

Item 5.1 Committee Report P/2022/00634

This report has been checked on behalf of Legal Services by Sherrie Grant

Application Number	P/2022/00634	
Planning Officer	Lisa Bird	
Site Address	6 Epsom Close, Branston, Staffordshire, DE14 3GA	
Proposal	Retention of use as a children's carehome for children between the ages of 7 to 17 (Class C2)	
Expiry Dates	Weekly List	07/11/2022
	Neighbours	05/11/2022
	Consultations	11/11/2022
	Site Notice	11/11/2022
	Newspaper Advert	N/A
Reason for going on the Agenda	<p>Application called in by Cllr Grosvenor for the following reasons:</p> <p>Numerous resident complaints, the delay by the applicant in submitting the application, impact on resident parking so highway issues , the principle of making this residential home a children's home, noise and behaviour of the home and the children there</p>	
Application not Determined within Statutory Time Period - Reason	Committee date took the application beyond its expiry date. Extension of time agreed until 3 rd March 2022	
Environmental Assessment	Screening opinion undertaken	N/A
	Schedule 1 or 2	N/A
	EIA Required	N/A
Relevant Planning Policies/Guidance	Government Documents	The National Planning Policy Framework The National Planning Practice Guidance
	Local Plan Policies	SP1 – East Staffordshire Approach to Sustainable Development SP2 – Settlement Hierarchy SP24 – High Quality Design SP27 – Climate Change, Water Body Management and Flooding SP35 – Accessibility and Sustainable Transport DP1 – Design of New Development DP3 – Design of New Residential Development, Extensions and Curtilage Buildings DP7 – Pollution and Contamination
	Supplementary Planning Documents	East Staffordshire Design Guide Parking Standards SPD Separation Distances and Amenity SPD
	Other Policies/Guidance	Branston Neighbourhood Plan Policies: B2 – Design B11 – Car Parking

Relevant History	<p>Development of wider Regents Park Estate approved between 1990 and 1997, application refs affecting this property are: OU/03563/006/PO, RM/03563/012, RM/03563/027/PO, RM/03563/031/PO, PA/03563/043/PO and OU/03563/056/PO.</p> <p>Applications affecting 6 Epsom Close:</p> <p>HO/30619/002 - Conversion of integral garage to form additional living accommodation – Approved 07/07/2006</p> <p>P/2017/00299 - Erection of a first floor front extension – Approved 09/05/2017</p>
Consultation Responses	<p><u>ESBC Environmental Health</u> – No objection subject to a condition in respect of the submission of a Noise Management Plan setting out how certain activities will be managed to minimise unacceptable noise interference to nearby sensitive receptors. An informative is also recommended in terms of food and health and safety.</p> <p><u>Ofsted</u> – No response received.</p> <p><u>SCC Highway Authority</u> – No objections</p> <p><u>Staffordshire Police</u> – Confirmed that there have been calls to the property in relation to two children, one of which has now left. At the time of Staffordshire Police’s response 15 calls had been made with concerns raised by the complainants in respect of the care staff being able to control the children at the home, and the use of the trampoline late at night. Staffordshire Police have confirmed that they have no objection to the proposal subject to an informative in respect of the applicant signing up to the Herbert Protocol.</p>
Parish Council	<p>No response received during the statutory consultation period.</p>
Neighbour Responses	<p><u>Neighbour Responses:</u> Responses have been received from 10 neighbours, all objecting to the proposals, these are summarised below:</p> <p>Principle:</p> <ul style="list-style-type: none"> • The care home has been operational for some considerable time without planning permission • A small residential cul-de-sac is not an appropriate location for a children’s care home. • A business is being run from this property which is not in keeping with the residential nature of this close. <p>Residential amenities:</p> <ul style="list-style-type: none"> • There is an impact to residents from anti-social behaviour, a constant police presence and children outside at night making loud noises and causing a disturbance. • High levels of noise including abusive language has been heard. • The staff do not appear to supervise the children properly • Local children do not feel safe to play outside • It is acknowledged that children have to live somewhere but this should not occur if negatively effects the people around them • The trampoline causes an invasion of privacy <p>Parking and Highway Matters:</p> <ul style="list-style-type: none"> • Traffic volume has tripled • There are a high number of adults coming and going without adequate parking at the property • The local bus stop is being used for the parking of cars • There are only 2 parking spaces available at the property

