
Report of the Head of Planning and Development

DISTRICT-WIDE PLANNING COMMITTEE

Date: 31-Oct-2024

Subject: Planning Application 2024/91907 Change of use of dwelling (C3) to children's residential home (C2) 18, Kingfisher Way, Dewsbury, WF12 7DN

APPLICANT

Aysha Garda, Empower
U Yorkshire

DATE VALID

28-Aug-2024

TARGET DATE

23-Oct-2024

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.

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Dewsbury East

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 is brought to the District Wide Planning Committee due to receiving a significant number of representation contrary to officer recommendation in accordance with the Council's Scheme of Delegation. 30 representations have been made in total, 27 in objection, with 3 comments in support.
- 1.2 The Chair of the Sub-Committee has confirmed that the reason for referring the application to committee is valid having regard to the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site relates to a mid-terrace, three-storey property in Dewsbury. The dwelling is a modern residential dwelling with a modest residential garden to the rear and double driveway to the front of the property. The property sits within a modern, residential housing estate with properties that are similar in terms of age and appearance.
- 2.2 The site is allocated for housing within Kirklees Local Plan, however it is noted that the site allocation has received planning permission and dwellings have been constructed.

3.0 PROPOSAL:

- 3.1 The application is seeking permission for a change of use of dwelling (C3) to children's residential home (C2).
- 3.2 Use Class C2 is a planning use class that refers to residential institutions, such as hospitals, nursing homes, care homes.
- 3.3 Although a Planning Statement has not been included within the submitted information, the applicant has supplied details to Officers of the care facilities that will be provided on the site, which include the following:
- There would be a maximum number of 2 children on site, with round the clock care assistance, at all times.

- Care would be provided by 2 supervisors during daytime hours with 1 supervisor during nighttime hours.
- Shift patterns for supervisors would run 10am to 10pm – 10pm to 10am.
- Should a child be picked up or dropped off at the care home, this will occur within daytime hours.
- The rear outdoor garden will be used for respite during daylight hours only.
- Lights will be turned off at 11pm.
- There are curfews set for each child that will be dependent on the age of the child and their care plan.
- Children may be allowed independent time in the community, which will be monitored by staff through a curfew, contact via a mobile phone and spot checks if necessary.
- There may at times be visits from a social worker, that typically take places no more than once a month.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 No specific history related to this site apart from the original permission for the housing allocation, which has been fully implemented.

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

- 5.1 Officers sought further information regarding the use of the children's care home. This included the details stated above, such as the number of children on site, number of staff present on site at any time, arrival/drop off times and use of the outdoor space.

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).

Kirklees Local Plan (2019):

- 6.2 **LP1** – Achieving sustainable development
LP2 – Place shaping
LP21 – Highways and access
LP22 – Parking
LP24 – Design
LP30 – Biodiversity and Geodiversity

Supplementary Planning Guidance / Documents:

- 6.3 Biodiversity Net Gain Technical Advice Note
Highways Design Guide SPD
Crime and Disorder Act 1988

National Planning Guidance:

- 6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.
- 6.5 The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.
- Chapter 2 – Achieving sustainable development
 - Chapter 8 – Promoting healthy and safe communities
 - Chapter 9 – Promoting sustainable transport
 - Chapter 12 – Achieving well-designed and beautiful places
 - Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by neighbour notification letters and online. Final publicity expired on 2nd October 2024.
- 7.2 30 representations were received, 27 in objection and 3 as comments in support. They raised the following comments:

Objections

- Properties in the area are designed for residential homes only.
- There is a covenant with the developer that agrees to this, converting it voids this and disrupts the area negatively.
- The change would likely create a lot more noise and disturbance from the workplace created by the change.
- Increase in disturbances to the local vicinity, from coming and going to the address.
- The house is attached to others and seems to be a middle terrace property, so this would more than likely be disruptive for direct and surrounding neighbours
- Additional risk of anti-social behaviour and damage to properties.
- Along with property values falling and insurance costs increasing.

