
Report of the Head of Planning and Development**HUDDERSFIELD PLANNING SUB-COMMITTEE****Date: 05-Aug-2021****Subject: Planning Application 2021/91682 Change of use from dwelling house (Class C3) to residential care home (Class C2) Wall Nooks, Wall Nook Lane, Cumberworth, Huddersfield, HD8 8YB****APPLICANT**Compass Children's
Homes Ltd**DATE VALID**

23-Apr-2021

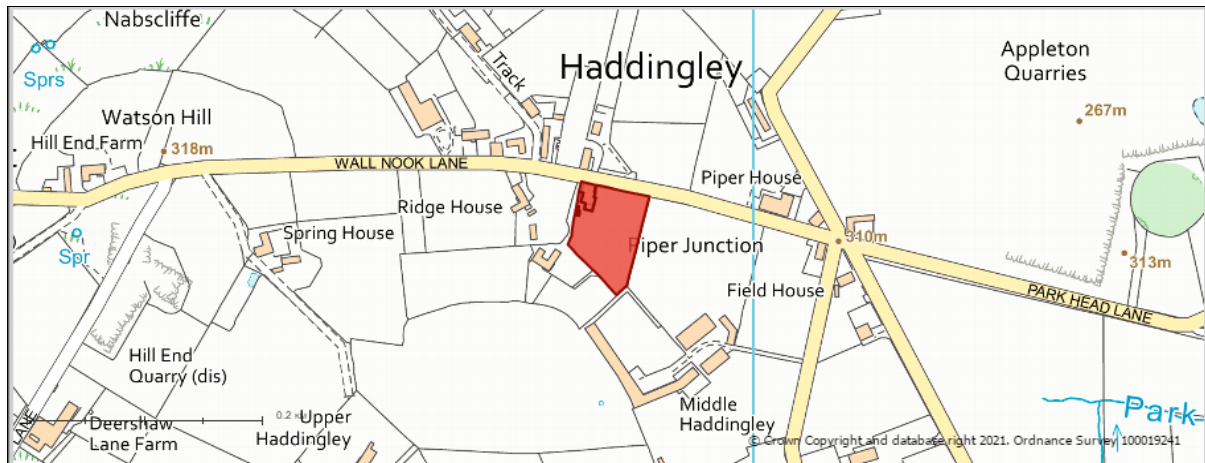
TARGET DATE

18-Jun-2021

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral wards affected: Holme Valley South

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

- 1.1 This application has been brought to the Huddersfield Planning Sub-Committee for determination due to the significant level of representations received. This is in accordance with the Council's Scheme of Delegation set out in the Constitution.

2.0 SITE AND SURROUNDINGS:

- 2.1 The property is a large detached 7-bedroom dwelling located within the defined Green Belt. The property sits at right angles with the roadside and is a two-storey dwelling which has previously been extended.
- 2.2 The rear elevation of the property forms the western boundary of the plot with large garden areas located to the east and south. Parking has been shown located around the existing circular track with additional areas available within the site although these appear currently overgrown.
- 2.3 The dwelling is located within a rural setting and along with a number of other sporadically sited properties.

3.0 PROPOSAL:

- 3.1 Permission is sought to change the use of the dwelling house (Class C3) to residential care home (Class C2). There are no proposed alterations to the external appearance of the building.
- 3.2 It is proposed that the site would provide care for up to a maximum of 5 young people *"requiring care and therapies to enable the children to develop family living, independence and social skills"*.
- 3.3 The supporting statement sets out that the children will be educated at one of the applicant's schools.
- 3.4 It is proposed that two members of staff will be on site at all times. Supporting information also states there *"could be further two or three members of staff attending the property at various times to support day-to-day activities"*.

- 3.5 6 no. off-street parking spaces are shown to be located around the existing circular 'drive' within the site. There is currently adequate space within the site to accommodate vehicular parking to required levels with limited works required to provide these spaces.
- 3.6 Internal reconfiguration of the dwelling is proposed resulting in retaining 7 bedrooms with provision for 5 children's rooms and 2 'live in' rooms. Information submitted with the application state that the property would be registered with Ofsted.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 1987/04334 Change of use from agricultural land to garden (extension of curtilage) *Granted conditionally*
- 1989/01453 Erection of extension to form sun lounge *Granted conditionally*
- 1998/90973 Erection of extension *Conditional Full Permission*

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 No negotiations have taken place. In response to representations a Supplementary Statement has been submitted. This was received on 29th June 2021 and the application re-publicised on this basis. Further information was received regarding parking, school arrangements and extra activities. All the children will attend a school located in Sowerby Bridge which is owned and operated by Compass and is registered with Ofsted.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).
- 6.2 The site is within the defined Green Belt within the Kirklees Local Plan.
- 6.3 Kirklees Local Plan (2019):
- LP1 – Achieving sustainable development
 - LP2 – Place shaping
 - LP7 – Efficient and effective use of land and buildings
 - LP22 – Parking
 - LP24 - Design
 - LP60 – The re-use and conversion of buildings
- 6.4 Supplementary Planning Guidance / Documents:
- Highways Design Guide SPD

6.5 Neighbourhood Development Plans:

The Holme Valley Neighbourhood Development Plan has reached an advanced stage of preparation and the independent Examiner's Report has been received. Although the plan has yet to be subject to a referendum in the affected area, it is a material planning consideration in decision making and weight has been attributed in accordance with NPPF (July 2021) paragraph 48.).