	<ul style="list-style-type: none"> • There is little opportunity to park on the road without obstructing traffic <p>Damage to property and the impact to house prices are not material planning considerations and cannot be taken into account.</p> <p><u>Ward Councillor</u> – Cllr Grosvenor has raised concerns in respect of the proposal, please see the reasons for call-in at the beginning of this report.</p>
<p>Human Rights Act Considerations</p>	<p>There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person’s private and family life and home, and to the peaceful enjoyment of possessions. However, these issues have been taken into account in the determination of this application.</p>
<p>Crime and Disorder Implications</p>	<p>Issues of crime prevention and disorder are material considerations in determining planning applications, notwithstanding they are not relevant to this report, however, anti-social behaviour concerns have been considered relating to noise and disturbance and are dealt with in the report.</p>
<p>Equalities Act 2010</p>	<p>Due regard, where relevant, has been given to the East Staffordshire Borough Council’s equality duty as contained within the Equalities Act 2010.</p>
<p>Planning Officer’s Assessment</p>	<p><u>Site and Surroundings</u></p> <p>The application site comprises a detached two storey dwelling located on the eastern side of Epsom Close, which is a small cul-de-sac of 12 dwellings (see plan below).</p> <p>The dwelling sits behind an open front driveway which is finished in tarmac and is capable of accommodating three vehicles. There is a private garden to the rear which backs onto the rear gardens of dwellings on Beverley Road. The dwelling benefits from four bedrooms at first floor level; at ground floor level there is a lounge, kitchen, dining room, study/office, wc and conservatory.</p> <p>The site is bordered in all directions by residential dwellings, with the wider area being predominantly residential in character. There are some areas of public open space within the wider area with connecting footpaths, one such path is situated within the turning head of Epsom Close providing pedestrian access to Lingfield Road, Fontwell Road, Sedgfield Road and Beverley Road. There are no formally designated public rights of way in the vicinity of the application site.</p> <p>There are no heritage assets within the vicinity of the application site, nor are there any non-designated heritage assets nearby.</p> <p>The dwelling is located within Flood Zone 3, which is at the highest risk of flooding, however the area does benefit from flood defences.</p> <p>The site is situated within the Settlement Boundary as defined in the Local Plan.</p>



Proposal

This application seeks consent for the retention of the change of use from a dwelling (Class C3) to a children's care home (Class C2) for 3 children aged 7-17 years of age, who require care and may have physical and mental disabilities.

No external or internal alterations are proposed to the dwelling. One bedroom on the first floor is proposed to be used for staff whilst the other three would accommodate children; a maximum of three children are proposed to reside at the property.

The application submissions indicate that would be a maximum of 4 No. staff members present between the hours of 7am and 11pm, however, 3 No. staff would generally be present consisting of:

- one staff member between the hours of 7am and 3pm
- one staff member between the hours of 3pm and 11pm
- one staff member between the hours of 7am and 11pm

a home manager present from Monday to Friday

In the evenings once the day staff shift ends two staff members would have an overnight shift from 11pm to 7am.

The scheme provides for the 3 No. existing car parking spaces within the site to be retained.

Additional information has been provided during the course of the application, this includes details of vehicle movements and the company's policies, a Physical Intervention Policy and Good Neighbour Policy.

The following details were provided in respect of vehicle movements:

- The home has use of two vehicles for transporting the children, the three car parking spaces within the site are used and any overspill parking takes place on Regents Park Road.
- Staff arrive on shift between 07.30 and 08.00 with vehicles parked on Regents Park Road. Shift end times are between 22.30 and 24.00, however, this doesn't ordinarily mean there would be movement with cars between this time as the staff sleep in.
- Children are transitioned to school at around 08.40-08.45 and dependent on what time their school day ends they will return home between 15.00/15.30.

