photographs in the application may give a different impression. The Application suggests there are two or more parking spaces available for 182. Only one space is available in the yard - that vacated by the current tenants. Using the patio garden of 182 is suggested as the second space. No vehicle has used that space in over eight years. Contaminated land- The property is built on what used to be the de Havilland airfield site and the ground may therefore be contaminated. Existing use & Residential / Dwelling Units 182 Dragon Road is currently divided into two properties – 182 and 182a. At present the split property is home to two families; I do not believe the two families are connected. 				
Consultees and responses	WHBC Public Health and Protection – No issues to raise. Hertfordshire Constabulary – I note the intended staffing levels, which are good. There is a concern that the intended office in the garage has no				

connection to the main house. Staff in office will be separated from activities in the main home and therefore unable to react to situations appropriately. A linking door should be fitted (PAS24 rated unless existing exterior garage door is already PAS24, which is unlikely). The requirement to register with Ofsted must be a condition of planning, to ensure the establishment is a bone-fide care home. With these matters addressed, I would be able to support this application.

WHBC Client Services – There would be no changes to the current domestic waste services provided.

Children's Services, Hertfordshire County Council – No response received.

Hatfield Town Council – No response received.

Relevant Policies and Guidance

National Planning Policy Framework

The Welwyn Hatfield Borough Council Local Plan 2016-2036:

- SP1 Delivering Sustainable Development
- SP3 Settlement Strategy and Green Belt Boundaries
- SP4 Transport and Travel
- SADM2 Highway Network and Safety
- SADM3 Sustainable Travel for All
- SP7 Type and Mix of Housing
- SADM9 Loss of Residential
- SP9 Place-making and High Quality Design
- SADM11 Amenity and Layout
- SADM12 Parking, Servicing and Refuse

Planning Guidance:

- Supplementary Design Guidance 2005
- Supplementary Planning Guidance Parking Standards 2004
- Interim Policy for Car Parking Standards and Garage Sizes 2014
- Houses in Multiple Occupation Supplementary Planning Document 2012
- Planning Practice Guidance
- National Design Guide

Others:

- Hertfordshire's Local Transport Plan (2018 2031) 2018
- Manual for Streets

Main Issues

Principle of Development

Special Needs Housing

Local Plan Policy SP7 sets out the type and mix of housing to be delivered, which includes specialist housing. Specialist housing comprises a mix of people who require to live in an environment providing care, including vulnerable people and those who are unable to live independently. Whilst the plan supports a net increase of accommodation needs for older people, it is however acknowledged in Policy SP7 that other people including young people, people with physical disabilities or sensory needs, people with learning difficulties and other vulnerable people may also require specialist accommodation.

As such, it is considered that the proposal of a children's home would provide vulnerable people a safe place to reside, which is considered to meet with Policy SP7 of the Council's Local Plan.

Loss of Residential

Policy SADM9 outlines that there is a policy presumption against the loss of existing dwellings. However, Policy SADM9 sets out the circumstances in which site specific or other circumstances may outweigh the general policy objective, setting out that "Proposals which result in the loss of one or more dwellings will only be permitted where:

- The resultant development would result in a net gain in the overall number of dwellings on the application site; or
- ii. It can be demonstrated that the existing dwelling is significantly affected by adverse environmental conditions and there is no reasonable prospect that the impacts can be adequately mitigated against to create a healthy living environment for existing or future occupants; or
- iii. The social, economic or environmental benefits of doing so are demonstrated to significantly outweigh the need to minimise net losses to the borough's housing stock."

A children's home is not a dwellinghouse. The change of use from a dwelling house to a children's home would therefore result in the loss of a dwellinghouse.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan, unless material considerations indicate otherwise. The proposed change of use would result in a net reduction in the number of dwellings in the district in conflict with Policy SADM9. However, case law has established that a breach of a particular development plan policy does not necessarily equate to a failure to accord with the development plan as a whole. The Court of Appeal judgment Corbett v Cornwall Council [2020] provides relevant guidance. Referring to previous case law, it held that the section 38(6) duty can be met where the decision-maker establishes whether or not the proposal accords with the development plan as a whole, given that it is not at all unusual for development plan policies to "pull in different directions" and a judgement therefore has to be made.