The emerging Policy relevant to this application, following receipt of the independent Examiner's Report which are to be put forward to referendum, including key considerations from these Policies, are:

Policy 2: Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design

"Proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers of land and buildings" and [proposals] "should protect and enhance local built character and distinctiveness and avoid any harm to heritage assets..."

6.6 National Planning Guidance:

- Chapter 2 – Achieving sustainable development
- Chapter 8 – Promoting healthy and safe communities
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was publicised in accordance with the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, the application was advertised via Neighbour Notification letter only.

7.2 Final publicity date: Tuesday 15th June 2021 – 41 representations received. As a result of a Supplementary Statement being received in response to comments raised via the consultation period, the information was re-advertised with the final revised publicity date being 16th July. Following this period a further 8 representations against the application have been received and 2 representations in support have been received.

- 7.3 Following re-advertisement of the additional information, the following is a summary of comments:

Objections

Highway/Pedestrian safety:

- Poor access
- Insufficient parking
- Dark roads as street lighting turned off at certain times
- No public transport links
- Appleton Quarry close to site and presents a serious danger for vulnerable children

Fear of crime:

- Antisocial behaviour
- Insecure setting
- Lack of police presence
- Not enough police for the area
- Community would not be supported or protected
- Cumberworth already has difficulties with crime due to rural location and distance from nearest police station

Residential Amenity:

- Noise nuisance from comings and goings
- Additional traffic caused by staff, visitors and habitants will cause severe disruption to the tiny community
- Large number of elderly residents within the area

Lack of provision of services/amenities

- No local amenities or recreation facilities
- Local schools already oversubscribed
- Not close to a medical centre, school or hospitals and is difficult for first responders to speedily access the location

Impact on character of the area:

- Location not suitable
- 6 no. parking spaces would result in a loss of vegetation thereby impacting on the character of the property and wider area
- Proposed use would be inconsistent with the character of the area and Local Plan Policy
- Concerned that police comments recommend 1.8m high fencing

Other:

- Site never used as a care home
- Occupants will be isolated
- De-valuation of property
- Concerns about livestock if field gates are left open
- Not 'a similar use' as previously the premises were used for mainly the elderly and not those suffering from mental health issues
- Inadequate staffing numbers
- Location is unsuitable to meet the developmental and welfare needs of the young people
- No site notice and limited neighbour letter distribution

Support

- Fully support the plans

Location/scale of development:

- 5 children are the size of a large family not the size of a detention centre
- Negative comments can't be from people directly affected by the proposed plans as only 2 residential houses have land that backs onto the property and there are 3 homes across the road.
- Believe that being away from towns and cities is the best way to help mental health and with the right support, it could benefit the children immensely
- Support a proposal to assist children who need and are fully deserving of a second chance in a place that can offer much needed stability
- No child should be denied the opportunity to experience the outdoors and calm the proposal offers

Occupants:

- The children are not dangerous criminals
- Need for residential housing for children is a national concern

Councillor comments

- Cllr Richard Smith (Kirkburton Ward) – worry that vulnerable young people are to be in a site which is extremely isolated and far away from many services which they may require. Additionally, there seems to be very little consideration given to what types of issues any local residents may encounter if the residents with behavioural issues are visiting neighbouring villages.
- Cllr Michael Watson (Denby Dale Ward) - isolated location of the property and to this end it would seem to be wholly inappropriate to grant consent for such a use in relation to this property.

7.4 In response to concerns raised by residents, the Agent has submitted a Supplementary Statement to address issues of concern. This was received on 29th June 2021. The points this statement sets out include:

- Some of the comments are not material planning considerations or relate to potential physical works that are not proposed within the application submission
- 2 no. examples of similar application submitted by Compass in Calderdale which were related to 6 no. young persons and not 5 as proposed within this application
- Technical consultees have not raised any in-principal objections to the proposal
- West Yorkshire Place DOCO has confirmed that they have spoken directly with the applicant and are not concerned
- Daily routine for the children will be similar to that of any child living in a family home with the objective of creating a stable and shared family living environment

- The home will be characterised by as those who are 'Overcoming Childhood Trauma' and is a programme dedicated therapeutic intervention that can be delivered to children and young people who have experienced complex trauma in early life, arising from a range of possible situations
- OFSTED also has an important role as the regulatory body for children's homes and inspects services providing education and skills for learners of all ages and regulates services that care for children and young people. Such registration can only be achieved if OFSTED is satisfied that an appropriate environment and management regime will be in place for the children to be cared for
- Fallback opposition is relevant as the site can already be used as a care home within C3 without the need for planning permission
- Proposed use will not give rise to any traffic or effects beyond those which could be generated by the current lawful use of the property and the Council's Highways DM Team has not raised any objection to the proposal.
- It is noted that the car parking spaces will need to be created
- Activity levels arising from the proposed use will be low-key and the existing lawful use as a large dwelling house or care home within Class 3 as the potential to generate the same level of activity (or more) as that from the proposed use
- It will be the children's residence and will be managed no differently than a more traditional family home and not an institutional setting but one that will provide a home environment for a small number of children who require support.
- It is important to note that the proposed use is residential both in character and in planning terms. Care homes are residential uses by definition and, therefore, compatible in planning terms with other forms of residential use.