- In terms of social care visits – children have visits every 6 weeks in line with regulatory requirements and visits would usually be scheduled directly after school time. These visits usually last up to 1 hour.
- In relation to other comings and goings from the home, it is intended to operate in line with a normal family home, however, the children do not have any family visits which is in accordance with their care plans. In the unlikely event that visits are allowed these would take place directly after school or would be community based at a weekend.
- Staff do carry out food shopping which usually takes place Mondays and Fridays during school hours.
- Some evenings between 17.00 and 19.00 the children are taken out to enjoy extra-curricular activities supported by staff.

The applicant has three homes within Burton upon Trent, including this one, and five other homes in Birmingham, Nuneaton, Derby and Bradford.

Policy Context

East Staffordshire Local Plan Policy SP1 lists principles in determining whether proposals constitute sustainable development. One principle is that proposals are located on, or with good links to, the strategic highway network, and should not result in vehicles harming residential amenity or causing highway safety issues. Another principle is that proposals are designed to protect the amenity of the occupiers of residential properties nearby, and any future occupiers of the development through good design and landscaping.

Strategic Policy 2 of the Local Plan considers the Borough's settlement hierarchy and sets out that 'new development should be concentrated within the settlement boundary of the Main Towns, Strategic Villages, Local Service Villages and Rural Industrial Estates, as shown on the policies map.

Policy SP24 of the East Staffordshire Local Plan states that development proposals must contribute positively to the area in which they are proposed and reinforce character and identity through local distinctiveness. Policy DP1 expands upon this aim with specific reference to the design of new development. Policy DP3 requires householder extensions to have no materially adverse effects on neighbouring properties through issues including overlooking, loss of light to principal windows or private amenity space or create an overbearing impact. The Local Plan policies are supplemented by the East Staffordshire Design Guide, the Separation Distances and Amenity SPD and the NPPF (in paragraph 130) indicated that developments should have due regard to the future amenities of residents.

Policy SP27 of the Local Plan provides criteria for dealing with development sites within flood risk areas.

Policy SP35 of the East Staffordshire Local Plan relates to accessibility and sustainable transport, this is supplemented by the Parking Standards Supplementary Planning Document.

Policy DP7 of the Local Plan states that development proposals will only be granted planning permission where they will not give rise to, or be likely to suffer from various types of pollution including noise.

Branston Neighbourhood Plan:

Policy B2 of the Branston Neighbourhood Plan states that all new development will be of a high quality design and should reflect local distinctiveness through the careful use of materials and references to traditional vernacular styles. The policy goes on to state that building heights are expected to reflect the predominant character of the area.

Policy B11 of the Branston Neighbourhood Plan provides car parking standards in relation to new developments.

ASSESSMENT

The main issues in the determination of this application are:

- The Principle of the Development
- Impact on Visual Amenity
- Impact on Residential Amenity
- Highway Safety Implications

Principle of the Development

The application site is located within the Burton upon Trent settlement boundary as defined in the Local Plan. Burton upon Trent is identified as a Main Town in Policy SP2 of the Local Plan, as such the site is within an area where new development is expected.

To reiterate the development results in the re-use (retention) of an existing residential dwelling as a privately run children's care home (Class C2). The premises provides care for 3 No. children with up to five carers and a home manager (no more than four staff present at the dwelling at any one time). The carers work in shifts, with two carers sleeping overnight. Vehicle movements are undertaken twice daily for the school run, with occasional after school activities, and carers carrying out shopping for the home. The use is considered to be consistent with the lawful use as a dwellinghouse and as such there is considered to be no material change to the premises.

The site is situated in a sustainable location and would bring the economic benefits of securing a viable business use for the premises and employment for a number of staff.

The site would remain in a residential use, albeit within a different use class to that of a dwelling, and is therefore not considered to be a loss of a residential unit nor is it considered to set a precedent for business use within the street. The use of the premises as a children's home for 3 children can be secured via condition to prevent any other uses within Class C2 being implemented without planning permission.

It is noted that the care home has been in operation for some time without planning permission, however, there is no provision in planning legislation to prevent an applicant from making a retrospective planning application.

Therefore in principle of the proposal is considered to be acceptable and in compliance with Policies SP1 and SP2 of the Local Plan, Branston Neighbourhood Plan and the NPPF.

Impact on Visual Amenity

The application building has not undergone any external or internal alterations to facilitate the use. The proposal relates solely to the change of use of the building.