- Increased traffic in the area, current parking issues will be exacerbated including blocking footpaths and parking on junctions.
- Addition impact to parking would create access issues for emergency services.
- The garden is small and not ideal for numerous children.
- It would decrease the value and would affect future remortgage and sale of neighbouring properties.
- The size of the property is not suitable for the provision of childcare with carers.
- There is a police presence and anti-social behaviour within the area, which is not safe for vulnerable children.
- There are no play areas on the estate. If the child wanted to play out, they would need to be under constant supervision as to not express any negative behaviours towards any property/land/people on the estate
- The business is not well established.
- The applicant has stated that locks will be installed to bedrooms, cupboards etc inside the proposed property, this causes concern and upset for neighbouring properties / residents as it suggests the children being housed in this property may have challenging behaviour.

Support

- The council are in dire need of homes for vulnerable children and young adults.
- The property has 2 parking bays assigned to it so parking is not as issue.
- The antisocial behaviour related to other homes on the estate which has nothing to do with this property and people.

7.4 These comments will be addressed in section 10.33 of this report.

8.0 CONSULTATION RESPONSES:

8.1 KC Highways Development Management – No objections.

8.2 KC Environmental Health – No comment

9.0 MAIN ISSUES

- Principle of Development
- Impact on Visual Amenity
- Impact on Residential Amenity
- Crime and Anti-Social Behaviour
- Impact on Highway Safety
- Environmental Matters
- Representations
- Conclusion

10.0 APPRAISAL

Principle of Development

10.1 The site is allocated for housing development; it is noted that the purposes of the allocation have been fulfilled. Policy LP1 states that 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. LP1 goes on further to stating that:

“The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

10.2 Policy LP2 of the Kirklees Local Plan sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan.

10.3 The Local Plan has no policies specifically relating to care homes. Therefore, there is no presumption against such a use. The principle of the proposal upholds the aims of the NPPF in terms of addressing the needs of groups with specific housing requirements.

10.4 In terms of changing the use of the building, Policy LP24 of the Kirklees Local Plan is relevant in conjunction with Chapters 8 and 12 of the NPPF taking into account the character of the area, the amenities of neighbouring properties, highway safety and ensuring the safe operation of the home and community cohesion.

10.5 Therefore, in this case, the principle of the use of the building is considered acceptable and the development shall be considered against all other material considerations including the character of the area, residential amenity and highway safety.

Impact on Visual Amenity

10.6 Policy LP24 of Kirklees Local Plan and Chapter 12 of the NPPF set out that development should be of an acceptable design.

- 10.7 The site currently hosts a residential dwelling with garden space and a driveway. There is no proposed change to the exterior of the dwelling or its outdoor area. Notwithstanding the change of use, there will therefore be no visual changes to the site. It will therefore retain its residential appearance.
- 10.8 The property is already fitted with CCTV and a burglar alarm which are visible on the front elevation of the building. No further electronic devices or signage will be placed on the building because of the change of use.
- 10.9 Internal layout plans are suggestive of a residential building with 3 bedrooms, a living room and kitchen. The internal configuration of the accommodation shall remain unchanged since the erection of the dwelling. Locks will be fitted to the bedrooms for privacy.
- 10.10 It is proposed that the building would accommodate up to 2 adults with 2 staff members in attendance at the property during maximum capacity.
- 10.11 Staff arriving and departing from the property is not considered to result in a change to the character of the area due to the limited number of staff in attendance. There may be at times a number of other professional staff required to be in attendance at the property due to the nature of the change of the use of the building, any additional visitors would not be considered to be dissimilar in nature to the current use of the building as a residential dwelling.
- 10.12 Amenity space is to the rear of the property and is retained and enclosed with a timber fence.
- 10.13 It is not considered the proposed change of use would cause harm to visual amenity where there would be sufficient justification to refuse the application on the basis of impact on visual amenity on both the property itself or the wider street scene.
- 10.14 It is therefore considered that the proposed works would accord with Policy LP24 and advice within Chapter 12 of the NPPF.