7.5 Further to the comments above, the agent has submitted clarification as to school arrangements and details of education and activities outside of school. A small children's home is required to ensure that children are engaged in activities and both internal inspectors and OFSTED will require evidence that children are suitably engaged in a range of activities. The agent goes on to reference: *"Typically 'Life Books' are used to record the activities in which children participate. These are used not only as memory books and a positive record of the child's time living in the home, but are also maintained to demonstrate their activities and successes to OFSTED, as required by the Guide to Children's Homes Regulations including the Quality Standards of April 2015. Children are expected, as a minimum to engage in at least two clubs outside the home. That may be a football or other sports club, scouts, guides, Duke of Edinburgh, drama or any other club or society that children of their age would join...* In addition, children will be taken to other activities with their peers from the home, such as the cinema, the beach, horse riding, water sports and the like. During holidays, they will be taken on holiday. All of this is a mirror of a traditional family home, but with perhaps a greater emphasis on participation than some children undertake or are able to undertake."

7.6 Following re-advertisement of the additional information, the following is a summary of comments:

Objections

Highway/Pedestrian safety:

- Lack of sufficient access to the site at speed, which is accessed by small lanes, many of which are potholed, narrow, completely blocked by snow
- KC Highways DM consultation states “the proposal should not make any changes to servicing arrangement or increase in vehicle use”. This is profoundly wrong but is clearly founded on the mistaken basis that a C3 use is akin and no different to a C2 use which is incorrect

Location:

- Children deserve a chance in life but putting them out in the sticks isn't good for them
- Examples of previous applications which have been approved have been in positions closer to urban areas, or at least a skate park

Fear of crime:

- Unsafe for dozens of women and children using the area for walking, jogging, horse riding, cycling etc
- Supplementary information has not changed views on unsuitability of property as a care home for young people with complex emotional and behavioural issues
- Consultation with the residents from West Yorkshire Police was not carried out
- Police Designing Out Crime Officer should be re-consulted and asked to provide details of “this type of crime” in other locations in Kirklees with clear statistics of incidences and measurable information on the level of time, money and resources with the reasons for which are incurred by the Police in servicing this type of facility in the area
- As well as the material consideration of a genuine fear of crime, disorder, and anti-social behaviour, in granting the present application, it would again be in breach of its important legal duties under the Crime and Disorder Act 1998
- It is a key material consideration in the determination of this planning application, that the Council must have sufficient information to be confident that it has considered and is comfortable that it can discharge its legal duty under Section 17 of the Crime and Disorder Act 1998

Proposed Use:

- What is applied for is C2; distinct from C3 and therefore in legal and in planning terms significantly different and with different more pronounced planning effects than the allegedly present or previous C3 use. For the applicant to state and for the Council to assess and determine based on the misnomer that the operation applied for is “no different” to the existing one, is profoundly incorrect.
- Application is clearly deficient in information and the consultees are respectfully misguided and misunderstood on their present notions that a C2 is the same as a C3 use
- a more intensive use and level of care compared with the alleged present use is acknowledged and admitted. To state following the above that the proposal is compatible with LP7 and LP60 is baseless
- The proposed use in the application clearly engages the wide-ranging requirements of the Children Act. As there is an overriding responsibility on the

part of the Council for the safeguarding and welfare of children, it is surprising that the Council's relevant section has not been consulted or commented on the application which clearly impacts on the welfare of children

- A particularly important material consideration is that there cannot be sufficient certainty that the Council's duties under the Children Act 2004 are discharged
- Applicant has not in any way justified with reference to the NPPF why the more intensive C2 use would not impact on the openness of the Green Belt compared with current C3 use in this tranquil and peaceful location and would not preserve the openness of the Green Belt
- Applicant must submit very special circumstances for consideration

Other:

- Those who do not stand to make considerable financial gain should carry more weight
- Worrying trend that Compass are expanding so quickly in the current pandemic situation when site visits, community interaction and Ofsted visits are not as frequent or as thorough as they were pre-pandemic
- Planning policy has the words "strong safeguards to conserve and enhance" should not only apply to historical building but to communities
- Many of the arguments have been dismissed as "not a planning issue" when they are if they have a detrimental effect on the community
- Reputation of the Company is alarming when it comes to Ofsted
- The Council is invited to simply refuse the application in its present form. There is nowhere near the level of detail and clarity within the application or the consultation responses to sustainably approve the application. To do so would leave it open to legal challenge.

Site publicity:

- Question whether the Council have acted ultra vires in this application by not erecting signs on the local posts and only contacting a very few neighbours
- No information posted nearby and no letter. Apparent cover up by Kirklees has enhanced concerns about the nature of the proposed plans and had residents been properly notified there might have been less objection all round
- The Council's overwhelmingly usual method is notification and publicity by site notice (or 'lamp post') method. We are aware of no recent examples of letter-only method utilised by Kirklees Council in publicising planning applications
- The Council is invited to clarify and provide evidence of this position prior to determination of this application. Where publicity is deficient, then this application may not lawfully continue until such publicity formalities have been addressed by the Council

Support

- Large house and garden would be ideal for 5 children, and they would have access to sports and amenities in surrounding villages just as local children are
- Children should be given the chance
- The site has previously been used to support people in need over the years. An aspiration of the current occupant.
- The dwelling has been used for personal development workshops accommodating 6 vehicles periodically.
- The proposed use echoes aspirations of the former intermittent use.