It is therefore considered that the use would have no significant impact on the visual amenities of the locality in compliance with Policies SP24, DP1 and DP3 of the Local Plan, Policy B2 of the Branston Neighbourhood Plan, the East Staffordshire Design Guide and the NPPF.

Impact on Residential Amenity

The application building is situated within a cul-de-sac in an area made up of similar dwellings. The continued use of the premises to care for three children between the ages of 7 and 17 with up to five carers and a home manager (no more than four

present at the dwelling at any one time), is akin to the lawful use of the building as a dwelling.

Given the lawful use of the premises as a four bedroomed dwelling, with the potential for between approx. 4 and 7 residents, the use as a care home does not result in any additional occupiers. Any additional noise and general disturbance to local residents is not considered to be any greater than that which would normally be generated by the permitted use or for any residential use where there is a demand for visiting health staff or carers. It is noted that reports have been made in respect of noise and disturbance to Staffordshire Police who have raised no objections to the proposals. The ESBC Environmental Health Team have been consulted on the application and have raised no objection subject to a condition requiring the submission of a Noise Management Plan. It is therefore considered that any intensification in the use of the property as a care home is limited and consequently there is no material adverse impact upon the living conditions enjoyed by the occupiers of neighbouring properties.

Whilst there have been issues in terms of noise and disturbance that have involved complaints to Staffordshire Police, the management of the home have ensured that these have been dealt with appropriately and the police are satisfied with the procedures in place to deal with such situations. It should also be noted that noise and disturbance and anti social behaviour are not restricted to care homes and could easily occur in a family home where there are children with special needs, physical and mental disabilities. Furthermore, Staffordshire Police have confirmed that there have been no incidents recorded since November 2022.

In respect of anti-social behaviour and disturbances which have been reported, in appeal decision ref APP/B3410/W/22/3291205 relating a condition restricting the use of a children's care home in Newborough to 12 months, the Inspector allowed the appeal and stated: *'should any specific matters in respect of crime or anti-social behaviour arise, these could be investigated and addressed by the authorities responsible for regulating the care home and/or the Police'*. These concerns have been considered however they are not significant and could also be applicable to a family environment.

The use has resulted in no physical changes to the building internally or externally. The wcs and bathrooms do fall slightly short of the internal room standards contained within the Separation Distances and Amenity SPD, however, as the building is existing and no changes are proposed to be made this is not considered to be sufficient to sustain a refusal. The other room within the property do comply with the internal room standards set out in the SPD.

In terms of neighbours comments that privacy is lost due to the siting of a trampoline within the garden, a trampoline is not a permanent structure and does not require planning permission and therefore the use of this is not considered to result in any significant adverse impact to neighbouring properties by way of overlooking or loss of privacy. A trampoline is also recognised as a common feature within a family home garden.

The operation of a children's care home from the premises has resulted in no adverse impacts over and above the lawful use of the site as a family dwellinghouse in terms of noise and disturbance subject to the recommended Noise Management Plan condition. The only difference is that the adult carers do not reside at the application site permanently as parents or guardians would, but the staff would provide a parent/guardian role.

The intensity of the use can be controlled by a condition restricting the number of occupants and the age of occupants (excluding carers) to not more than 3 children between the ages of 7-17 at any one time. The use of the premises as a children's home can also be secured via a condition to prevent any other uses within Class C2 being implemented without planning permission.

It is therefore considered that the development has no significant impact on residential amenities in compliance with Policies SP24, DP1, DP3 and DP7 of the Local Plan, Branston Neighbourhood Plan, the Separation Distances and Amenity SPD and the NPPF.

Highway Safety Implications

The Highway Authority have been consulted on the development and have raised no objections to the use on the basis that the care home operates in a similar way to the lawful use as a dwellinghouse with a similar number of vehicle movements. The dwelling benefits from 3 off-street parking bays on the driveway.

It is noted that representations have been received in relation to vehicle movements and highway safety. The agent has submitted detail of expected vehicle movements, and it is considered that these vehicle movements, taking into account the addition of deliveries and visitors, would not significantly exceed those expected from a normal dwellinghouse.

