

SITE PLAN ATTACHED

04. 10 CARPENTERS PATH HUTTON ESSEX CM13 1LJ

CHANGE OF USE FROM A RESIDENTIAL PROPERTY TO A RESIDENTIAL CHILDREN'S HOME (USE CLASS C2).

APPLICATION NO: 15/00125/FUL

WARD	Hutton North	8/13 WEEK DATE	26.03.2015
PARISH		POLICIES	NPPF NPPG CP1 LT10 T5
CASE OFFICER	Ms Sukhi Dhadwar	01277 312604	
Drawing no(s) relevant to this decision:	01; 02; 03; 04; 05 COMMUNITY RISK ASSESSMENT; 06 STATEMENT OF PURPOSE;		

This application was referred by Cllr Quirk from Weekly Report No 1683 for consideration by the Committee. The reason(s) are as follows:

I refer this application on the grounds that the objections raised are subjective. The application accords with Govt planning policy.

Update since publication of Weekly List 1683

None

1. Proposals

Planning permission is sought for the change of use of 10 Carpenters Path from (C3) residential to a children's care home (C2).

No external changes are proposed, however some minor internal alterations have been made.

The new layout provides 4 bedrooms and can provide accommodation for up to 4 children aged between 11-18. The facility would provide accommodation for children referred from Essex County Council and the London area.

Placements are based on need for example where children's parents are unwell; have family problems; are in Local Authority care; are subject to a court order or an interim care order or as a result of foster placement breakdown.

The children may exhibit one or more of the following:-

- Behaviour that challenges, including verbal and physical aggression.
- Self injury or harm
- Attention Deficit Hyperactivity Disorder (ADHD)
- Language/communication difficulty or delay
- Autistic Spectrum Disorder (ASD) including pathological demand avoidance (PDA) and Asperger's Syndrome.
- Oppositional Defiant Disorder (ODD).
- Mild to moderate learning disability
- Mental Health needs.

The children would live as a household but in the care of staff. A bank of 7 staff (Not all have yet been appointed would work on a shift rota system to care for the children, with two staff members being present at all times. No carer will sleep on the premises. Staff change overs and visits from the Registered Home Manager would mean that three adults could be present for short periods. A site meeting for all staff will be held once a week.

An email received on 4th March 2015 from the applicant details 4 new members of staff who have been appointed to help run the home. All have NVQ level 3 in social care and a total of 51 years of experience in working within children's care homes.

The applicant expects at least one driver per shift so a minimum of 1 car, in all likelihood both members of staff will be drivers so an average of two cars and the occasional need for a visitors space would be required.

The applicant company is owned by an umbrella company which is a transport company therefore they will have access to additional vehicles if required (i.e. if a staff member does not own a car, or would prefer not to use their own car, or if they need a 7 seated car) these will be stored in a secure location in East London for access for the whole company. The applicants have stated that if they require the use of the company cars a member of staff would pick the car up on the way in to work and travel to the house in it (leaving their own car in the company lot), meaning the number of parking spaces required would remain the same.

2. Policy Context

The National Planning Practice Guidance (NPPG) provides additional guidance which supports the National Planning Policy Framework and provides users of the planning system with a specific body of advice and reference. All decisions upon planning applications must now have regard to NPPG as a material consideration.

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and is now a material consideration in planning decisions. The weight to be given to it will be a matter for the decision makers planning judgment in each particular case. This Framework replaces all the national planning guidance documents as stated in the NPPF, including Planning Policy Guidance Notes and Planning Policy Statements. Notwithstanding this, the NPPF granted a one year period of grace for existing adopted Local Plan policies which has now ended, but, the NPPF advises that following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Of particular relevance to this application are the following policies:

Paragraph 14 of the NPPF sets out that there is a presumption in favour of sustainable development ; in decision making, this means approving proposals that accord with the development plan without delay, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefit or; specific policies within the Framework indicate that development should be restricted.

Chapter 1 requires that planning decisions should support sustainable economic growth.

Chapter 7 requires that planning decisions should promote a good standard of design and good standard of amenity for all existing and future occupants of land and buildings.

Chapter 8 requires that the planning system should play an important role in facilitating social interaction and creating healthy, inclusive communities.

Brentwood Replacement Local Plan
CP1 (General Development Criteria) requires development to satisfy a range of criteria covering the following considerations: Character and appearance of the area; Residential amenities; Access; Highway safety; Environmental protection; and the Natural and Historic Environment.