Impact on Residential Amenity

- 10.15 Further to this, Paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.
- 10.16 The proposal indicates the internal accommodation would be retained as existing with no enlargements to the building itself. As such, it is not considered that to change the use of the dwelling would result in impacts from overshadowing, overlooking or from being overbearing.
- 10.17 The internal configuration of the building indicates the property will have 3 bedrooms with a lounge area, kitchen and 3 no. bathrooms/ensuite. All habitable rooms on the plans have window openings and therefore it is considered that there is adequate natural light for future occupiers.

- 10.18 The plans do not provide details of specific 'staff' facilities. The applicant confirmed 'overnight staff' would have accommodation and sleeping facilities in one of the bedrooms and there would be separate washrooms for staff and children, the kitchen would be available for everyone.
- 10.19 It is not considered that a change of use from a dwellinghouse to a care home would result in significant noise or disturbances to neighbouring properties to an unacceptable degree over and above what would be expected from a residential property within a residential area, in this case.
- 10.20 Having considered the above, the development is not considered to result in any significant adverse impact upon residential amenity of any surrounding neighbouring residential properties, complying with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

Crime and Anti-Social Behaviour:

- 10.21 The fear of crime is a material planning consideration. Chapters 8 and 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 to not undermine the quality of life or community cohesion. In addition, and under Section 17 of the Crime and Disorder Act 1988, 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.
- 10.22 Chapter 8 of the NPPF states that planning decisions should achieve healthy, inclusive and safe places which are accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. This is further reiterated under Chapter 12 of the NPPF which goes on further to state that planning decision should create spaces that are safe, inclusive and accessible which promote health and wellbeing, with a high standard of amenity for existing and future users and where crime and disorder and the fear of crime to not undermine the quality of life or community cohesion and resilience.
- 10.23 Policy LP1 of the Kirklees Local Plan forms a provision for development which do not have specific policies to ensure that permission can be granted unless there are material considerations including adverse impacts, which the potential for crime and disorder would be a significant factor, where the adverse impact would outweigh the benefits.
- 10.24 It is considered, given the nature of care provided, that the care facility has suitable and adequate measures to prevent a material decrease to the quality of life of residents. A staff to child ratio of 1:1 is suitable for preventing unsociable activities from arising. The care facility is not dissimilar from a family unit in its operation. In terms of the character of the area, the area is residential, close to green spaces. It is not considered to be an unsuitable location for childcare. It is therefore considered that the use of the buildings as a care facility would not cause concerning levels of crime and anti-social behaviour or be an unsuitable location for a care home.

Impact on Highway Safety

10.25 Local Plan Policy LP21 states that '*All proposals shall:*

a. ensure the safe and efficient flow of traffic within the development and on the surrounding highway network...

e. Take into account the features of surrounding roads and footpaths and provide adequate layout and visibility to allow the development to be accessed safely;'

10.26 This is supported by Chapters 9 and 12 of the NPPF and guidance within the Highways Design Guide SPDs. KC Highways Development Management (KC HDM) have also been consulted as part of this application.

10.27 There is not considered to be a material difference to the current parking situation of the building. The property currently benefits from 2 off-street parking spaces to the front of the property, which is more than sufficient to accommodate for the total number of supervisors present during shift patterns.

10.28 There may be times when additional vehicles will arrive on time, such as at drop off times and when associated professionals visit. Parking can be accommodated adjacent to the driveway without impeding neighbouring driveways. In addition, Kingfisher Way can accommodate off-street parking.

10.29 The number of visitors is not considered to be over and above what would reasonably be expected from a property in C3 use. Care plans that relate to the number of professionals will be provided on a child-by-child basis. Social workers are likely to visit the site once a month. The type of care provided is suitable for long-term, permanent stays, limiting the frequency of drop-off periods.