The highway Authority are satisfied that the access arrangements to serve the development are acceptable in highway safety terms and that there is adequate car parking provision to serve the children's home use within the site. The Highway Authority also comment that *'parking on site should be more than sufficient to cope with the demand. In any event any overspill onto the adjoining road is unlikely to result in a detrimental impact on highway safety or a severe impact on capacity'*. Furthermore, the applicant has confirmed that in the event of overspill staff park on Regents Park Road and not on Epsom Close. A condition can be attached to any planning permission to ensure car parking facilities remain available at all times during the life of the scheme.

The site is sustainably located being within the Burton upon Trent settlement boundary and is within walking distance of Branston Local Centre with good public transport links.

Branston Neighbourhood Plan Policy B11 sets out car parking standards for residential development which require one off-street parking space for each bed space. The application building in its current form has three parking spaces and four bedrooms; whilst this does not meet with the requirements of Policy B11 it is noted that this dwelling was constructed in the 1990's prior to the adoption of the Branston Neighbourhood Plan and as such the parking situation is considered to be acceptable.

Therefore it is considered that the use does not adversely affect highway safety and the proposal complies with Policies SP1 and SP35 of the Local Plan, the objectives of Policy B11 of the Branston Neighbourhood Plan, the objectives of the Parking Standards SPD and the NPPF.

Flood Risk

The application site is located within Flood Zone 3 which is at the highest risk of flooding. The site does benefit from the protection of flood defences, and the application building is already in situ with no changes being made to the internal floor levels. A flood risk assessment was therefore not required to support the application. The proposal is considered to comply with Policy SP27 of the Local Plan, the Branston Neighbourhood Plan and the NPPF.

Planning Officer's response to Parish Council

The planning concerns raised in the neighbour and councillor comments relating to planning matters have been addressed in the above Planning Officer's assessment.

<p>Conclusion</p>	<p>Accordingly, having regard to the above it is considered that the use of the premises is acceptable and accords with Policies SP1, SP2, SP24, SP27, SP35, DP1, DP3, and DP7 of the adopted Local Plan, Policies B2 and B11 of the Branston Neighbourhood Plan and the relevant guidance set out in the NPPF.</p>
<p>Engagement</p>	<p>During the course of consideration of this proposal the Local Planning Authority has negotiated with the applicant to ensure the development complies with relevant development plan policies and material planning considerations including the National Planning Policy Framework. It is therefore considered that the Local Planning Authority has worked proactively with the applicant to secure a development that improves the economic, social and environmental conditions of the area in accordance with the requirements of Paragraph 38 of the National Planning Policy Framework.</p>
<p>Section 106 required?</p>	<p>No</p>
<p>Recommended condition(s)</p>	<p>1: Approved Plans</p> <p>The development hereby permitted shall be carried out in accordance with the following approved plans and documents subject to compliance with other conditions of this permission:</p> <p>Drawing No.s:</p> <p>1:1250 Location Plan dated as received on 3rd October 2022</p> <p>1:500 Block Plan and 1:100 Proposed Floor Plans dated as received on 3rd October 2022</p> <p>Planning Statement dated as received on 20th October 2022</p> <p>Good Neighbour Policy dated as received on 2nd February 2023</p> <p>Physical Intervention Policy dated as received on 2nd February 2023</p> <p>Reason: For the avoidance of doubt to ensure the development will not adversely affect the appearance of the locality, the amenities of neighbouring properties, or the safe and efficient use of the adjoining highway in accordance with East Staffordshire Local Plan Policies SP1, SP2, SP24, SP27, SP35, DP1, DP3 and DP7, Branston Neighbourhood Plan Policies B2 and B11, the East Staffordshire Design Guide, the Separation Distances and Amenity SPD, the Parking Standards SPD and the National Planning Policy Framework.</p> <p>2: Noise Management Plan</p> <p>Within three months of the date this permission a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Noise Management Plan shall set out how certain activities will be managed to minimise unacceptable noise interference to nearby sensitive receptors (existing residential dwellings). The approved Noise Management Plan shall be adhered to for the lifetime of the development.</p> <p>Reason: To ensure any future use of the premises does not adversely affect the amenities of occupiers of adjoining properties in accordance with East Staffordshire Local Plan Policy DP7, Branston Neighbourhood Plan and the National Planning Policy Framework.</p>

3: Use restricted to that applied for

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or any order revoking and re-enacting that Order, this permission shall relate to the use of the premises as a children's care home for a maximum of 3 No. children between 7 and 17 years to age, as described in your application and for no other purpose (including any other use within Class C2).