7.7 Holme Valley Parish Council support the proposals.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None

8.2 Non-statutory:

West Yorkshire Police – raise no objections to the principle of the application in its current form. Advice passed to the applicant.

K.C. Highways Development Management – acceptable from a highway's perspective

K.C. Environmental Services – no objection subject to a condition requiring an electric vehicle charging point

Comments were invited from Housing Services – none received at the time of writing the report.

9.0 MAIN ISSUES

- Principle of development
- Visual amenity and character of the area
- Residential amenity
- Crime and anti-social behaviour
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

PRINCIPLE OF DEVELOPMENT

- 10.1 The general principle of the re-use and conversion of buildings in the Green Belt are assessed Policy LP60 of the Kirklees Local Plan and advice within the National Planning Policy Framework.
- 10.2 The National Planning Policy Framework specifies under para. 147 that inappropriate development should not be approved except in very special circumstances. Para. 150 emphasises that certain forms of development are not inappropriate development in the Green Belt provided that they preserve openness and do not conflict with the purposes of including and within it. One of the exceptions is the re-use of buildings provided that the buildings are of permanent and substantial construction. This is supported by Policy LP60 which details further the resultant scheme should not introduce incongruous domestic or urban characteristics into the landscape.
- 10.3 The building is permanent and substantial with no external alterations or extensions proposed. The Agent has confirmed within the Supplementary Statement that the car parking spaces would need to be created. A plan has been submitted to show the spaces located around the curved access track. It is considered that the required spaces can be accommodated with minimum

impact on the character of the site maintaining screening to these. A plan demonstrating these on the existing track through the site and adjoining driveway has been submitted. It is considered that any works to provide adequate access and parking need not be incongruous nor would any encroachment beyond existing areas of maintained space be required ensuring there would be no undue impact on the openness or character of the Green Belt.

- 10.4 As such, in terms of Green Belt policy, the principle of the re-use and conversion of the building would have negligible impact on the Green Belt and would maintain its openness and permanence as required by Local Plan Policy and the NPPF.
- 10.5 The proposed use falls into Class C2 (Residential Institute) to care for 5 children with 2 staff and up to 3 people visiting at times. It is considered that this would lead to a more intensive use than the existing with potentially 10 people occupying the dwelling at any one time and 7 overnight. Taking into account the potential traffic movements from visitors, school runs, and rota changes it is considered these would result in a material change in use from its current use as a residential property and as such requires planning permission.
- 10.6 A high level of representations has been received objecting to the principle of development, especially with regard to the remote location, lack of policing and lack of local amenities in the area. It is recognised that the use of the site will be in an area of sporadic development and would be predominantly reliant on private vehicles due to the location of the school that the children will attend and organisation of extra activities associated with the development. This mode of transport would be that required for any occupiers of the site, be this as a 7-bedroomed family home or for the care home now proposed given the level of local amenities in the immediate area. Although recognising the application is a material change of use, taking into account the potential similarities between the site being used as a large family home and that proposed within the application it is considered that the location of the site could not be sustained as a material reason to prevent the development.
- 10.7 A children's care home falls under Use Class C2 (Residential Institution). Other uses within Class C2 are hospitals, nursing homes, residential colleges and boarding schools. It is noted that one of the Council's Strategic Objectives is to *"Tackle inequality and give all residents the opportunity of a healthy lifestyle, free from crime and to achieve their potential in work and education."* This application will support this aim.
- 10.8 It must also be noted that Class C2 is a different Class to C2a (Secure Residential Institutions) which includes young offenders' institution, detention centre, short term holding centre and prisons. The use proposed here falls clearly into Class C2.
- 10.9 The proposal has been accompanied by a Planning Statement which cites that the home would provide for up to 5 young people, will be registered with OFSTED and that two members of staff will be on site at all times. It continues to cite that the daily operation of the home *"will be no different to that of a large dwellinghouse with young persons coming and going for educational purposes and the adults coming and going for work purposes on a shift pattern"*.

- 10.10 Whilst the application proposes a material change of use of the site the building is of substantial construction to accommodate this. The intensification will not introduce incongruous domestic or urban characteristics into the landscape, would not result in inappropriate development in the Green Belt and as such in principle can be supported.
- 10.11 The application is further assessed upon its own merits and other planning considerations such as access/parking, anti-social behaviour, access and residential amenity.

VISUAL AMENITY AND CHARACTER OF THE AREA

- 10.12 The essential characteristics of the Green Belt are their openness and permanence. The reuse of buildings in the Green Belt need not be inappropriate provided that openness and character is maintained.
- 10.13 There are no proposed alterations to the external appearance of the building with works to provide suitable accommodation being internal only. Representations have been made that the proposal would not be in keeping with the character of the area. The character of the area is that of a detached dwelling set within substantial grounds with some existing areas maintained for access and parking. It is not considered that this character is altered to the extent that it would have a greater impact on openness. Whilst a more intensive use may result in a greater number of people at and/or visiting the property thereby representing a material change of use, it is not considered that the use of the building either as a dwelling house or a small care home would be significantly different in physical terms. It is noted that the site would accommodate 6 vehicles, but it is considered this provision can be facilitated by utilising existing maintained areas thereby minimising any impact. Officers have received a plan to show the spaces accommodated around the existing circular access track. It is anticipated that any minor works that may be required to provide the parking shown would not have such a significant impact so as to adversely affect the openness of the Green Belt or the general visual amenity of the area. The development proposals would therefore be in accordance with Policies LP24 and LP60 of the Local Plan.