LT 10 (Changes of Use or New Buildings for Institutional Purposes) requires that proposals involving the change of use to or new buildings for institutional purposes within the built-up area will be permitted only where the proposal is in close proximity to appropriate social facilities and the site is easily accessible by public transport, walking and cycling.

T5 (Parking- General) Any provision for vehicle parking will be expected to comply with the parking standards set out in appendix 2.

3. Relevant History

- 11/00018/S192: Certificate Of Lawful Development For Proposed Residential Loft Conversion. -Application Permitted
- 11/00173/FUL: Loft Conversion Incorporating Two Front Dormer Windows. - Application Refused
- 14/01349/S192: Change of use from a C3 dwellinghouse to a C2 Residential Institution. -Application Refused
- 15/00103/S192: Certificate of Lawfulness for a proposed change of use (C2). -

4. Neighbour Responses

Letters were sent to occupants of adjoining and nearby properties. A site notice was also displayed. At the time of the writing of this report 75 responses had been received and a petition with 38 signatures. The issues raised are as follows: -

- Applicants block road up with cars which has caused traffic congestion and danger.
- Concern regarding negative impact on neighbourhood's existing children.
- Applicant has caused damage to Council Green as a result of parking on it.
- This area is not suitable for children aged 11-18 with emotional and behavioural problems. Lack of space will breed contempt, anger and raise their anxiety levels which will have a massive effect on this community.
- Adjoining neighbour is recovering from a rare form of cancer and finds living each day a struggle, the additional stress of this application will harm recovery.
- Alarms have been installed and need to be regularly tested and cause alarm to neighbours. The shift workers coming and going during the night will cause disruption to my children's sleeping patterns especially as both mine and the applicant's property are attached.
- If a young person were to be admitted due to an emergency this too could cause noise and out of the normal residential family activity.
- Documents incorrectly state that prior residents were a family made up of 4 adults and 3 children. It was actually 2 adults and 2 children and the residents before that were 2 adults and 2 children. (2013).

- Feel threatened by the use security cameras which have views which reach further than the perimeters of the site which leads me to believe that the Green and parking area are being recorded. This is an infringement of our privacy.
 - Semi detached and terraced houses not suitable for this use.
 - Operated as a business.
 - How many hours per shift?
 - What qualifications do the carers have? The statement of purpose states carers are in the process of gaining qualifications.
 - Due to low pay scales, what provisions would there be for covering emergency sickness. One carer is not adequate to control 16-18 year olds.
 - Worry about safeguarding our own children. The accompanying documentation states that all young people at Savanna House are considered 'vulnerable' with offending history, offending behaviours and susceptibility to sexual exploitation. Whilst it is acknowledged that the children will be looked after and cared for in the home, how will they be supervised when accessing community facilities. How can they monitor teenagers' activities?
 - Local services are already stretched, Care home Children will put on top of list which would be unfair to locals.
- Safety concerns.
- There will be a rise in vandalism.
 - Proposal will harm the quietness of the area.
 - Likely to generate parking problems.
 - Will impact property prices.

5. Consultation Responses

- **Highway Authority:**

From a highway and transportation perspective the Highway Authority has no comments to make on this proposal; given the existence and previous use of the unit for residential, the location with good access to frequent public transport, and the neutral impact on parking.

- **Environmental Health & Enforcement Manager:**

With regard to the above Planning application I confirm that Environmental Health have no comments to make.

- **Essex Social Services:**

I can confirm that Essex Social Service would not place a LAC in a residential home unless the home has a registered manager and is rated by OFSTED as a Good or Outstanding provision.

The home would also need a Statement of Purpose in place that will outline how they are going to provide care for any children placed. This would include Safeguarding, Child Protection, Qualified Staff, Daily Routine, Education, Healthy Living and Activities. Also how they are able to provide an individualised care plan for each child to support them to achieve to the best of their abilities.

Also their emergency procedures in the event of a fire or other problems that could make the home uninhabitable.

All of the above information would need to be evidenced and provided to Essex County Council before they would be considered for the possible placement of a looked after child.

- **Community Safety Manager:**

Thank you for contacting me about this application. I have to raise my serious concerns about permitting a change of use for the property in Carpenters Path to be used as a children's home.

I have a long history with a private children's home in the Borough which is a constant concern for the residents. Over the years there have been some serious community safety issues that have had impact not only on the local community but also the young people residing at the home. Consideration was given to pursuing a Closure Notice against Greenacres Care Services who run the home. The Council, Police, Essex County Fire & Rescue, Ofsted and the MP Eric Pickles were all involved with the case. I have attached a report I produced on Greenacres Care Services which may be of assistance to you in determining the application.

