

Planning Support Statement on behalf of Mr Mark Tiwname, with regard to the planning application for a change of use from residential to children's care home, 42 Knowlsey Road, Wilpshire

Introduction

This statement should be read in conjunction with the attached plans, personal statement, risk assessment, and shift space and parking documents which together go to make up the planning application.

Application Site and Surrounding Area

The application site is a detached rendered property set back from the road behind a privet hedge and a gated access. The property is double gable fronted and has 5 bedrooms, and a number of ground floor reception rooms and an integral garage. The dwelling is set in extensive grounds.

It sits opposite the junction between Knowlsey Road and Brooklyn Road, and there is an unadopted access track to the south side leading to a detached bungalow. There are detached properties to the rear and to the north side of the application site and a row of terrace houses to the south side.

Application Proposal

The proposal is to change the use of the premises from Class C3 to Class C2. The proposal involves no physical changes to the dwelling itself, nor does it involve any changes to the access to the site, to parking, to the use of bins or any other associated areas of domesticity.

Planning Policy

The Ribble Valley Core Strategy is the development plan covering the application site. Wilpshire is a Tier 1 settlement as defined by Policy KEY STATEMENT DS1: DEVELOPMENT STRATEGY.

KEY STATEMENT DS2: PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

320210555P

Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or

specific policies in that Framework indicate that development should be restricted

KEY STATEMENT DMI2: TRANSPORT CONSIDERATIONS

New development should be located to minimise the need to travel. Also it should incorporate good access by foot and cycle and have convenient links to public transport to reduce the need for travel by private car.

In general, schemes offering opportunities for more sustainable means of transport and sustainable travel improvements will be supported. Sites for potential future railway stations at Chatburn and Gisburn will be protected from inappropriate development.

Major applications should always be accompanied by a comprehensive travel plan.

POLICY DMG1: GENERAL CONSIDERATIONS

10.4 IN DETERMINING PLANNING APPLICATIONS, ALL DEVELOPMENT MUST: DESIGN

1. BE OF A HIGH STANDARD OF BUILDING DESIGN WHICH CONSIDERS THE 8 BUILDING IN CONTEXT PRINCIPLES (FROM THE CABE/ENGLISH HERITAGE BUILDING ON CONTEXT TOOLKIT.

2. BE SYMPATHETIC TO EXISTING AND PROPOSED LAND USES IN TERMS OF ITS SIZE, INTENSITY AND NATURE AS WELL AS SCALE, MASSING, STYLE, FEATURES AND BUILDING MATERIALS.

3. CONSIDER THE DENSITY, LAYOUT AND RELATIONSHIP BETWEEN BUILDINGS, WHICH IS OF MAJOR IMPORTANCE. PARTICULAR EMPHASIS WILL BE PLACED ON VISUAL APPEARANCE AND THE RELATIONSHIP TO SURROUNDINGS, INCLUDING IMPACT ON LANDSCAPE CHARACTER, AS WELL AS THE EFFECTS OF DEVELOPMENT ON EXISTING AMENITIES.

4. USE SUSTAINABLE CONSTRUCTION TECHNIQUES WHERE POSSIBLE AND PROVIDE EVIDENCE THAT ENERGY EFFICIENCY, AS DESCRIBED WITHIN POLICY DMES, HAS BEEN INCORPORATED INTO SCHEMES WHERE POSSIBLE.

5. THE CODE FOR SUSTAINABLE HOMES AND LIFETIME HOMES, OR ANY SUBSEQUENT NATIONALLY RECOGNISED EQUIVALENT STANDARDS, SHOULD BE INCORPORATED INTO SCHEMES.

ACCESS

1. CONSIDER THE POTENTIAL TRAFFIC AND CAR PARKING IMPLICATIONS.

2. ENSURE SAFE ACCESS CAN BE PROVIDED WHICH IS SUITABLE TO ACCOMMODATE THE SCALE AND TYPE OF TRAFFIC LIKELY TO BE GENERATED.

3. CONSIDER THE PROTECTION AND ENHANCEMENT OF PUBLIC RIGHTS OF WAY AND ACCESS. AMENITY

1. NOT ADVERSELY AFFECT THE AMENITIES OF THE SURROUNDING AREA.
2. PROVIDE ADEQUATE DAY LIGHTING AND PRIVACY DISTANCES.
3. HAVE REGARD TO PUBLIC SAFETY AND SECURED BY DESIGN PRINCIPLES.
4. CONSIDER AIR QUALITY AND MITIGATE ADVERSE IMPACTS WHERE POSSIBLE.

ENVIRONMENT

1. CONSIDER THE ENVIRONMENTAL IMPLICATIONS SUCH AS SSSIS, COUNTY HERITAGE SITES, LOCAL NATURE RESERVES, BIODIVERSITY ACTION PLAN (BAP) HABITATS AND SPECIES, SPECIAL AREAS OF CONSERVATION AND SPECIAL PROTECTED AREAS, PROTECTED SPECIES, GREEN CORRIDORS AND OTHER SITES OF NATURE CONSERVATION.
2. WITH REGARDS TO POSSIBLE EFFECTS UPON THE NATURAL ENVIRONMENT, THE COUNCIL PROPOSE THAT THE PRINCIPLES OF THE MITIGATION HIERARCHY BE FOLLOWED. THIS GIVES SEQUENTIAL PREFERENCE TO THE FOLLOWING: 1) ENHANCE THE ENVIRONMENT 2) AVOID THE IMPACT 3) MINIMISE THE IMPACT 4) RESTORE THE DAMAGE 5) COMPENSATE FOR THE DAMAGE 6) OFFSET THE DAMAGE.
3. ALL DEVELOPMENT MUST PROTECT AND ENHANCE HERITAGE ASSETS AND THEIR SETTINGS.
4. ALL NEW DEVELOPMENT PROPOSALS WILL BE REQUIRED TO TAKE INTO ACCOUNT THE RISKS ARISING FROM FORMER COAL MINING AND, WHERE NECESSARY, INCORPORATE SUITABLE MITIGATION MEASURES TO ADDRESS THEM.
5. ACHIEVE EFFICIENT LAND USE AND THE REUSE AND REMEDIATION OF PREVIOUSLY DEVELOPED SITES WHERE POSSIBLE. PREVIOUSLY DEVELOPED SITES SHOULD ALWAYS BE USED INSTEAD OF GREENFIELD SITES WHERE POSSIBLE

INFRASTRUCTURE

1. NOT RESULT IN THE NET LOSS OF IMPORTANT OPEN SPACE, INCLUDING PUBLIC AND PRIVATE PLAYING FIELDS WITHOUT A ROBUST ASSESSMENT THAT THE SITES ARE SURPLUS TO NEED. IN ASSESSING THIS, REGARD MUST BE HAD TO THE LEVEL OF PROVISION AND STANDARD OF PUBLIC OPEN SPACE IN THE AREA, THE IMPORTANCE OF PLAYING FIELDS AND THE NEED TO PROTECT SCHOOL PLAYING FIELDS TO MEET FUTURE NEEDS. REGARD WILL ALSO BE HAD TO THE LANDSCAPE OR TOWNSCAPE OF AN AREA AND THE IMPORTANCE THE OPEN SPACE HAS ON THIS.
2. HAVE REGARD TO THE AVAILABILITY TO KEY INFRASTRUCTURE WITH CAPACITY. WHERE KEY INFRASTRUCTURE WITH CAPACITY IS NOT AVAILABLE IT MAY BE NECESSARY TO PHASE DEVELOPMENT TO ALLOW INFRASTRUCTURE ENHANCEMENTS TO TAKE PLACE.