RESIDENTIAL AMENITY

- 10.14 Comments have been received with regards to noise disturbance from the comings and goings to the property associated with the proposed use. The property is a large detached dwelling set within its own grounds and parking will be provided within the curtilage. The Supplementary Statement cites that the children would be educated off-site and taken to and from school as would occur in a family setting and therefore during the day, activity levels will be minimal. Out of school the young people will not be allowed to explore the area unsupervised. The Statement goes on to say that the residence will be managed no differently than a traditional family home and will provide a home environment for a small number of children who require support, set within its own grounds and setting.
- 10.15 During periods of holiday it is understood that the children remain engaged in structured activities. The agent has stated that *"a small children's home is required to ensure that children are engaged in activities and both internal inspectors and OFSTED will require evidence that children are suitably*

engaged in a range of activities. Children are expected, as a minimum, to engage in at least two clubs outside the home. That may be a football or other sports club, Scouts, Guides, Duke of Edinburgh, drama or any other club or society that children of their age would join. This is a very successful part of the care model for children in such homes and is a way for children from the home to engage with others and vice versa. In addition, children will be taken to other activities with their peers from the home, such as the cinema, the beach, horse riding, water sports and the like. During holidays, they will be taken on holiday. All of this is a mirror of a traditional family home, but with perhaps a greater emphasis on participation than some children undertake or are able to undertake." It is recognised that these activities will require organisation and generate traffic movements associated with them. Due to the location of the site and the scale of the development it is not considered that there would be any detriment to residential amenity as a consequence. The nearest residential properties are located opposite Wall Nook Road at around 10 metres.

- 10.16 K.C. Environmental Health (Pollution and Noise) Officers have been consulted on the scheme and raise no concerns regarding noise. As such, it is not considered that there would be a significantly greater impact from noise and disturbance over and above the existing use of the building as a large family dwelling. Based on the above, officers are satisfied that an acceptable level of amenity would be retained at the neighbouring properties. This would be in accordance with Policies LP24 and LP52 of the Kirklees Local Plan and Policy 2 of the emerging HVNP.
- 10.17 There are no proposed alterations to the external appearance of the building and no extensions proposed. There would not be any greater impact on any nearby occupants from overlooking or a loss of privacy as a result of the proposed use particularly when taking into account the existing use of the building. Access to the site exists and parking can be accommodated within the site and as such will not result in any greater impact to residential amenity. The application is considered on its merits as to the acceptability of the site for the development proposed. It is considered that the occupation of the site for the use proposed will not result in any undue loss of residential amenity as a consequence of noise pollution or due to activities at the site.

CRIME AND ANTI-SOCIAL BEHAVIOUR

- 10.18 The fear of crime is a material planning consideration. Paragraphs 92 (Chapter 8) and 130 (Chapter 12) of the NPPF state that decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. In addition and under Section 17 of the Crime and Disorder Act, the Council acting as Local Planning Authority has an obligation to have due regard to the likely impact upon, and to do all it reasonably can to prevent, crime and disorder. A number of comments received refer to crime, the fear of crime and anticipated anti-social behaviour associated with the use and issues with policing.
- 10.19 Whilst the issues raised regarding crime and anti-social behaviour are acknowledged, it is not the remit of the planning system to control who is housed or how care homes are run. Notwithstanding this, the applicant has detailed the home would be staffed by care workers and that the home would

be registered with OFSTED and this can only be achieved if OFSTED is satisfied that an appropriate environment and management regime will be in place for the children to be cared for. It is acknowledged that the additional information submitted by the applicant may not eliminate local anxiety and fear, however, it is considered that the actual and perceived risk to public safety would not carry sufficient weight to warrant the refusal of the application. Members should also note that the proposal is not for a secure residential institution (C2A Use Class) where children are being held for having caused a crime.

- 10.20 West Yorkshire Police have been formally consulted as part of the application process. There are a number of this type of care home in the Kirklees district. The Designing Out Crime Officer has confirmed that the Missing Persons Co-Ordinator has been in touch with the applicants directly to discuss the accommodation and occupants. The comments state that due to the requirements of the young residents, it is not considered to be of concern to the police.
- 10.21 In conclusion, whilst a fear and anxiety of crime and anti-social behaviour has been generated by this application, it is not the planning system which regulates who would be housed in the care home and the management of it. It could also equally be the case that the children in care do not cause these concerns. Furthermore, it could be that individuals that would be accommodated could reside in any typical residential dwelling. It is considered that the scale and nature of the proposal is not likely to result in any additional anti-social/criminal behaviour than what could be generated by the existing residential dwelling. There is an independent body (OFSTED) required to register the home. Formal consultation has taken place with West Yorkshire Police who have, in turn, been in contact with the applicants directly. No objections have been received. Therefore, whilst the concerns raised are acknowledged and would not be welcomed, it is considered, that the arguments do not carry sufficient evidence and weight in planning terms to warrant a refusal of the application.