Whilst the conflict with Policy SADM9 is acknowledged, it is not considered that this conflict alone would amount to reasonable grounds to withhold planning permission. Other factors including the provision of special needs housing in accordance with the objectives of Policy SP7 are to be weighed in the balance.

Design (form, size, scale, siting) and Character (appearance within the streetscene)

Paragraph 131 of the NPPF clearly advises that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve and that good design is a key aspect of sustainable development. Paragraph 135 of the NPPF further advises that decisions should ensure developments will function well, be visually attractive, sympathetic to local character and establish a strong sense of place. Paragraph 139 is clear that "Development that is not well designed should be

refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides."

The above objectives are broadly consistent with Policies SP1 and SP9 of the Council's Local Plan. Policy SP9 states that proposals will be required to have been informed by an analysis of the site's character and context so that they relate well to their surroundings and local distinctiveness, including the wider townscape and landscape, and enhance the sense of place. SP9 goes on to state that development proposals will need to respect neighbouring buildings and the surrounding context in terms of height, mass and scale and also be of a high quality architectural design that creates coherent and attractive forms and elevations and uses high quality materials.

Paragraph 26.11 of the Local Plan states that the Council also has in place Supplementary Planning Guidance on parking standards (2004) and Supplementary Design Guidance (2005), both introduced in conjunction with the Welwyn Hatfield District Plan (2005). Both of these documents require review in due course in order to bring them up to date with current best practice on design and sustainable development but will continue to be used to inform decisions on planning applications until such review takes place.

In terms of the character of the area, paragraph 2.4 of the SDG outlines, amongst other things, that new development should:

- Respond to building forms and patterns of existing buildings in the detailed layout and design to reinforce a sense of place;
- Use local materials and building methods/details to enhance local distinctiveness; and
- Ensure that the scale, height, massing, and space around the new development in relation to the adjoining buildings is considered

The development would not materially change the physical form of the application property, therefore, in terms of appearance, it is not objectionable. However, consideration of the 'character and context' of the area is not limited to a purely visual assessment. In this regard, the recent Court of Appeal judgement in Kazalbash v The Secretary of State for Levelling Up, Housing and Communities is a material consideration. This judgement confirms that it is reasonable, when assessing a development's impact on the character and appearance of an area, to not simply consider the physical changes proposed.

An Inspector considers this further within the recently dismissed appeals at Nos. 59, 61 and 65 Tiger Moth Way (APP/C1950/W/23/3329645, APP/C1950/W/23/3329646 and APP/C1950/W/23/3329959), the circumstances of which are comparable to this application and a therefore a material consideration.

Whilst character is not limited to appearance since character is also about how a place is experienced as a whole, nevertheless, the building is already in-situ with no physical changes proposed, and the use of the property would remain, principally, as residential accommodation which is in keeping with the established residential surroundings. Moreover, the property would provide specialist housing for which there is an identified need, and there is no evidence to demonstrate that the proposals would result in a harmful concentration of specialist housing or that health care services would be

unable to support the proposals.

Having regard to the recent appeal decision, in summary, it is considered that the development has an acceptable effect on the character of the area. The application is therefore in accordance with Policies SP1, SP9 and SADM16 of the Welwyn Hatfield Borough Local Plan, Supplementary Design Guidance and the National Planning Policy Framework.

Residential Amenity

Paragraph 130 of the NPPF seeks to secure a high standard of amenity for all existing and future users of land and buildings. Policy SADM11 provides the local policy framework for assessing the impact of development on the residential amenity and living conditions of neighbouring properties and aims to ensure adequate amenity for future occupiers of the proposed development. This is expanded upon in the Council's SDG which outlines that development should be designed and built to ensure that there is a satisfactory level of sunlight and daylight, that adequate amenity space is provided and that overlooking is minimised.

Impact on neighbours

The neighbour representations that have been received are acknowledged and summarised earlier within the report.

As there are no external alterations to the application building, the change of use to a children's home would not give rise to material adverse impacts on the amenity of occupiers of adjoining or surrounding properties by reason of loss of light, privacy, overshadowing, overlooking or overbearing impact.