Reason: To ensure any future use of the premises does not adversely affect the amenities of occupiers of adjoining properties and the locality in general and in the interests of highway safety, in accordance with East Staffordshire Local Plan Policies SP1, SP24, SP35, DP1 and DP7, Branston Neighbourhood Plan, and the National Planning Policy Framework.

4: Parking Spaces

The three car parking spaces shown on the approved plans listed under Condition 2 above, shall be retained as available for their designated purposes at all times for the life of the development.

Reason: In the interests of the safe and efficient use of the adjoining highway and to mitigate on-street car parking in accordance with East Staffordshire Local Plan Policies SP1 and SP35, Branston Neighbourhood Plan, the Parking Standards SPD and the National Planning Policy Framework.

Recommended informative(s)

1: During development Conditions

The condition identified below require details to be approved during the development.

Condition No. 2

This means that a development may not be lawful unless the particular requirements of these conditions have been met.

Confirmation of compliance with planning conditions requires a payment of a fee to the Local Planning Authority. The fee chargeable by the authority is £116 per request. The fee must be paid when the request is made. Any number of conditions can be included for each request. Payment can be made by cheque or card only. Please telephone 01283 508606.

Although we will endeavour to discharge all conditions within 21 days of receipt of your written request, legislation allows the Local Planning Authority a period of 8 weeks, and therefore this timescale should be borne in mind when programming development.

2: Environmental Health Comments

The applicant is advised to note and act upon as necessary the comments of the Environmental Health Manager as set out below:

Food and Health & Safety Comments:

The business will need to be registered with the Environmental Health Team 28 days prior to trading. The business can register through the following link: <https://register.food.gov.uk/new/east-staffordshire>

If the applicant has any queries please direct them to the Environmental Health Team on 01283 508 578 or EHSupport@eaststaffsbc.gov.uk

KITCHEN LAYOUT

The layout, design, construction and size of the kitchen must comply with Chapters I and II of Annex II to Regulation (EC) 852/2004, including the provision of a separate washbasin for cleaning hands, and adequate ventilation as detailed below. For further details the applicant should contact Environmental Health.

GREASE TRAPS

Provision should be made to include the installation of one or more grease traps or oil interceptors within the drainage system to prevent waste from entering directly or indirectly into a public sewer.

VENTILATION

The kitchen must be provided with suitable and sufficient means of natural or mechanical ventilation to all cooking equipment other than microwave ovens, in order to comply with Chapters I and II of Annex II to Regulation (EC) 852/2004. The ventilation system used must be easy to clean.

WASH-HAND BASINS

There should be the provision of a separate washbasin for cleaning hands as required by Chapter I of Annex II to Regulation (EC) 852/2004. In addition, following the Food Standards Agency’s guidance on E.coli, wash-hand basins in commercial kitchens where raw and ready to eat foods are handled should be provided with non-hand operated taps such as sensor, elbow or foot operated taps as they reduce the risk of cross-contamination.

Advisory Comment

It would be considered ‘good practice’ if provision was made for a separate toilet for staff use only.

3: Police Architectural Liaison Officer

The applicant is advised to note and act upon as necessary the comments of the Police Architectural Liaison Officer, particularly in relation to the applicant signing up to the Herbert Protocol in respect of missing persons. Where there is any conflict between these comments and the terms of the planning permission, the latter takes precedence.

4: Engagement (Proactive)

During the course of consideration of this proposal the Local Planning Authority has negotiated with the applicant to ensure the development complies with relevant development plan policies and material planning considerations including the National Planning Policy Framework. It is therefore considered that the Local Planning Authority has worked proactively with the applicant to secure a development that improves the economic, social and environmental conditions of the area in accordance with the requirements of paragraph 38 of the National Planning Policy Framework.

Draft Decision Notice checked by Planning Officer or Team Leader

Team Leader Comments