HIGHWAY ISSUES

- 10.22 The proposal will use an existing access onto the quiet rural road of Wall Nook Lane. The current dwelling contains seven bedrooms, for which Highways DM would require three or four off-street parking spaces and would expect vehicle movements to reflect those numbers. The Planning Statement submitted by the applicant explains that there will be two members of staff on-site at all times with the potential for two or three additional staff being on-site throughout the day. As such, Highways DM would expect there to be off-street parking spaces at a rate of one per three staff plus one per six children. The requirement for off street parking is therefore at a very similar level, potentially three spaces for a dwelling, and three spaces for this proposal (two for six staff and one for five children).
- 10.23 Whilst it is acknowledged that there may be some additional vehicle movements throughout the day given the nature of this proposal compared to a family home, Wall Nook Lane and the nearby junctions are well below capacity, even at peak times, and the local roads can easily accommodate any potential increase created by the proposal. The minimal increase would be so insignificant as to be unnoticeable on the general highway network.

- 10.24 There have been no reported injury accidents on Wall Nook Lane since the historic records began 22 years ago, and only one slight injury accident reported at the “five lane ends” junction some 15 years ago. Again, the minimal increase in vehicle movements would be unlikely to have any significant impact on highway safety in the vicinity.
- 10.25 As with almost all roads of this rural nature, Wall Nook Lane does not benefit from a footway for pedestrians. However, the excellent safety record of Wall Nook Lane and the rural nature of the area would mean a footway would not be in-keeping with the local region, particularly as the majority of pedestrians are likely to be those walking for pleasure and therefore choosing to use this route regardless of pedestrian facilities, rather than people walking with a specific purpose of getting from one destination to another. In general most children are supported most of the time in addition to being chaperoned to activities and therefore unlikely to be unaccompanied thereby reducing concerns regarding pedestrian safety.
- 10.26 Similarly, drivers would not expect a rural, unclassified road to be furnished with a system of street lighting unless there was a specific hazard ahead. This is the reason the “five lane ends” junction benefits from a single street light to aid drivers and alert them to the junction from dusk until dawn.
- 10.27 In conclusion, the proposed amount of off-street parking is commensurate with the guidance set out in the Highway Design Guide SPD and the more prescriptive, superseded Parking Standards document. Any increase in vehicle movements would not give rise to a severe impact on highway safety, and Highways DM officers would therefore not raise objection to the scheme on these or any other grounds. The application proposals are in accordance with Policies LP21 and LP22 of the Kirklees Local Plan.

REPRESENTATIONS

- 10.28 Comments received are addressed below:

Objections:

Highway & pedestrian safety:

- Poor access/lack of sufficient access

Response: Highways Development Management have raised no concerns with regard to highway safety

- Dark roads as street lighting turned off at certain times

Response: Noted

- No public transport links

Response: It is recognised that the use would be reliant upon private vehicles for transport.

- Additional traffic caused by staff, visitors and habitants will cause severe disruption to the tiny community

Response: Highways Development Management and Environmental Services have raised no concerns with the proposal in terms of additional traffic and disruption

- Insufficient parking

Response: Highways Development Management have raised no concerns with the proposal

- KC Highways DM consultation states “the proposal should not make any changes to servicing arrangement or increase in vehicle use”. This is profoundly wrong but is clearly founded on the mistaken basis that a C3 use is akin and no different to a C2 use which is incorrect

Response: The proposed use is not considered to intensify the use to such an extent to require any changes to servicing.

Location:

- No local amenities or recreation facilities

Response: A family home would be similarly reliant on amenities and services and the proposed use does not differ in this respect. The applicants have set out the requirements in terms of activities and its management and organisation that will be responsible for ensuring the occupants seek opportunities.

- Location not suitable

Response: This is a matter of opinion and not based on planning evidence. The application has been assessed on its merits.

- Occupants will be isolated

Response: This is not a material planning consideration and therefore no comments are offered.

- Location is unsuitable to meet the developmental and welfare needs of the young people

Response: This is not a material planning consideration and therefore no comments are offered

- Not close to a medical centre, school or hospitals and is difficult for first responders to speedily access the location

Response: The site is accessible being located on a main road. The occupants will be driven to and from school, the proximity to other services is the same as for residential occupiers of dwellings in the area.

Fear of crime:

- Large number of elderly residents within the area

Response: Fear of crime is a material consideration addressed within the report.

- Insecure setting

Response: The application is for a C2 care home and not a C2A Secure Residential Institution and has been assessed accordingly

- Site never used as a care home

Response: The use has been assessed on its own merits within the report.

- Fear of crime

Response: West Yorkshire Police have raised no concern with regards to the proposal at this time and the application has been assessed taking into account crime and anti-social behaviour.

- Not enough police for the area

Response: This is not a material planning consideration and therefore no comments are offered

- Anticipated anti-social behaviour

Response: West Yorkshire Police have raised no concerns regarding the proposal at this time and the application has been assessed taking into account crime and anti-social behaviour.

- Lack of police presence

Response: This is not a material planning consideration and therefore no comments are offered

- Community would not be supported or protected

Response: The application has been assessed taking into account crime and anti-social behaviour.

- Cumberworth already has difficulties with crime due to rural location and distance from nearest police station

Response: Noted

- Appleton Quarry is close to the site and presents a serious danger for vulnerable children

Response: The application has been assessed on its merits and is not considered to be impacted by the operations of the quarry.

- Unsafe for dozens of women and children using the area for walking, jogging, horse riding, cycling etc

Response: Fear of crime is a material planning consideration that has been addressed in the main body of the report.