The operational impact of the use is more nuanced. It is acknowledged that the number of occupants residing at the site would be no different to a large family and the use as a children's home is a form of residential use. However, the way a care home is used could potentially give rise to a greater level of disturbance compared to either a C3 dwellinghouse or a C4 HMO.

It is considered that the application lacks sufficient information to enable the Local Planning Authority to fully consider the effects of the development on the amenity and living conditions of neighbouring residents. This is because there is no substantive evidence provided in relation to how the residential institution would operate, how it would be managed, and in respect of the specific needs of the occupants that would reside at the residential institution. This also includes the number of residents who live or stay at the properties, or the management arrangements there, including the numbers of staff that would occupy or visit the sites throughout the day and night. Similarly, there are no details of the numbers or types of deliveries or visitors expected. Moreover, the proposed staff office is to be located where a previous garage was, and as such there is no internal connection into the main house. Staff in office will be therefore be separated from activities in the main home and would therefore be unable to react to situations appropriately. Similar concerns have been expressed by Hertfordshire Constabulary in their representation. Nonetheless, it is considered that the use would generate significantly more activity compared to a family home or a C4 HMO, and the occupants themselves may be more likely to generate noise, for example, through shouting. This view was supported by an Inspector in considering the recently dismissed appeals at Nos. 59, 61 and 65 Tiger Moth Way (APP/C1950/W/23/3329645, APP/C1950/W/23/3329646 and APP/C1950/W/23/3329959). It is acknowledged that noise levels would vary depending on factors such as the

number of occupants, their ages, care needs, supervision, and the management of the facility. Nevertheless, it is considered that a children's home has a greater potential to be noisier when compared to a dwellinghouse or a C4 HMO, and the applicant has submitted insufficient information to overcome this concern.

Depending on the care needs of the occupants, the use would generate a significant increase in the number of visitors to the site (shift workers, various health visitors, family visitors, day care mini-buses, emergency vehicles, caterers, clinical waste collections, cleaners, building & garden maintenance workers, etc.) which would likely result in significant adverse amenity impacts for neighbouring residents. The increased traffic, noise and potential disturbances associated with a children's home would result in a significant departure from the established character and nature of the existing use of the property as a C3 dwellinghouse and the wider area which is characterised by dwellinghouses.

Within the recently dismissed appeals as detailed above, the Inspector went on to say that detail of the management of the properties goes to the core of this main issue and it was considered that it is not appropriate for such details to be requested by condition. Instead, they should be provided prior to a decision being made.

Overall, given the proximity of adjoining properties and the relative high density of the surrounding development, for the reasons set out above, it is considered that the use would result in significant detrimental impacts upon neighbouring amenity, contrary to Policy SADM11 of the Welwyn Hatfield Borough Local Plan, the Welwyn Hatfield Supplementary Design Guidance and the National Planning Policy Framework.

Living conditions for future occupiers

Policy SADM11 of the Local Plan requires, as a minimum, for all proposals for C3 dwellings to meet the Nationally Described Space Standard (NDSS), unless it can be robustly demonstrated that this would not be feasible or viable. The Standards outline the minimum requirements for floor space and storage for dwellings. If a dwelling has more than one bedroom, Table 1 of the NDSS suggests the minimum number of bed spaces (persons) is 3 people (one double room and one single).

The Nationally Described Space Standards sets out that the floor space of a double bedroom should measure at least 11.5m², whilst the floor space of a single bedroom should measure at least 7.5m², and at least 2.15m wide. From observing and measuring the submitted floor plans, there would be one double bedroom with a floor space of approximately 13m², thus meeting the Nationally Described Space Standards for a double bedroom. There would be two single bedrooms provided for children, and a further single bedroom provided for staff. One single bedroom for a child would have a floor space of approximately 7m² and have a width of approximately 2.5m, whilst the other single child bedroom would have a floor space of approximately 6m². The staff bedroom would have a floor space of approximately 6m². Two bedrooms do therefore not meet the Nationally Described Space Standards for a single bedroom. It is however acknowledged that these bedrooms remain as existing, along with the consideration that the proposal would not be for a new dwelling and thus the standards are therefore only guidance. Moreover, the bedrooms would likely be for a single occupant due to the nature of the proposed use as

a residential institution, and if planning permission were granted, the number of occupants could be controlled by condition such that the rooms would be single occupancy only. It is therefore considered that this would not be a reasonable reason to from the refusal of the application.