In my professional opinion the consideration I would give to the application is primarily the location of the property. Taking a balanced view for both residents and the young people who would be placed at the potential home there are risks on both sides. The disruption caused by Greenacres was extreme on the local community and whilst I am not suggesting this would be the case in this instance it needs to be considered as a potential risk. As you mentioned a huge number of objections have been received which will have heightened the tension of local residents and will subsequently pose an increased risk to the young people placed at the property should the application be approved. The young people will no doubt come from extremely disruptive and potentially abusive backgrounds. The last thing they need is to be ostracized by the local community and potential be vulnerable to threats and abuse from the local community.

- **Neighbourhood Policing Sergeant:**

I won't repeat the Community Safety Manager's observations, but I will echo them.

The previous home we had, was a massive drain on resources, and had a significant impact on the community as well as the children themselves.

I would like to know a little bit more if this is likely to be considered if possible, how many children it will house? What would be the circumstances of those children being there? (short term foster care etc.) Will there be a protocol in place to deal with the inevitable missing person reports?

6. Summary of Issues

This application has been assessed against criteria laid out in the Town and Country Planning (Use Classes) order 2005 (as amended); case law; policies laid out in the National Planning Policy Framework (NPPF) (2012), National Planning Policy Guidance (2014) and the Brentwood Replacement Local Plan (2005).

The key considerations in the determination of this application are
The principle of a C2 (residential institution) use in this location
Impact on public safety and community cohesion
Impact on neighbouring residential amenity
Impact on car parking.

Introduction

This proposal does not involve adult carers permanently residing at a property; they would instead work there on a shift rotation basis. The High Court has ruled (in a case brought by North Devon District Council in 2003) that this arrangement does not constitute a single household. Children need the help of an adult to run a home and cannot run it on their own and therefore cannot be said to form a single household. This means that this use cannot fall within the C3 (dwellinghouses) use class. The use must instead fall within the C2 (Residential institutions) use class.

The uses contained within this class are those which provide residential accommodation and care to people in need of care (other than a use within Class C3- dwellinghouses); this includes the use as hospital or nursing home; and the use as a residential school, college or residential school, college or training centre.

Site and surroundings

The application site comprises a semi detached house with front and rear garden. It is attached to number 12 Carpenters Path by a shared party wall. It has previously been significantly extended and as a result provides 5 bedrooms. It has no on-site parking. It has a large garden which shares its side boundaries with number 8 and 12 Carpenters Path. CCTV cameras were installed on the property but have now been removed. The change of use will not result in any other external changes to the property.

The site is situated on the north eastern side of Carpenters Path. To its south west is a large amenity green and to 40m to its south east is a primary school; however the area is predominately characterised by residential uses.

The site falls within an area designated for residential use. The applicants wish to house 3 children aged between 11-18 with two staff present increasing to 4 children when Ofsted are satisfied with the running of the home.

Principle

Whilst the National Planning Policy Framework recognises that the planning system can play a role in facilitating healthy, inclusive communities, it does not have any direct policies which relates to this institutional residential use.

Looking at a more local level, there are also no specific policies which directly relate to the use of residential children's care homes. Policy H12 (residential homes) of the Local Plan only relates to nursing homes or communal housing for people with disabilities or special needs.

Policy LT10 (Changes of use or new buildings for institutional purposes) permits the change of use to institutional purposes only where the proposal is in close proximity to appropriate social facilities and the site is easily accessible by public transport, walking and cycling.

The site is close to shops, schools and medical facilities and a bus stop is walking distance away. Furthermore the Highways Authority has also not raised any specific objections in relation to the lack of parking on the site. The proposal is therefore considered to comply with this policy.

Public safety and community cohesion

Paragraph 69 of the NPPF requires that in order to achieve sustainable development, planning decisions, should aim to achieve places which provide safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.

The objections raised demonstrate that there is in the very least a fear of anti-social behaviour within this local community.

The Community Safety Manager for the Borough has also raised an objection to the proposal on the basis of experience of ongoing unresolved social problems caused by a separate site in the Borough. Although this relates to a different site, is also within a residential suburban road. The concerns raised by the Community Safety Manager are echoed by the Neighbourhood Policing Sergeant. It is therefore considered that there is sufficient underlying justification for the fears raised by neighbours on public safety to indicate that this issue is a material consideration in the determination of this application.

The applicant also acknowledges that children absconding from the care home are an issue which plagues all children's care homes, but considers that safeguarding

measures will minimise the likelihood of this issue. The safeguards however do not address the underlying reasons for the children absconding, nor do they address neighbouring public amenity issues which are created as a result of this behaviour.