3. CONSIDER THE POTENTIAL IMPACT ON SOCIAL INFRASTRUCTURE PROVISION.

OTHER

1. NOT PREJUDICE FUTURE DEVELOPMENT WHICH WOULD PROVIDE SIGNIFICANT ENVIRONMENTAL AND AMENITY IMPROVEMENTS.

This policy helps deliver the vision for the area and gives an overarching series of considerations that the Council will have regard to in achieving quality development.

Assessment

This case should be determined in the context of *North Devon v Secretary of State* [2003] EWHC 157 Admin. That case, as Justice Collins states was about an appeal which raised a short but not at all easy point of construction of two classes set out in the Use Classes Order of 1987. The two classes are contained in Part C and are: Class C2, which is headed "residential institutions", and Class C3 which is headed "dwelling houses". The question is whether the situation in this case fell within C2 or C3. There is a subsidiary question relating to whether even if it was within C2, nonetheless there was a material change of use from its C3 use as a dwelling house. That, of course, is a question which depends entirely on the facts of this (each) individual case.

Notwithstanding the individual merits of that case, the decision established a number of legal principles, as follows:

Firstly it addressed the Use Classes Order and the purposes of the Use Classes Order

"The purpose behind the Use Classes Order is well-known and is conveniently set out in Circular 13/87, issued by the Department in May 1987 when the Use Classes Order was about to come into effect. The purpose is set out in paragraph 3, and it is there indicated:

"The aim of the new Order is twofold:-

(i) to reduce the number of classes while retaining effective control over changes of use which, because of environmental consequences or relationship with other uses, need to be subject to specific planning applications and;

(ii) to ensure that the scope of each class is wide enough to take in changes of use which generally do not need to be subject to specific control.

It serves no-one's interest to require planning permission for types of development that generally do not damage amenity. Equally, the Secretaries of State are in no doubt that effective control must be retained over changes of use that would have a material impact, in land-use planning terms, on the local amenity or environment."

That is doing no more in reality than setting out the general approach to planning control, but it helpfully indicates the rationale behind the Use Classes Order. By section 55 of the Act, provided that a use falls within a particular designated class, then no planning permission is needed for any change which falls within the same class."

The two classes are C2 and C3.

C2 reads:

"Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre."

C3 reads:

"Use as a dwellinghouse (whether or not as a sole or main residence)

(a) by a single person or by people living together as a family, or

(b) by not more than 6 residents living together as a single household (including a household where care is provided for residents)."

It will be noted that there is reference to care in both C2 and C3. Care is in fact defined in paragraph 2 (the interpretation clause of the Order) this:

"'care' means personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment."

It is to be noted that that definition appears to exclude the personal care of children from the definition of care except in class C2. In class C3 there is reference (in the parenthesis to C3(b)) to care provided for residents. That care will not by the definition clause include care of children. Of course if the children happen to be disabled or to suffer from mental disorder, then care for them will fall within class C3(b),

This is a fine point of difference, because in reality there is likely to be little practical difference in how a premises are operated

The North Devon case then addressed the issue of whether the use fell with Class 3 (b) or Class C 2? In this respect paragraphs 16 and 17 of the judgement are important as follows:

" It seems to me that the Inspector's approach was, in this respect, correct, inasmuch as he was regarding the household as needing more than just children. Children need to be looked after. They cannot run a house. They cannot be expected to deal with all the matters that go to running a home. Sometimes, of course, one recognises they are forced to do so, but as a matter of principle and approach the whole point of these homes is that the children are regarded as needing full-time care from an adult, someone to look after them, someone to run their lives for them and someone to make sure that the household operates as it should. It seems to me that in the context "household" means more than merely the bodies. You have to consider whether the bodies are capable of being regarded in the true sense as a household. The same would apply to those who suffer, for example, from physical or mental disability and who need care in the community. They, if they are not capable of looking after themselves, would not be regarded as a household, hence the need for the carer, hence the need for that addition to make it a household within the meaning of the relevant class.

One has to have regard to the need that they be living together as a single household. The question then arises whether carers who do not live but who provide, not necessarily through the same person, a

continuous 24-hour care can be regarded as living together. In my view, the answer to that is no. Consistent with the approach indicated by the Circular, what is required is indeed residential care with a carer living in full-time and looking after those in the premises who otherwise would be unable to live as a household."

The judge went on to say: *"I am afraid I cannot agree with that approach. It seems to me that the concept of living together as a household means that, as I have put it, a proper functioning household must exist and, in the context of a case such as this, that must mean that the children and a carer must reside in the premises. Otherwise, as it seems to me, it clearly falls within Class C2. It is apparent that the size of the institution is irrelevant for the purposes of C2. If it falls within that definition it is not to be regarded as a dwellinghouse, then whether there are 1, 2, 10 or 15 children makes no difference to the Class. It does, however, clearly make a difference in planning terms when one considers the second point, which is whether there was, in the context of this case, a material change of use"*

This brings us to whether there is a material change in the character of the use. The Use Classes Order does not tell a decision maker what they can do, just what they can't do without the benefit of planning permission. In that respect a decision maker has to look at whether the proposed use is materially different to that which exists previously. That is a case by case assessment.

With this particular application,

Access/Parking

There are no access or parking issues and no dangers to highway safety

Drainage

The property will operate as if it is a family home so there will be no resultant drainage issues

Design and Appearance

There are no proposed changes to the property therefore there are no design and appearance issues

Residential Amenity

To all intents and purposes the property will operate as a residential unit. The proposal is for no more than 4 children at any one time (this can be conditioned) between the ages of 7 and 17 and 24-hour care would be provided with a minimum of 1 member of staff being in the home day and night. At no time would the home not have an adult present and on any given day there will always be at least one member of staff at the home. Staff will provide 1:1 support and supervision and at full capacity with four children in the home, there would be 4 members of staff supporting through the day with 2 of the same members of staff sleeping at the home and 2 leaving at 10pm. This would look like the following:

At full capacity there would be 10 experienced staff allocated to the home who will work a rota comprised of shifts

2x members of staff on a 16-hour shift (10am -midnight /sleep/ 8am -10am)

2x members of staff on a 12-hour shift 10am – 10pm

The home carries out constant proactive dynamic risk assessments

which take into account the level of support and supervision required on a need's basis. If there were concerns about the level of support required throughout the night when 2 staff leave at 10pm, this would be taken into consideration with appropriate changes implemented such as inserting additional support staff if required. In the unlikelyhood of extra support being needed, extra staff may be recruited to fulfil this need. These staff would be recruited locally where possible as this would be more efficient for the home and the staff member too. The home has an on-call rota which means the home has access to senior advice and or support throughout the day and night.

The application site offers a fantastic space both inside and outside which would allows for appropriate care for 4 children. It has 5 bedrooms which will sleep 4 children in the upstairs bedroom, 1 staff member upstairs and the other staff member in the downstairs office/bedroom. It boasts a communal kitchen and large living room with a separate family room. The building is set back with no overlooking neighbours with access to and from the driveway being very practical due to a driveway that fits 10 cars with a turning circle. It also has an electric closing fence which adds to the security and privacy of the home.