In terms of private amenity space, Policy SADM11 of the District Plan and the Supplementary Design Guidance requires all residential development to incorporate private amenity space for the use of residents. The Council does not apply rigid standard sizes for gardens, but the layout and design of the garden in relation to the built environment should ensure that the garden is functional and useable in terms of its orientation, width, depth and shape, with the garden large enough to be useable and meet the needs of the occupiers of the home. The property benefits from a garden to the rear. Whilst the garden is small, it would provide an adequate outdoor amenity space given the level of occupancy proposed and the large areas of public open space nearby.

Access, car parking and highway considerations

Paragraph 111 of the NPPF states that if setting local parking standards authorities should take into account the accessibility of the development; the type, mix and use of the development; the availability of and opportunities for public transport; local car ownership levels; and the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.

Policy SADM12 of the Local Plan in regard to parking is informed by the standards that are set out within the Council's parking standards. The Parking Standards SPG use maximum standards that are not consistent with the Framework and are therefore afforded less weight. In light of this, the Council have produced an Interim Policy for Car Parking Standards that states that parking provision will be assessed on a case-by-case basis and the existing maximum parking standards within the SPG should be taken as guidance only. This means that higher or lower car parking standards than those set out in the SPG can be proposed and determined on a case-by-case basis taking into account the relevant circumstances of the proposal, its size, context, and its wider surroundings.

Policy SADM2 also states that development proposals will be permitted provided there would be no negative impacts on highway safety, they are designed to allow safe and suitable means of access and site operation and they provide satisfactory and suitable levels of parking.

For a C2 use with care staff on premises at all times, the SPG guidelines suggest that one space per five residents' bed spaces is provided, plus one space per two staff. The property contains three children's bedrooms, thus one space would be sufficient to accommodate the residents. The submitted planning statement sets out that the staffing structure will comprise of four full time staff and two part time staff. Two staff will be present at any one time working shift patterns which includes waking night staff, with the home manager available between 9am-5pm. A further two parking spaces would be required for staff, thus totalling three off-street parking spaces. No further details have been provided with respect to other visitors to the site.

In terms of parking provision at the site, the existing garage is to be utilised as an office and thus would no longer be utilised as a parking space, with one parking space being provided within the existing courtyard garden to the rear. The submitted planning statement sets out that two further spaces for visitors

are provided within the courtyard to the rear. The red line boundary on the location plan solely encompasses the site only, with the two courtyard spaces located outside of this. The application is therefore assessed on the basis that there would be one off-street parking space.

During a recent site visit, Officers witnessed a considerable number of vehicles parking on the street. No vehicles were parked on verges or footways as there are restrictions in place. A restriction between 8am-6pm Monday to Friday is also in place to allow only resident permit holders to park between these times. A discussion with the WHBC Parking Services Team surrounding parking permits during the course of similar applications established that permits would not be granted for managers/careers employed at the site as they do not fall into one of the parking permit holder categories. The application is not supported by any travel information to explain how the development would operate. There is no specified end use for the development, and it is important that adequate access and parking arrangements are provided for disabled persons. The application does not address the accessibility needs of any disabled residents, visitors or employees, thus it is considered that the proposal provides inadequate access and parking arrangements for disabled persons.

Dragon Road and the surrounding area is built to a relatively high density and sees narrowing of roads and a tight highway geometry, and these features, together with parking controls, limit the ability to conveniently or safely park on the highway. The use would add to parking pressures within the vicinity, and this would be harmful to the convenience and safety of other road users.

The absence of parking for the use is neither safe nor suitable to safely cater for the traffic movements from the application property. In addition, any displaced parking and increase in parked vehicles along the narrow street road would add to the cluttered nature of the environment and as such would cause some, albeit limited, harm to the character and appearance of the area.