10.30 It is therefore considered that the proposal would not cause significant detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

Environmental Matters

Ecology

10.31 A Biodiversity Net Gain (BNG) of 10% for developments is a mandatory requirement in England under the Environment Act 2021, subject to some limited exceptions. Unless exempt, every planning permission for minor sites granted pursuant to an application submitted after 02 April 2024 is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted and approved by the local planning authority prior to commencement of the development.

10.32 The applicant has stated the application falls under the '*Di-Minimus*' exemption category within the application forms. A change of use would not result in a loss of wildlife habitat. Therefore, the officer agrees, the application is exempt from a BNG uplift.

Representations

10.33 The application was advertised by neighbour notification letters and online. Final publicity expired on 2nd October 2024.

10.34 30 representations were initially received, 27 in objection and 3 letters in support comments. They raised the following comments:

It has been considered whether the objections brought forward would have a material weight to the decision for planning permission.

Objections

10.35

Visual Amenity

- Properties in the area are designed for residential homes only.

Officer Comment: The residential character of the building will be retained, there will be no external changes to the appearance of the property because of the change of use.

Residential Amenity

- The change would likely create a lot more noise and disturbance from the workplace created by the change.
- Increase in disturbances to the local vicinity, from coming and going to the address.
- The house is also attached to others and seems to be a middle terrace property, so this would more than likely be disruptive for direct and surrounding neighbours
- The garden is small and not ideal for numerous children.
- The size of the property is not suitable for the provision of childcare with carers.

Officer Comment: In this case, due to the limited number of children and supervisors, the care home would have a make-up that is not dissimilar to a family unit. Therefore the proximity to residential buildings and the existing building is suitable for its proposed use.

Crime and Anti-Social Behaviour:

- Additional risk of anti-social behaviour and damage to properties.
- There is a police presence and anti-social behaviour within the area which is not safe for vulnerable children.
- There are no play areas on the estate. If the child wanted to play out, would they be under constant supervision as to not express any negative behaviours towards any property/land/people on the estate

Officer Comment: The staff to child ratio is suitable for preventing additional risks in terms of anti-social behaviour. The residential area is suitable for

children, it is not considered there is a danger from the environment of the street.

Highway Safety

- Increased traffic in the area, current parking issues will be exacerbated including blocking footpaths and parking on junctions.
- Addition impact to parking would create access issues for emergency services.

Officer Comment: There are two designated, off-street car parking spaces associated with the property. The number of staff and visitors in attendance is suitable for the number of spaces provided. It is accepted, at times there may be the requirement to visitors to park on the street, however given the infrequency of professional visitors this will not be a detrimental impact to highway safety.

The following objections are not planning consideration, therefore minimal weight has been afforded to these comments within the planning balance.

- There is a covenant with the developer that agrees to this, converting it voids this and disrupts the area negatively.

Officer Comment: Covenants are legal documents, which cannot be considered within the planning balance.

- Along with property values falling and insurance costs increasing.
- It would decrease the value and would affect future remortgage and sale of neighbouring properties.
- The business is not well established.
- The applicant has stated that locks will be installed to bedrooms, cupboards etc inside the proposed property, this causes concern and upset for neighbouring properties / residents as it suggests the children being housed in this property may have challenging behaviour.

10.36

Support

- The council are in dire need of homes for vulnerable children and young adults.
- The property has 2 parking bays assigned to it so parking is not as issue.
- The antisocial behaviour related to other homes on the estate which has nothing to do with this property and people.

Officer Comment: Noted.

11.0 CONCLUSION

- 11.1 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.
- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development and is therefore recommended for approval.

12.0 Conditions

1. Standard timeframe condition regarding implementation.
2. Development to be in accordance with plans.
3. Restrict the maximum number of children

Background Papers:

Application and history files.

[Planning application details | Kirklees Council](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2024%2f91907>

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