As such there is not considered to be any loss of residential amenity to any neighbouring property.

Conclusions

This form of development is common and whilst it is expected that the local community will raise concerns any concerns have to be evidenced based, A number of appeal decisions on the matter are appended to this effect.



RTPI

Chartered Town Planner

CO/4245/02

Neutral Citation Number: [2003] EWHC 157 Admin
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT

Royal Courts of Justice
Strand
London WC2

Thursday, 30 January 2003

B E F O R E:

MR JUSTICE COLLINS

NORTH DEVON DISTRICT COUNCIL

(CLAIMANT)

-v-

THE FIRST SECRETARY OF STATE

(DEFENDANT)

Computer-Aided Transcript of the Stenograph Notes of
Smith Bernal Wordwave Limited
190 Fleet Street London EC4A 2AG
Tel No: 020 7404 1400 Fax No: 020 7831 8838
(Official Shorthand Writers to the Court)

MR DH FLETCHER (instructed by North Devon District Council, Civic Centre, Barnstaple, Devon
EX31 1EA) appeared on behalf of the CLAIMANT

MR M GIBBONS (instructed by Treasury Solicitors) appeared on behalf of the DEFENDANT

J U D G M E N T

3202105522

1. MR JUSTICE COLLINS: This appeal raises a short but not at all easy point of construction of two classes set out in the Use Classes Order of 1987. The two classes are contained in Part C and are: Class C2, which is headed "residential institutions", and Class C3 which is headed "dwelling houses". The question is whether the situation in this case fell within C2 or C3. There is a subsidiary question relating to whether even if it was within C2, nonetheless there was a material change of use from its C3 use as a dwelling house. That, of course, is a question which depends entirely on the facts of this individual case.
2. The facts are straightforward and, indeed, are agreed. The premises in question are an address in Barnstaple in North Devon. They comprise a semi-detached 3 bedroom dwellinghouse in a residential area. A company called Southern Childcare Limited runs a business operating registered children's homes. Since 2000, as a result of provisions contained in section 40 of the Care Standards Act 2000, which amended section 63 of the Children Act 1989, children's homes which provide for three or less children are required to be registered. That was not the position before that change in the law.
3. I gather from the information before me that there are a number of such small homes, that is to say homes catering for three children or less, which have sprung up. The reason for that is not entirely clear. It may have something to do with a lack of foster parents, or with the increased concern about the welfare of children and the need for them to be looked after in small units rather than in the larger children's homes that used to be in existence in the past. In any event, the local planning authority, in this case North Devon District Council, are concerned about the effect on residential areas of these homes, and are concerned that there should be the possibility of planning control to deal with applications to set up these homes in residential areas.
4. In February 2000 Southern Childcare Limited began to use the premises to provide residential care for two children aged between 10 and 17. The Inspector who eventually had to decide on the issue described the premises. Outside was a semi-detached 3 bedroom house which looks like any other house in the street. Internally, it is in good decorative order; there is a small office downstairs, otherwise it is laid out as an ordinary house. The children sleep in individual bedrooms. There is the usual kitchen and bathroom facilities.
5. Southern Childcare Limited provide in the premises residential care for two children placed in their care by various local authorities. Two non-resident staff are on duty at all times and the house is under the supervision of a team of 6 or 7 adult carers who operate 8-hour shifts. The result is the children are never unsupervised whilst in the building. That means of course that the various carers will come and leave at the beginning and end of their shifts but otherwise the building is to all intents and purposes used as any other family house would be with two children there: shopping trips are needed; children have to be taken to school; the children assist to an extent in the preparation of meals and so on.
6. Because there was a question raised as to whether the use required planning permission, Southern Childcare Limited applied under section 191 of the Planning Act for a certificate of lawful use. That application was refused by the local planning authority. Southern Childcare Limited appealed and an inspector determined the appeal in their favour on 5th August of last year. Against that decision the Council appeals to this court.
7. I should go straightaway to the relevant provisions in the Use Classes Order. The purpose behind the Use Classes Order is well-known and is conveniently set out in Circular 13/87, issued by the Department in May 1987 when the Use Classes Order was about to come into effect. The purpose is set out in paragraph 3, and it is there indicated:

"The aim of the new Order is twofold:-

- (i) to reduce the number of classes while retaining effective control over changes of use which, because of environmental consequences or relationship with other uses, need to be subject to specific planning applications and;
- (ii) to ensure that the scope of each class is wide enough to take in changes of use which generally do not need to be subject to specific control.

It serves no-one's interest to require planning permission for types of development that generally do not damage amenity. Equally, the Secretaries of State are in no doubt that effective control must be retained over changes of use that would have a material impact, in land-use planning terms, on the local amenity or environment."

That is doing no more in reality than setting out the general approach to planning control, but it helpfully indicates the rationale behind the Use Classes Order. By section 55 of the Act, provided that a use falls within a particular designated class, then no planning permission is needed for any change which falls within the same class.

8. The two classes are C2 and C3. C2 reads:

"Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre."

C3 reads:

"Use as a dwellinghouse (whether or not as a sole or main residence)

(a) by a single person or by people living together as a family, or

(b) by not more than 6 residents living together as a single household (including a household where care is provided for residents)."

It will be noted that there is reference to care in both C2 and C3. Care is in fact defined in paragraph 2 (the interpretation clause of the Order) this:

"'care' means personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment."

It is to be noted that that definition appears to exclude the personal care of children from the definition of care except in class C2. In class C3 there is reference (in the parenthesis to C3(b)) to care provided for residents. That care will not by the definition clause include care of children. Of course if the children happen to be disabled or to suffer from mental disorder, then care for them will fall within class C3(b), but it is not suggested that the children with whom this case is concerned would fall within that category. They are children who, for whatever reason, have been put into the care of the local authority, and the local authority is

required to find somewhere for them to live and to be cared for during their minority.

9. The application by Southern Childcare Limited was "use as a dwelling providing care for up to 3 children living together as a single household with care provided by up to two non-resident staff." So it appears that the application was based on the contention that the children would constitute the single household living together and thus fall within C3(b), and that the non-resident staff would provide care but would not be regarded as part of the household because that would not be necessary.
10. When the matter came before the Inspector he considered the correct construction of the Order between paragraphs 12 and 19 of his determination. I do not propose to read them in any detail, but some parts I shall cite because they indicate the way in which the Inspector approached his task. In paragraph 16 he said:

"Living together incorporates dining together, sharing the kitchen, lounge and garden etc. A functioning family (parents and children/adopted children/foster children) is almost by definition a caring unit. Whilst clearly a husband and wife with two foster children would be considered as falling within Class C3(a) of the UCO, there is a close similarity with the situation on the appeal site except that the carers (guardians) whilst present all the time, are not resident in the same way as a husband and wife. The dictionary definition of a household is 'the occupants of a house regarded as a unit'. Although the care element in a household is less than that for a family there are joint shared responsibilities, the security of the house, the buying of food, the preparation of meals, the paying of bills and the maintenance of the property are some examples. There has to be a thread of care running through a household for it to function effectively."

In paragraph 19 he states:

"If one includes the children and the adults on the appeal premises, there are then four residents living together as a single household. The High Court judgment in the case of *R v Bromley London Borough Council ex parte Sinclair* [1991] 3 PLR60 has accepted that staff providing care for residents need not themselves be resident. 'Care' as defined in Art 2 does not come into play on the appeal site and I find that the use is within the constraints of Class 3(b) of the UCO; namely the use as a dwellinghouse by not more than six residents living together as a single household."

It seems to me that the natural meaning of what the Inspector says in paragraph 19 is that he is regarding (and what he sets out in paragraph 16 supports this conclusion) the household as being the children plus the carers. But, in his view, the case of *Sinclair* means that carers need not be resident carers, in the sense that they need not have the premises as their residence, and live there as well as the children. That, in his view, is not necessary; provided they are present on the premises then they can be regarded as part of the household. It is true that when he came to give the lawful development certificate it was in these terms:

"The use of the premises as a dwelling house providing care for up to two children living together as a single household with care provided by up to two non-resident staff."

That, of course, is more consistent with the way in which the application was framed. Nonetheless the natural meaning of paragraphs 16 and 19 seem to me to point clearly in the direction that the Inspector is finding that the household includes both children and carers, but

that carers do not need to be resident carers.

11. Mr Fletcher contends that that is wrong, and that insofar as *Sinclair* may appear to support that approach it is wrongly decided. He submits that the purpose behind the division of classes C2 and C3, insofar as it applies in the circumstances of this case, is that small homes used for care in the community should not be regarded as falling outside the class as a dwellinghouse merely because there are carers, provided that those carers are resident. He submits that if one looks at the natural meaning of the words used in the Use Classes Order and couples that with the guidance given by the Circular, that conclusion is inevitable. The Circular in paragraph 5 states:

"The new Order is also intended to clarify the circumstances in which the establishment of small community care homes and hostels will require planning permission. For example, it provides that development is not involved when a dwellinghouse becomes used as a small community care home, provided that all the residents live together as a single household and that they number no more than 6 including resident staff."

That certainly on its face appears to me to be more consistent with the approach that Mr Fletcher submits is the correct one.

12. In paragraphs 25, 26, and 27 the Circular deals specifically with classes C2 and C3. In discussing C2 in paragraph 25 it states:

"The *residential institutions class* combines classes XX11 and XIV of the 1972 Order. Apart from educational establishments, the characteristic of the uses contained in this class that sets them apart from those in the hotels and hostels and dwellinghouses classes is, in the case of the former the provision of personal care and treatment, and in the case of the latter that the residents and staff do not form a single household."

In paragraph 27, which deals with class C3, it is said:

"The new *dwellinghouses class* groups together use as a dwellinghouse - whether or not as a sole or main residence - by a single person or any number of persons living together as a family, with use as a dwellinghouse by no more than 6 persons living together as a single household. The key element in the use of a dwellinghouse for other than family purposes is the concept of a single household. In the case of small residential care homes or nursing homes, staff and residents will probably not live as a single household and the use will therefore fall into the residential institutions class, regardless of the size of the home. The single household concept will provide more certainty over the planning position of small group homes which play a major role in the Government's community care policy which is aimed at enabling disabled and mentally disordered people to live as normal lives as possible in touch with the community ... Local planning authorities should include any resident care staff in their calculation of the number of people accommodated. The class includes not only families or people living together under arrangements for providing care and support within the community, but also other groups of people such as students, not necessarily related to each other, who choose to live on a communal basis as a single household."

That again, Mr Fletcher submits, and I agree, points in the direction of resident care staff and

small residential homes and, indeed, the reference to the need for certainty over the planning position of small group homes playing a major role in the Government's community care policy, gives a clue why the definition of "care" as not including children should be applicable to C2 and not to C3 because children do not fall into the community care policy because they are not disabled or mentally disordered.

13. It seems to me that it is essential that all the words of the Order are given some meaning. There is no doubt that unless the circumstances here mean that it falls within C3, the activity in question would clearly fall within C2, because it is use for the provision of residential accommodation and care to people in need of care. The definition of "care" which is applicable to C2 includes care of children. So unless it falls within Class C3, it clearly will fall within C2. The question, therefore, is whether it does fall within C3.
14. It is not contended that it falls within C3(a) and the Inspector did not so find. Clearly, it is not being used by people living together as a family. The question therefore is whether it falls within C3(b). There are certainly not more than 6 residents. But are they living together as a single household, including a household where care is provided for residents? The parenthesis does not directly apply because care does not include care of children. Thus, it is not a household where care is provided for residents. The first question, as it seems to me, is what is the meaning in the context of C3(b) of "household"?
15. It is submitted by Mr Gibbon that the children can constitute the household. The children are living together as a single household and, therefore, it is a dwellinghouse. The parenthesis does not apply and, on the straightforward meaning of the words, you have here not more than 6 residents living together as a single household. Of course if any of the carers were resident, then they would have to be brought into account, but there would be no problem because obviously a resident carer would be properly regarded as part of the household, but the absence of a resident carer does not prevent it being a household.
16. It seems to me that the Inspector's approach was, in this respect, correct, inasmuch as he was regarding the household as needing more than just children. Children need to be looked after. They cannot run a house. They cannot be expected to deal with all the matters that go to running a home. Sometimes, of course, one recognises they are forced to do so, but as a matter of principle and approach the whole point of these homes is that the children are regarded as needing full-time care from an adult, someone to look after them, someone to run their lives for them and someone to make sure that the household operates as it should. It seems to me that in the context "household" means more than merely the bodies. You have to consider whether the bodies are capable of being regarded in the true sense as a household. The same would apply to those who suffer, for example, from physical or mental disability and who need care in the community. They, if they are not capable of looking after themselves, would not be regarded as a household, hence the need for the carer, hence the need for that addition to make it a household within the meaning of the relevant class.
17. One has to have regard to the need that they be living together as a single household. The question then arises whether carers who do not live but who provide, not necessarily through the same person, a continuous 24-hour care can be regarded as living together. In my view, the answer to that is no. Consistent with the approach indicated by the Circular, what is required is indeed residential care with a carer living in full-time and looking after those in the premises who otherwise would be unable to live as a household.
18. Now that I recognise is an approach which may well not accord with that set out by Popplewell J in the *Sinclair* case, which I have already mentioned. In that case the Council proposed to use a house as a family home for three mentally handicapped persons. Twenty-

four hour a day supervision was to be provided by social workers attending on a rota basis. They would not be living at the property although a room would be used as a bedroom by the care assistant who was there at night.

19. An application for judicial review of the decision that the proposed use was within Class C3(b), and so did not require planning permission, was made by a local resident. Permission had been refused on paper and the matter came before Popplewell J as a renewed application for permission to apply for judicial review. He cited Class C3(b), the relevant parts of paragraphs 25 and 27 of the Circular and went on at page 62B:

"The order does not say that the staff have to live together as a single household. It says the residents 'living together as a single household'. The residents here are the three residents and the staff come in from time to time. I do not find anything in the order which takes into account the presence of the staff as being involved in the concept of a single household. The bracketed words are simply '(including a household where care is provided for residents).'

I do not take the view that the staff have to be living together with the residents. I am of the view that this can properly be determined as a Class C3(b) case."