- Supplementary information has not changed views on unsuitability of property as a care home for young people with complex emotional and behavioural issues

- Response: Fear of crime is a material planning consideration that has been addressed in the main body of the report.

- Consultation with the residents from West Yorkshire Police was not carried out
Response: Fear of crime is a material planning consideration that has been addressed in the main body of the report including consultation with West Yorkshire Police

- Police Designing Out Crime Officer should be re-consulted and asked to provide details of “this type of crime” in other locations in Kirklees with clear statistics of incidences and measurable information on the level of time, money and resources with the reasons for which are incurred by the Police in servicing this type of facility in the area

- Response: Fear of crime is a material planning consideration that has been addressed in the main body of the report. The Designing Out Crime Officer has been consulted and has liaised with the Missing Persons Co-Ordinator who has in turn discussed the application directly with the applicant and it is considered that their response is sufficient to consider the application.

- As well as the material consideration of a genuine fear of crime, disorder, and anti-social behaviour, in granting the present application, it would again be in breach of its important legal duties under the Crime and Disorder Act 1998

- Response: The application has been assessed on its planning merits. Fear of crime is a material planning consideration that has been addressed in the main body of the report.

- It is a key material consideration in the determination of this planning application, that the Council must have sufficient information to be confident that it has considered and is comfortable that it can discharge its legal duty under Section 17 of the Crime and Disorder Act 1998

Response: The application has been assessed on its planning merits. Fear of crime is a material planning consideration that has been addressed in the main body of the report.

Residential amenity:

- Noise nuisance from comings and goings

Response: This has been addressed within the residential amenity section of this report

- Additional traffic caused by staff, visitors and habitants will cause severe disruption to the tiny community

Response: Traffic movements associated with the property are not considered to raise any undue concerns regarding to residential amenity.

- Large number of elderly residents within the area

Response: The application is not considered to result in any loss of amenity.

Impact on character of the area:

- Location not suitable

Response: The application has been assessed on its merit.

- 6 no. parking spaces would result in a loss of vegetation thereby impacting on the character of the property and wider area

Response: The spaces can be accommodated within the site without any significant impact on openness or character of the site.

- Proposed use would be inconsistent with the character of the area and Local Plan Policy

Response: The application is assessed on its merits and is considered to meet policy in the Local Plan and NPPF.

- Concerned that police comments recommend 1.8m high fencing

Response: The property in its current C3 Use has permitted development rights to erect fences up to 2 metres high on any boundary which isn't adjacent a highway. The comments are advisory to the applicant and it is not considered that any conditions will be imposed in this respect.

Proposed use:

- Local schools already oversubscribed

Response: This is not a material planning consideration and therefore no comments are offered.

- Proposed use would be inconsistent with the character of the area and Local Plan Policy

Response: The application has been assessed upon both local and national Policy

- Not 'a similar use' as previously the premises were used for mainly the elderly and not those suffering from mental health issues

Response: The application has been assessed on its own merits as a material change of use from a dwelling to a care home.

- Inadequate staffing numbers

Response: This is not a material planning consideration and therefore no comments are offered

- To provide 6 no. parking spaces is optimistic and information misleading and to be achieved mature trees, shrubs and bushes would need to be cleared which would change the character of the property and wider area

Response: The property currently has permitted development rights with regards to the creation of hard standings and therefore these could be created without the requirement of planning permission, in addition, there are no Tree Preservation Orders within the site that would protect any soft landscaping from being removed.

- What is applied for is C2; distinct from C3 and therefore in legal and in planning terms significantly different and with different more pronounced planning effects than the allegedly present or previous C3 use. For the applicant to state and for the Council to assess and determine based on the misnomer that the operation applied for is "no different" to the existing one, is profoundly incorrect.

Response: The application has been assessed on its merits as a change of use to C2 from Class C3 dwelling.

- Application is clearly deficient in information and the consultees are respectfully misguided and misunderstood on their present notions that a C2 is the same as a C3 use a more intensive use and level of care compared with the alleged present use is acknowledged and admitted. To state following the above that the proposal is compatible with LP7 and LP60 is baseless

Response: The application has been assessed on its merits as a change of use to C2.

- The proposed use in the application clearly engages the wide-ranging requirements of the Children Act. As there is an overriding responsibility on the part of the Council for the safeguarding and welfare of children, it is surprising that the Council's relevant section has not been consulted or commented on the application which clearly impacts on the welfare of children

Response: Comments have been invited but none forthcoming. The Council's role in safeguarding children is distinct from that as Local Planning Authority in the determination of planning applications.

- A particularly important material consideration is that there cannot be sufficient certainty that the Council's duties under the Children Act 2004 are discharged

Response: This is a planning application that has been assessed as such. It does not fall within the remit of planning legislation to consider the discharge of duties under the Children Act.

- Applicant has not in any way justified with reference to the NPPF why the more intensive C2 use would not impact on the openness of the Green Belt compared with current C3 use in this tranquil and peaceful location and would not preserve the openness of the Green Belt

Response: Officers have assessed the application. The building can be reused without any material impact on openness as outlined in the report. The site can accommodate vehicles associated with the use without significant impact on openness or character. Similar to accommodating vehicles associated with a large family residence.

- Applicant must submit very special circumstances for consideration

Response: The application has been assessed taking into account Policy LP60 and Chapter 13 of the NPPF. It is not considered that the development is inappropriate and as such very special circumstance need not be demonstrated.

Other:

- De-valuation of property

Response: This is not a material planning consideration and therefore no comments are offered

- Concerns about livestock if field gates are left open

Response: This is not a material planning consideration and therefore no comments are offered

- Those who do not stand to make considerable financial gain should carry more weight

Response: The application is assessed on planning merit.

- Worrying trend that Compass are expanding so quickly in the current pandemic situation when site visits, community interaction and Ofsted visits are not as frequent or as thorough as they were pre-pandemic

Response: This is not a planning matter

- Planning policy has the words “strong safeguards to conserve and enhance” should not only apply to historical building but to communities

Response: The application has been assessed on its merit. It would not impact on the significance of historic buildings or, more generally, the visual amenity of the area.

- Many of the arguments have been dismissed as “not a planning issue” when they are if they have a detrimental effect on the community

Response: Material planning matters have been assessed as part of the consideration of the application proposals as set out

- Reputation of the Company is alarming when it comes to Ofsted

Response: The application has been assessed on its planning merit. This cannot take into account who the applicant is/the applicant's background

- The Council is invited to simply refuse the application in its present form. There is nowhere near the level of detail and clarity within the application or the consultation responses to sustainably approve the application. To do so would leave it open to legal challenge.

Response: The application is accompanied with sufficient information to enable it to be assessed and a recommendation to be put forward for consideration.

Site publicity:

- Question whether the Council have acted ultra vires in this application by not erecting signs on the local posts and only contacting a very few neighbours
- No information posted nearby and no letter. Apparent cover up by Kirklees has enhanced concerns about the nature of the proposed plans and had residents been properly notified there might have been less objection all round
- The Council's overwhelmingly usual method is notification and publicity by site notice (or 'lamp post') method. We are aware of no recent examples of letter-only method utilised by Kirklees Council in publicising planning applications
- The Council is invited to clarify and provide evidence of this position prior to determination of this application. Where publicity is deficient, then this application may not lawfully continue until such publicity formalities have been addressed by the Council
- No site notice and limited neighbour letter distribution

Response to the above: The application was advertised undertaking the legal statutory publicity requirements as set out in Table 1 in the Kirklees Development Management Charter and the notice on the website regarding 'planning applications during the coronavirus outbreak'. As such the application was advertised by letters to neighbouring properties. A total of 12 no. neighbour letters were sent by this method.

Support:

- Large house and garden would be ideal for 5 children, and they would have access to sports and amenities in surrounding villages just as local children are

Response: The application proposes a material change of use and has been assessed on that basis.

- The children are not dangerous criminals/Children should be given the chance
- Response: Kirklees Council's Core Values includes having the “best start” and aims for better outcomes for vulnerable children. The proposed use would assist in meeting this aim.

- The site has previously been used to support people in need over the years. An aspiration of the current occupant.

Response: The former use is not material to the determination of the application as it has remained as C3 dwelling

- The dwelling has been used for personal development workshops accommodating 6 vehicles periodically.
Response: The former use is not material to the determination of the application as it has remained as C3 dwelling
- The proposed use echoes aspirations of the former intermittent use.
Response: Noted
- Need for residential housing for children is a national concern
Response: The application has been assessed on its merits

Other matters:

- 10.29 On 12th November 2019, the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Due to there being to no physical alterations to the property, no specific mitigation measures are required. However, permeable surfacing is required for external spaces to be used by vehicles. This contributes to the aims of climate change.

- 10.30 Environmental Services have commented on the proposal with specific regard to air quality. The comments received state that an application of this nature, should provide facilities for charging electric vehicles and other ultra-low emission vehicles and provided in accordance with the NPPF and Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group. It is therefore requested that should the application be granted permission that a recharging point is required.

11.0 CONCLUSION

- 11.1 The proposal would beneficially provide a home for children in need of care. The existing building is of substantial and permanent construction and requires only internal alterations and formalisation of parking spaces to facilitate the accommodation of up to 5 young people plus 2 staff for use as a care home. As such the development would not be inappropriate in the Green Belt in accordance with Policy LP60 and the NPPF Chapter 13.
- 11.2 Whilst a significant number of objections have been received that raise concerns regarding the impact on residential amenity, the character of the area and on parking and highway safety, it is considered due to the small scale nature of the proposed care home there would not be a significant detrimental impact on these issues.

- 11.3 Furthermore, an increase in levels of crime, vandalism and anti-social behaviour have been raised and the impact this would have on the community. These are material considerations which have been addressed in the report. Whilst these issues would not be welcomed, it is not the remit of the planning system to control who is housed or how care homes are run. Notwithstanding this, the applicant has detailed the home would be staffed by care workers and the home would be registered with OFSTED. It is acknowledged that the additional information submitted by the applicant may not eliminate all of the local anxiety and fear, however, it is considered that the actual and perceived risk to public safety would not carry sufficient weight to warrant the refusal of the application.
- 11.4 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and it is, therefore, recommended for approval.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

1. Development to commence within 3 years
2. In accordance with plans
3. Use as C2 for up to 5 young persons
4. Parking spaces created prior to being brought into use
5. Permeable surfacing for parking spaces
6. Electric vehicle charging point

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91682>

Certificate of Ownership – Certificate B signed