It is acknowledged that the application site is within walking distance of local shops and facilities and to bus routes, and so, public and other non-car means of transport are viable travel options. However, given the particular circumstances of the use discussed above, it is concluded that the development does not provide adequate off-street parking to the detriment of highway safety and character and appearance of the area. As such, the proposal conflicts with Policies SP9, SADM2 and SADM12 of the Welwyn Hatfield Local Plan; the guidance in the Council's Supplementary Planning Guidance Parking Standards 2004, the Interim Policy for Car Parking Standards and Garage Sizes, and the National Planning Policy Framework. Together, these policies and guidance aim to ensure that development achieves a sensible level of parking taking into account existing standards, national policy, and local circumstances. It also conflicts with Chapter 9 of the NPPF which, amongst other things, sets out that safe and suitable access should be achieved for all users and the needs of people with disabilities and reduced mobility should be addressed.

Any other considerations

Refuse and Recycling

With the site remaining in residential use, there would be no change to the existing waste storage and collection from that of the existing C3 residential use.

Planning Balance

Policy SP1 sets out principles which seek to bring about sustainable development in the Borough. Factors which are key to this proposal include: planning positively for growth in a way which increases the supply of housing and helps to reduce social and health inequalities whilst recognising environmental and infrastructure constraints. That new development should contribute to the creation of mixed and sustainable communities which, among other things, are well planned, environmentally sensitive, and built to high design standards reflecting local character. That the location of new development should deliver a sustainable pattern of development which minimises the need to travel.

The provision of a children's home in this location would provide a safe place for vulnerable people to reside, which in turn would help to reduce the social and health inequalities, thus acting as a benefit of the proposal in accordance with Policies SP1 and SP7.

Weighing against the proposal is the loss of a dwellinghouse in conflict with Policy SADM9. Other factors weighing against the proposal include the intensification of the use of the site which would harm the amenity of neighbouring occupants, contrary to Policies SP1, SP9 and SADM11.

The development would fail to provide adequate access and parking arrangements for all residents, employees, service providers, and other visitors to the property contrary to Policy SADM12. The absence of parking for the proposed use is neither safe nor suitable to safely cater for the traffic movements from the application property contrary to the NPPF.

The proposal does not recognise the environmental and infrastructure constraints of the site. It does not reflect the local character, and in this regard it is not environmentally sensitive. Overall, the proposal is not well-planned and is not of a high standard of development. On these issues, there is conflict with Policy SP1.

In view of the above, the benefits of the development do not outweigh the significant and demonstrable harm which has been identified. As such, the development is contrary to the Development Plan and the National Planning Policy Framework.

Conclusion

The application is contrary to the development plan. There are no material considerations which outweigh the conflict with the development plan. Accordingly, for the reasons given above, it is recommended that planning permission is refused.

Reasons for Refusal:

- The proposed development would result in significant disturbance and harm to the residential amenity of neighbouring occupiers in terms of noise and activity levels, contrary to Policies SP1 and SADM11 of the Local Plan and the National Planning Policy Framework.
- 2. The proposed development fails to provide adequate on-site parking and safe and suitable access for all users to the detriment of highway safety, contrary to Policy SADM12 of the Local Plan; the Council's Supplementary Planning Guidance

Parking Standards 2004; the Interim Policy for Car Parking Standards and Garage Sizes; and the National Planning Policy Framework.

REFUSED DRAWING NUMBERS

3.

Plan Number	Revision Number	Details	Received Date
TCL712- HPP-03		Existing Floor Plans and Roof Plan - 620240192FULL	13 February 2024
TCL712- HPP-04		Proposed Elevations	13 February 2024
TCL712- HPP-02		Existing Elevations	13 February 2024
TCL712- HPP-01		Block Plan And Location Plan	13 February 2024
TCL712- HPP-05		Proposed Plans	13 February 2024

1. POSITIVE AND PROACTIVE STATEMENT

The decision has been made taking into account, where practicable and appropriate the requirements of paragraph 38 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be viewed on the Council's website or inspected at these offices).

Determined By:

Mr Mark Peacock 8 May 2024