I am afraid I cannot agree with that approach. It seems to me that the concept of living together as a household means that, as I have put it, a proper functioning household must exist and, in the context of a case such as this, that must mean that the children and a carer must reside in the premises. Otherwise, as it seems to me, it clearly falls within Class C2. It is apparent that the size of the institution is irrelevant for the purposes of C2. If it falls within that definition it is not to be regarded as a dwellinghouse, then whether there are 1, 2, 10 or 15 children makes no difference to the Class. It does, however, clearly make a difference in planning terms when one considers the second point, which is whether there was, in the context of this case, a material change of use.

20. Although it may sound somewhat illogical, it is accepted by both Mr Fletcher and Mr Gibbon that, notwithstanding that this may fall within Class C2 rather than Class C3, nonetheless planning permission may not be required if the change of use was not a material change of use. I am bound to say that if an Inspector is satisfied that the use falls within C2 rather than C3, then it would appear that there is prima facie a change of use. Nonetheless, the Inspector is entitled, as indeed are the local planning authority, to consider whether that change of use was material. It will only be material if, as a matter of fact and degree in the circumstances of an individual case, the change of use was material.

21. The Inspector understandably deals with this very briefly. In paragraph 20 he states:

"In the alternative, the Council state that the change of use is a significant factor which when weighed with other changes to the character of the use of the premises amounts to a material change of use. Since I have found that the use is as a dwelling house, the alternative does not fall to be considered. There is nevertheless no indication from my consideration of all the representations and from my detailed inspection of the site and the surroundings, that there has been a change of use from a dwelling house which could, as a matter of fact and degree, be considered as being a material one."

Mr Fletcher attacks that on the basis that it is unreasoned, and the Inspector appears to be saying from the use of the word "could" that there is not even an arguable case that there has been a change of use.

22. The parties put forward extensive submissions to the Inspector and he clearly had them before him and had regard to them. The Council dealt with materiality over some four pages of its submissions. It set out what it submitted were the principles referred to and cases in support, in particular in paragraph 6.9 of its submissions. It made the point that the case law established that whether there had been a material change was a question of fact and degree and the fact that, in the broadest sense, the property continued to be used for residential purposes did not mean that there could not have been a material change of use. The court in the case of *London Borough of Richmond upon Thames v Secretary of State* [2001] JPL 84 indicated that matters which could be planning considerations might include the effects on the residential character of the area, strain on the welfare services and reduction on the stock of private accommodation available for renting. Points were made about traffic movements and various other factors were put forward.
23. True it is that the Inspector dealt very briefly with those matters. But it is plain that he had before him all the relevant submissions and all the relevant representations. He had inspected the site and he had considered all the issues. He sets out at the beginning of his determination a description of the site and surroundings and of the background. It would have been better, no doubt, had he referred in more detail to the submissions which had been made and explained why he rejected them. Nevertheless, it is, in my view, clearly implicit in what he says that he had considered them and that he had rejected them as being matters which indicated a material change of use.
24. Mr Fletcher accepts that it would have been open to the Inspector to have decided that the change of use was not material but he should, if he was to reach that conclusion, have indicated more clearly why. I do not dissent from that proposition in the sense that I too would have preferred that he had indicated more clearly why. But one has to be careful in accepting a reasons challenge. It seems to me that if, in reality, it is plain that the Inspector has considered the matters and has reached a decision, which in law was open to him, then it would take a very strong case to quash that purely on the ground that the reasons were not as extensively set out as they should have been.
25. The only matter which has given possible cause for concern is the use of the word "could." But, in my view, it does not bear the construction which Mr Fletcher suggests is the possible one. All that the Inspector is saying is that in his judgment the matters put forward do not mean that the change of use is a material one. It is true he does not express himself as happily as he might, but as a matter of pure English reading that sentence does not, in my view, lead one to conclude that he had misdirected himself in approaching it on the basis of arguability rather than fact.
26. Accordingly, in my view, the Inspector was wrong to regard this as falling within C3(b) rather than C2, and that the Council's contentions are and were correct. C3 does require at least one residential carer, together with of course those who are being cared for. On the facts of this case, and I emphasise limited to the facts of this case, the Inspector was correct to decide that there was no material change of use in the circumstances.
27. Accordingly, although it may be expressed slightly unhappily in the context of my decision, and indeed in the way the Inspector approached it in his decision, the use for up to two children, with care provided by up to two non-resident staff at these premises, and only at these premises, is, in the circumstances, a lawful use.
28. Accordingly, for those reasons, I dismiss this appeal.

29. MR GIBBONS: My Lord, in the light of that may I seek brief instructions before I make any further submissions?
30. MR JUSTICE COLLINS: Yes .
31. MR GIBBONS: My Lord, the question of costs arises from my point of view. Now the usual situation clearly, as your Lordship is aware, not only because the principal argument today is on Use Classes Order but also the Inspector, clearly I am entitled to make the formal submission that I have succeeded even though there has not been----
32. MR JUSTICE COLLINS: Yes, but nowadays we split costs rather more, do we not?
33. MR GIBBONS: My Lord, you have anticipated my very next observation, which is, if your Lordship is inclined, as it were, to take the CPR approach to this rather than the more old-fashioned approach.
34. MR JUSTICE COLLINS: I think I have to, do I not?
35. MR GIBBONS: Clearly, my fallback position would be no order as to costs.
36. MR JUSTICE COLLINS: I am thinking along those lines.
37. MR FLETCHER: My Lord, I am very happy with my learned friend's fallback position.
38. MR JUSTICE COLLINS: I think that in the circumstances, and having regard to the issues, I know it is palm tree to some extent, but costs almost always is. I think no order for costs is the fair order. No further applications?
39. MR FLETCHER: No, my Lord.

Appeal Decision

Site visit made on 11 August 2020

by **Diane Cragg DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 September 2020

Appeal Ref: APP/P2935/W/20/3252959

East Farm Cottage, Off the A196, Choppington NE62 5PS.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Sandie Bailey (Action for Children) against the decision of Northumberland County Council.
- The application Ref 19/03768/FUL, dated 5 September 2019, was refused by notice dated 19 February 2020.
- The development proposed is change of use from residential (Class C3) to residential home for children and young people (Class C2).

Decision

1. The appeal is allowed, and planning permission is granted for change of use from residential (Class C3) to residential home for children and young people (Class C2) at East Farm Cottage, off the A196, Choppington NE62 5PS in accordance with the terms of the application, Ref 19/03768/FUL dated 5 September 2019 subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Action for Children against Northumberland County Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the development on:
 - highway safety, and;
 - the living conditions of adjacent residents with particular regard to parking and manoeuvrability, noise and disturbance and fear of crime.

Reasons

Highway Safety

4. The appeal property is a four bedroomed detached house accessed via a private road from the A196. It currently has two vehicular access points, one at the southern side that serves an integral garage and one to the northern side which provides access to an informal parking area. The vehicle access to the south would be removed. To the north side the parking would be extended to provide 5 spaces, 4 of which would be laid out in two sets of two tandem

spaces. The Local Highway Authority has not objected to the change of use and the parking provision does not conflict with the Northumberland County Council vehicle parking standards.

5. The use would generally have 3 staff on site during the week and 2 at weekends. The parking arrangements would allow the staff to park within the site. The staff would be on a shift pattern and the submitted information indicates that additional visits to the premises would vary in frequency and would generally be by appointment. One vehicle for use by staff to transport children would be kept at the site. With the staff shift patterns and visitors by appointment, it is unlikely that the car parking arrangements would result in any significant shunting of vehicles to let staff in and out of the site and the car parking would be adequate for the development.
6. In addition, the appeal site is located close to bus stops that provide frequent services to the wider area. There is an option for some staff and visitors to arrive via public transport or by walking or cycling, even though car parking would be sufficient to accommodate all staff members. A travel plan to require consideration of modes of transport other than the car for staff would be appropriate in this case.
7. Children being provided with care would be encouraged to go to school independently and the site is sufficiently accessible for independent travel to be possible. However, the assessment of traffic generation submitted by the appellant includes traffic generated by transporting children to school.
8. I appreciate that there may be deliveries to the site, however, there is no evidence before me that deliveries will be other than may be expected at a normal domestic property. There is no indication that a dedicated disabled space would be required at the site.
9. The access road is a private road from its junction with the A196. It also carries a well-used public footpath that accesses the open countryside to the south of the appeal site. The access road serves approximately 11 other dwellings and a farm with associated farm traffic.
10. I saw during my site visit that the road is of limited width and does not have any pavements or streetlighting. The access point is approximately 40 metres from the junction with the A196 and 30 metres from the bend in the road towards the south. Given the relatively close proximity of these points traffic is unlikely to be travelling at any speed and, given the existing public footpath along it, likely to be proceeding with caution.
11. According to the appellants evidence there has been a small number of minor accidents on the A196 near to the junction of the access road in the last 20 years, two of which were prior to the development at East Farm. I find that the accident records for the extended length of the road provided by the objectors is of limited relevance to the localised issue of access and egress from the private road. The exit from the site on to the A196 has good visibility in both directions and is wide enough to accommodate two vehicles next to each other on its entrance which would limit waiting on the A196.
12. I appreciate that with some frequency, particularly in the summer, farm vehicles use the road. However, the additional traffic associated with the use, over that which would be generated by a four-bedroom dwelling, would not be

significant and would not exacerbate any existing tensions between residential and farm use of the private road.

13. Overall, I conclude that parking provision and the movement of vehicles and pedestrians in association with the proposed development would be acceptable and would not lead to any issues of highway safety. As such the proposal would accord with Policies T6 and T7 of the Wansbeck District Local Plan which seek to ensure that development makes appropriate provision for parking and that the existing highway network is adequate to cope with any additional traffic resulting from development. In addition there would be no conflict with the National Planning Policy Framework (the Framework) which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Living conditions

14. The appeal property would be occupied by 3 children supported by 2 or 3 staff at any one time. It is a detached house surrounded by open countryside on three sides and located opposite residential dwellings to the front across the private access road.
15. The existing garage at the appeal site would be converted to a quiet room and the utility room converted to an office. In all other respects the internal layout would remain similar. There is access to the rear garden area from the downstairs rooms and the bedrooms face the rear garden with a corridor running across the front of the building at upper level. The internal layout of the dwelling and the positioning of the external amenity space would ensure that the living conditions of the adjacent properties would not be affected by the occupation of the building, based on the limited number of children proposed.
16. The evidence indicates that there would be some limited additional traffic movements, over and above that associated with a four bedroomed house, connected to the changeover of staff and perhaps at the beginning and end of the school day. However, such movements would not be disproportionately large or significantly above that associated with the existing use as a dwelling. The car parking for the proposal would be concentrated to the north side of the property. The north side parking would be offset from the windows in the dwellings opposite so that the manoeuvring of vehicles would be away from their living areas. Given the limited change in traffic generation anticipated, I am satisfied that there would be no detriment to the adjacent residents living conditions associated with the manoeuvring of vehicles at the site.
17. The Framework seeks to ensure that development is inclusive, and the fear of crime does not undermine quality of life, community cohesion and resilience. The courts have held that the fear of crime can be a material consideration. However, there must be some reasonable evidential basis for that fear. In this respect I have had regard to the comments of the Northumbria Police Designing Out Crime Officer. I note in particular the reference to evidence from the Durham Constabulary who have established that there is some correlation between the number of residents and the impact of care homes. The Constabulary monitored their contact with the homes in their area and concluded that a home housing 3 or less residents has no more impact than any other family house. Whereas 5 unrelated people who have problems and

are remote from family and friends lead to tensions. It was also noted that the net result of frequent visits from the police had adverse effects on neighbouring amenity.

18. The proposal would provide residential care for 3 children who would be from Northumberland County Council area. I note the third-party representations with regard to the fear of crime and the evidence of other sites where development has been refused based on the fear of crime. However, the Northumbria Police evidence indicates that the use as a children's residential home at the level proposed would have no more impact than any other family home. Consequently, there does not appear to be any evidential basis to support the fear of crime.
19. My attention has also been drawn to an appeal decision relating to student accommodation in Blythe and the comments of the Inspector in relation to the fear of crime. I do not consider the comments made by the Inspector in that case are pertinent to the appeal site given the evidence before me. Nor are the details of the scheme or the sites location similar.
20. I also note the appeal case¹ referred to by the Council in its Statement of Case relating to a care home for 5 children. In that case, Police evidence was significant in assessing whether the development would likely result in the fear of crime. Further, as Northumbria Police confirm, there is more likelihood that a care home with 5 residents would be a concern.
21. As such, on the basis of the evidence, I find that the proposal would not have a detrimental effect on the living conditions of adjacent residents with particular regard to parking and manoeuvrability, noise and disturbance and fear of crime and is not therefore contrary to Policies T7 and H10 of the Wansbeck District Local Plan in so far as it seeks to protect the living conditions of adjacent residents. These policies are consistent with the Framework with which the proposal would also accord.

Other Matters

22. I have had regard to the concerns that the wall adjacent to the parking area is not within the appellant's ownership. The planning application form indicates that the appellant owns all the land to which the application relates. The appellant has also clarified that they have ownership of the wall. Ownership issues are a private matter between the relevant parties and not within my jurisdiction.
23. There is a suggestion that the wall adjacent to the parking area provides reference to the past and may be a non-designated heritage asset. There is limited information before me to indicate what significance can be attributed to the wall although I accept that the wall is older than other surrounding boundary treatment. In my judgement the wall does not have a degree of significance that merits consideration in this planning decision because of its heritage interest.
24. In addition to the points raised by objectors that I have addressed above, Local residents and Councillors have also expressed a wide range of concerns including, but not limited to the following; the effect of alterations to the property, damage of crops in the surrounding fields, use of the public footpath,

¹ App/X1355/W/18/3196269

disturbance to other local children, proximity of the appeal site to dense woodland, a large pond and railway tracks; house prices. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of residents and Councillors, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. I have considered this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above.

25. Representations were made to the effect that nearby residents rights under Article 1 and Article 8 of the Human Rights Act 1998 would be violated if the appeal were to be allowed. The right to peaceful enjoyment of possessions and right to a private life are qualified rather than absolute rights and the consideration of a proposal will inevitably result in a balance between competing individual rights. I do not consider the arguments of nearby residents to be well-founded, because I have found that the proposed development would not cause unacceptable harm to their living conditions. The degree of interference that would be caused would be insufficient to give rise to a violation of rights.

Conditions

26. As well as the standard implementation condition it is necessary to refer to the approved drawings in the interests of certainty. Conditions are required to ensure the implementation of the car and cycle parking arrangements and a travel plan is required to minimise the use of the car by staff. These conditions are necessary to ensure satisfactory parking arrangements at the site, to promote sustainable and non-motorised travel and to safeguard the living conditions of neighbouring occupiers. A condition requiring matching material will ensure that the development is appropriate to the character and appearance of the area.
27. Conditions are also proposed that limit the use of the property to a care home for a maximum of three children from the Northumberland County Council area, restricts the age range of the children when they first arrive at the home and which prevents the site being used for the emergency placement of children. Although the appellant sought to allow some flexibility in the region from where the children would have formerly resided, I find their suggested wording to be imprecise and unenforceable. In any case, based on the evidence of the Designing Out Crime Officer, I consider that it is important to the operation of the site that children are not remote from family and friends and are from the local area. These conditions are necessary to minimise the intensity of the use and protect the amenity of neighbours.

Conclusion

28. For the reasons given above, I conclude that the appeal should be allowed.

Diane Cragg

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall not be carried out other than in complete accordance with the following approved plans:

Site Location Plan 150-01 Rev 01
Site Plan (Existing) 150-02 Rev 04
Site Plan (Proposed) 300-02 Rev 05
Existing Floor Plans 150-03 Rev 04
External Elevation (as Existing) 150-04 Rev 04
General Arrangement (Proposed) 300-01 Rev 04
External Elevations (Proposed) 300-03 Rev 04

3. The development shall not be occupied until the car parking area indicated on the approved plans has been implemented in accordance with the approved plans. Thereafter, the car parking area shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the development.
4. The development shall not be occupied until cycle parking shown on the approved plans has been implemented. Thereafter, the cycle parking shall be retained in accordance with the approved plans and shall be kept available for the parking of cycles at all times.
5. The facing materials and finishes to be used in the external alterations shall match the corresponding materials of the existing building in respect of colour, appearance, shape and texture.
6. Prior to occupation of the care home hereby approved, a Travel Plan must be submitted to and agreed in writing by the local planning authority. The Travel Plan shall at least include:
 - Targets for the travel of staff and visitors to and from the site by other means than the car;
 - Effective measures for the on-going monitoring of the Travel Plan;
 - A commitment to delivering the objectives of the Travel Plan for a period of at least five years from first occupation of the development;
 - Effective mechanisms to achieve the objectives of the Travel Plan by the occupiers of the property.

The development hereby permitted shall be implemented in accordance with the agreed Travel Plan.

7. The premises shall only be used as a residential care home for children, with a maximum of 3 children in residence at any one time who shall be from the Northumberland County Council area and shall be no older than 12 years

when first placed in care at the premises, and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

8. The residential care home for children hereby approved shall not be used to provide care to children requiring an emergency placement.

Appeal Decision

Site visit made on 11 August 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2020

Appeal Ref: APP/P2935/W/20/3252959

East Farm Cottage, Off the A196, Choppington NE62 5PS.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Sandie Bailey (Action for Children) against the decision of Northumberland County Council.
 - The application Ref 19/03768/FUL, dated 5 September 2019, was refused by notice dated 19 February 2020.
 - The development proposed is change of use from residential (Class C3) to residential home for children and young people (Class C2).
-

Decision

1. The appeal is allowed, and planning permission is granted for change of use from residential (Class C3) to residential home for children and young people (Class C2) at East Farm Cottage, off the A196, Choppington NE62 5PS in accordance with the terms of the application, Ref 19/03768/FUL dated 5 September 2019 subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Action for Children against Northumberland County Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the development on:
 - highway safety, and;
 - the living conditions of adjacent residents with particular regard to parking and manoeuvrability, noise and disturbance and fear of crime.

Reasons

Highway Safety

4. The appeal property is a four bedroomed detached house accessed via a private road from the A196. It currently has two vehicular access points, one at the southern side that serves an integral garage and one to the northern side which provides access to an informal parking area. The vehicle access to the south would be removed. To the north side the parking would be extended to provide 5 spaces, 4 of which would be laid out in two sets of two tandem

3202105533

spaces. The Local Highway Authority has not objected to the change of use and the parking provision does not conflict with the Northumberland County Council vehicle parking standards.

5. The use would generally have 3 staff on site during the week and 2 at weekends. The parking arrangements would allow the staff to park within the site. The staff would be on a shift pattern and the submitted information indicates that additional visits to the premises would vary in frequency and would generally be by appointment. One vehicle for use by staff to transport children would be kept at the site. With the staff shift patterns and visitors by appointment, it is unlikely that the car parking arrangements would result in any significant shunting of vehicles to let staff in and out of the site and the car parking would be adequate for the development.
6. In addition, the appeal site is located close to bus stops that provide frequent services to the wider area. There is an option for some staff and visitors to arrive via public transport or by walking or cycling, even though car parking would be sufficient to accommodate all staff members. A travel plan to require consideration of modes of transport other than the car for staff would be appropriate in this case.
7. Children being provided with care would be encouraged to go to school independently and the site is sufficiently accessible for independent travel to be possible. However, the assessment of traffic generation submitted by the appellant includes traffic generated by transporting children to school.
8. I appreciate that there may be deliveries to the site, however, there is no evidence before me that deliveries will be other than may be expected at a normal domestic property. There is no indication that a dedicated disabled space would be required at the site.
9. The access road is a private road from its junction with the A196. It also carries a well-used public footpath that accesses the open countryside to the south of the appeal site. The access road serves approximately 11 other dwellings and a farm with associated farm traffic.
10. I saw during my site visit that the road is of limited width and does not have any pavements or streetlighting. The access point is approximately 40 metres from the junction with the A196 and 30 metres from the bend in the road towards the south. Given the relatively close proximity of these points traffic is unlikely to be travelling at any speed and, given the existing public footpath along it, likely to be proceeding with caution.
11. According to the appellants evidence there has been a small number of minor accidents on the A196 near to the junction of the access road in the last 20 years, two of which were prior to the development at East Farm. I find that the accident records for the extended length of the road provided by the objectors is of limited relevance to the localised issue of access and egress from the private road. The exit from the site on to the A196 has good visibility in both directions and is wide enough to accommodate two vehicles next to each other on its entrance which would limit waiting on the A196.
12. I appreciate that with some frequency, particularly in the summer, farm vehicles use the road. However, the additional traffic associated with the use, over that which would be generated by a four-bedroom dwelling, would not be

significant and would not exacerbate any existing tensions between residential and farm use of the private road.

13. Overall, I conclude that parking provision and the movement of vehicles and pedestrians in association with the proposed development would be acceptable and would not lead to any issues of highway safety. As such the proposal would accord with Policies T6 and T7 of the Wansbeck District Local Plan which seek to ensure that development makes appropriate provision for parking and that the existing highway network is adequate to cope with any additional traffic resulting from development. In addition there would be no conflict with the National Planning Policy Framework (the Framework) which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Living conditions

14. The appeal property would be occupied by 3 children supported by 2 or 3 staff at any one time. It is a detached house surrounded by open countryside on three sides and located opposite residential dwellings to the front across the private access road.
15. The existing garage at the appeal site would be converted to a quiet room and the utility room converted to an office. In all other respects the internal layout would remain similar. There is access to the rear garden area from the downstairs rooms and the bedrooms face the rear garden with a corridor running across the front of the building at upper level. The internal layout of the dwelling and the positioning of the external amenity space would ensure that the living conditions of the adjacent properties would not be affected by the occupation of the building, based on the limited number of children proposed.
16. The evidence indicates that there would be some limited additional traffic movements, over and above that associated with a four bedroomed house, connected to the changeover of staff and perhaps at the beginning and end of the school day. However, such movements would not be disproportionately large or significantly above that associated with the existing use as a dwelling. The car parking for the proposal would be concentrated to the north side of the property. The north side parking would be offset from the windows in the dwellings opposite so that the manoeuvring of vehicles would be away from their living areas. Given the limited change in traffic generation anticipated, I am satisfied that there would be no detriment to the adjacent residents living conditions associated with the manoeuvring of vehicles at the site.
17. The Framework seeks to ensure that development is inclusive, and the fear of crime does not undermine quality of life, community cohesion and resilience. The courts have held that the fear of crime can be a material consideration. However, there must be some reasonable evidential basis for that fear. In this respect I have had regard to the comments of the Northumbria Police Designing Out Crime Officer. I note in particular the reference to evidence from the Durham Constabulary who have established that there is some correlation between the number of residents and the impact of care homes. The Constabulary monitored their contact with the homes in their area and concluded that a home housing 3 or less residents has no more impact than any other family house. Whereas 5 unrelated people who have problems and

are remote from family and friends lead to tensions. It was also noted that the net result of frequent visits from the police had adverse effects on neighbouring amenity.

18. The proposal would provide residential care for 3 children who would be from Northumberland County Council area. I note the third-party representations with regard to the fear of crime and the evidence of other sites where development has been refused based on the fear of crime. However, the Northumbria Police evidence indicates that the use as a children's residential home at the level proposed would have no more impact than any other family home. Consequently, there does not appear to be any evidential basis to support the fear of crime.
19. My attention has also been drawn to an appeal decision relating to student accommodation in Blythe and the comments of the Inspector in relation to the fear of crime. I do not consider the comments made by the Inspector in that case are pertinent to the appeal site given the evidence before me. Nor are the details of the scheme or the sites location similar.
20. I also note the appeal case¹ referred to by the Council in its Statement of Case relating to a care home for 5 children. In that case, Police evidence was significant in assessing whether the development would likely result in the fear of crime. Further, as Northumbria Police confirm, there is more likelihood that a care home with 5 residents would be a concern.
21. As such, on the basis of the evidence, I find that the proposal would not have a detrimental effect on the living conditions of adjacent residents with particular regard to parking and manoeuvrability, noise and disturbance and fear of crime and is not therefore contrary to Policies T7 and H10 of the Wansbeck District Local Plan in so far as it seeks to protect the living conditions of adjacent residents. These policies are consistent with the Framework with which the proposal would also accord.

Other Matters

22. I have had regard to the concerns that the wall adjacent to the parking area is not within the appellant's ownership. The planning application form indicates that the appellant owns all the land to which the application relates. The appellant has also clarified that they have ownership of the wall. Ownership issues are a private matter between the relevant parties and not within my jurisdiction.
23. There is a suggestion that the wall adjacent to the parking area provides reference to the past and may be a non-designated heritage asset. There is limited information before me to indicate what significance can be attributed to the wall although I accept that the wall is older than other surrounding boundary treatment. In my judgement the wall does not have a degree of significance that merits consideration in this planning decision because of its heritage interest.
24. In addition to the points raised by objectors that I have addressed above, Local residents and Councillors have also expressed a wide range of concerns including, but not limited to the following; the effect of alterations to the property, damage of crops in the surrounding fields, use of the public footpath,

¹ App/X1355/W/18/3196269

disturbance to other local children, proximity of the appeal site to dense woodland, a large pond and railway tracks; house prices. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of residents and Councillors, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. I have considered this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above.

25. Representations were made to the effect that nearby residents rights under Article 1 and Article 8 of the Human Rights Act 1998 would be violated if the appeal were to be allowed. The right to peaceful enjoyment of possessions and right to a private life are qualified rather than absolute rights and the consideration of a proposal will inevitably result in a balance between competing individual rights. I do not consider the arguments of nearby residents to be well-founded, because I have found that the proposed development would not cause unacceptable harm to their living conditions. The degree of interference that would be caused would be insufficient to give rise to a violation of rights.

Conditions

26. As well as the standard implementation condition it is necessary to refer to the approved drawings in the interests of certainty. Conditions are required to ensure the implementation of the car and cycle parking arrangements and a travel plan is required to minimise the use of the car by staff. These conditions are necessary to ensure satisfactory parking arrangements at the site, to promote sustainable and non-motorised travel and to safeguard the living conditions of neighbouring occupiers. A condition requiring matching material will ensure that the development is appropriate to the character and appearance of the area.
27. Conditions are also proposed that limit the use of the property to a care home for a maximum of three children from the Northumberland County Council area, restricts the age range of the children when they first arrive at the home and which prevents the site being used for the emergency placement of children. Although the appellant sought to allow some flexibility in the region from where the children would have formerly resided, I find their suggested wording to be imprecise and unenforceable. In any case, based on the evidence of the Designing Out Crime Officer, I consider that it is important to the operation of the site that children are not remote from family and friends and are from the local area. These conditions are necessary to minimise the intensity of the use and protect the amenity of neighbours.

Conclusion

28. For the reasons given above, I conclude that the appeal should be allowed.

Diane Cragg

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall not be carried out other than in complete accordance with the following approved plans:

Site Location Plan 150-01 Rev 01
Site Plan (Existing) 150-02 Rev 04
Site Plan (Proposed) 300-02 Rev 05
Existing Floor Plans 150-03 Rev 04
External Elevation (as Existing) 150-04 Rev 04
General Arrangement (Proposed) 300-01 Rev 04
External Elevations (Proposed) 300-03 Rev 04

3. The development shall not be occupied until the car parking area indicated on the approved plans has been implemented in accordance with the approved plans. Thereafter, the car parking area shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the development.
4. The development shall not be occupied until cycle parking shown on the approved plans has been implemented. Thereafter, the cycle parking shall be retained in accordance with the approved plans and shall be kept available for the parking of cycles at all times.
5. The facing materials and finishes to be used in the external alterations shall match the corresponding materials of the existing building in respect of colour, appearance, shape and texture.
6. Prior to occupation of the care home hereby approved, a Travel Plan must be submitted to and agreed in writing by the local planning authority. The Travel Plan shall at least include:
 - Targets for the travel of staff and visitors to and from the site by other means than the car;
 - Effective measures for the on-going monitoring of the Travel Plan;
 - A commitment to delivering the objectives of the Travel Plan for a period of at least five years from first occupation of the development;
 - Effective mechanisms to achieve the objectives of the Travel Plan by the occupiers of the property.

The development hereby permitted shall be implemented in accordance with the agreed Travel Plan.

7. The premises shall only be used as a residential care home for children, with a maximum of 3 children in residence at any one time who shall be from the Northumberland County Council area and shall be no older than 12 years

when first placed in care at the premises, and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

8. The residential care home for children hereby approved shall not be used to provide care to children requiring an emergency placement.