Public concern about safety has been found by the courts to be material consideration in determination of planning applications. In *Newport BC v Secretary of State for Wales* (1998) the Court of Appeal held that public safety is clearly capable of being a valid material consideration in determining planning applications. Especially if it can be objectively justified that the level of risk is over and above that which one would expect prior to the new use commencing.

The proposed use will change the demographic of people living at the property to a concentration of teenagers not from one family. This is likely to result in a significant increase in the number of friends and relatives visiting the property, more so than if the profile of the inhabitants were one family or even private lodgings. The use will also result in a higher level of activity in and around the property; as well as comings and goings of staff. The use will therefore generate more activity than that usually associated with a dwelling house use. In addition, it is considered that the nature or behaviour of the occupants is more likely to lead to additional noise and disturbance which will change the character of the area over and above that which you would expect from a residential home.

Even the most well managed children's home will encounter noise and disturbance issues due to its location within a semi detached house which is very close to neighbouring properties and is situated within a suburban residential street. These issues will as a result undermine the quality of life of both the cared for children and the wider surrounding community and their cohesion with each other. The proposal would therefore undermine the character of the area and as such is not deemed to be sustainable development in this location as it conflicts with the requirements of Chapter 7 and paragraph 69 of the NPPF.

Impact on neighbouring amenity

The applicants consider that the impact of the use will be no different from that which would be expected, if the property had remained as a 5 bedroom house. However, officers are not satisfied that this is the case. By its very nature the use falls outside of a regular residential dwelling and planning legislation dictates that it has its own use class. A contrary view was also taken by the Planning Inspector (case reference APP/U5930/C/11/2151319) in an appeal to allow the continuation of the use of a house as a children's home. The Inspector dismissed the appeal on the grounds that the proposed use as a children's care home for children with emotional and behavioural difficulties would be different from a typical residential home.

The Inspector concluded that residents of a children's home are all from different families; the likely number of visitors to the property would therefore be more than that likely to be generated by a single family dwelling. Cared for children are also more likely to be prone to sudden and unpredictable outbursts such as shouting, screaming, banging doors and running up and down stairs and the playing of loud music.

The submitted details indicate that all bedrooms are proposed to have televisions in them. Given the concentration of teenagers and the fact that the application property is attached to number 12, it is likely to result in disturbance to this property. This could be addressed by sound proofing in internal areas, however noise generated from the front and rear gardens could not be controlled by condition. The proposal is therefore contrary to the requirements of paragraph 17 of the NPPF policy CP 1 sub criterion ii.

Parking

Anecdotal evidence suggests that the area is already prone to congested on street parking and objections are raised by local residents that the increase in activity as described will exacerbate this problem. However, the Highway Authority raises no objections, given that the existing use of the site as a 5 bedroom house.

The issue of drivers parking on the amenity green cannot be controlled by planning conditions.

Other matters

The fact that the care home would be run by a private company is not a material planning consideration in the determination of this application as its primary use would still be that of a care home.

Adequate staffing levels would be a matter for OFSTED to control.

Loss of property value is not a material planning consideration.

In conclusion, the semi detached house to which this application relates is in very close proximity to neighbouring properties and is situated within a suburban residential area. Taking into account the matters raised above, it is considered that the use of the dwelling as a residential children's home would result in a material increase of activity in and around the dwelling and likely create unneighbourly behaviour including comings and goings late into the night. This will materially detract from the character of the area and be unacceptably harmful to the living conditions of neighbouring residents. It is considered that no conditions could be attached to any planning permission that would mitigate this harm, and as such the development is in conflict with Chapter 7 and paragraph 69 of the National Planning Policy Framework, and Local Plan Policy CP 1 (ii) of the Brentwood Replacement Plan 2005.

7. Recommendation

The Application be REFUSED for the following reasons:-

R1 U09735

The proposed use will result in a significant increase in the levels of activity in and around the dwelling and create the likelihood of unneighbourly behaviour including comings and goings late into the evening. The use will therefore materially detract from the character of the area and the living conditions of neighbouring dwellings and as such is contrary to the requirements of chapter 7 and paragraph 69 of the NPPF and policy CP 1 sub criterion (ii) of the Brentwood Replacement Plan 2005.

Informative(s)

1 INF23

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

2 INF20

The drawing numbers listed above are relevant to this decision

3 INF05

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1, T5, LT10 the National Planning Policy Framework 2012 and NPPG 2014.

BACKGROUND DOCUMENTS
DECIDED: