Item 5.1 Committee Report P/2022/01235

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

Application Number	P/2022/01235				
Planning Officer	Femke Roux				
Site Address	9 Rowbury Drive, Burton Upon Trent, Staffordshire, DE15 0LP				
Proposal	Change of use from dwelling (Class C3) to 2-bed home for children in care (Class C2)				
Expiry Dates	Weekly List	12-12-2022			
	Neighbours	10-12-2022			
	Consultations	10-12-2022			
	Site Notice	17-12-2022			
	Newspaper Advert	n/a			
Application not Determined within Statutory Time Period - Reason	Application has been called in to the Committee Meeting by Councillor Fletcher for the following reasons:				
	Rowbury Drive is a small, quiet residential cul-de-sac. The majority of the nine homes are occupied by retired and elderly people. There is only one family with children living at this location. This development would change the nature and character of the area.				
	The Local plan notes the lack of houses for elderly people. This would further reduce such availability.				
	There is little parking space for visitors. This development could potentially attract a lot of visitors. Two full time and two part time staff plus relatives would compound this issue. Good practice also calls for regular staff supervision and staff meetings which will also challenge availability of off street parking.				
	The applicant states that this application does not go against planning policy. They say that this is an ideal family location. I think that this would not a family home and that it does go against planning policy The agent has agreed a time extension on the application to allow the proposals to be reported to the Planning Committee.				
Environmental Assessment	Screening opinion undertaken	No			
	Schedule 1 or 2	n/a			
	EIA Required	n/a			
Relevant Planning Policies/Guidance	Government Docume	The National Planning Policy Framework The National Planning Practice Guidance			
	Local Plan Policies	SP1 – East Staffordshire Approach to Sustainable Development SP2 – Location of New Development 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/Guidar	Winshill Parish 'MADE' Neighbourhood Plan Policy 9 - Support for Home- working and Local Enterprise Policy 11 - Parking			

P/2014/00478 - Roof alterations including raising of ridge height to form additional first floor Relevant History living accommodation, part single storey and part rear dormer extension and alterations to existing front porch, Refused -30/06/2014 Reasons for refusal: 1. East Staffordshire Local Plan Saved Policy H6 states that planning permission for household extensions will not be approved unless the design and layout makes provision for outdoor domestic activities to be undertaken in reasonable privacy. The position of the proposed rear dormer is such that windows, which include the provision of juliet balconies, at first floor level would facilitate overlooking of the garden of 155 Ashby Road to the detriment of the amenities of the residents of that property contrary to the requirements of Local Plan Saved Policy H6, the East Staffordshire Design Guide (particularly Paragraph 1.3.71 and Appendix 1) and the National Planning Policy Framework (particularly Paragraphs 6, 7, 8, 9, 11, 12, 14 and 17). 2. East Staffordshire Local Plan Saved Policy BE1 states that planning permission will only be granted for proposals which are of high quality in design terms and which relate well to their surroundings. East Staffordshire Local Plan Saved Policy H6 and the East Staffordshire Design Guide expand upon this aim with specific reference to residential development by requiring the design of household extensions to integrate well with the existing building. The proposed raising of the ridge height and addition of rear flat roof dormer would form an incongruous, bulky and prominent addition that would fail to relate to the form or proportions of the existing dwelling-house and that would be to the detriment of the character and appearance of the streetscene. The proposal would therefore be contrary to East Staffordshire Local Plan Saved Policies BE1 and H6, National Planning Policy Framework 7, and the East Staffordshire Design Guide (with particular reference to Paragraphs 1.3.76 and 1.3.77). Consultation **SCC Highways** - No objections to the proposal on highways grounds. Responses "The proposal as described in the supporting statement is for two children and two carers which is not dissimilar in terms of traffic generation to what would be expected from a dwelling of this size. There is sufficient car parking on site to cope with the likely demand created by the proposed use." Environmental Health - Comments received only relate to an informative regarding Food & Health Safety Staffordshire Police Architectural Liaison Officer – No objection Ofsted – No response at time of writing report **Parish Council** No comment received **Neighbour Responses** Objection letters from 6 neighbouring properties were received relating to the following: The area is predominantly occupied by elderly people and the proposed commercial business will change the nature and character of this small cul-de-sac. The proposal would intensify the way you would expect a normal dwelling to be used. The application is unclear about staff who would be working with the children and how the schedule would be given that no bedrooms has been allocated to the staff, indicating night staff and therefore a higher level of need than described in the supporting statement. Insufficient parking has been provided for the proposed use and is therefore in contrast with policy 9 of the Winshill Neighbourhood Plan. Policy 9a further states that neighbouring properties should not be unacceptably harmed by traffic generation- which in this case would happen given that all vehicles visiting need to turn around in the drives of the other properties of the cul de sac. The Winshill Neighbourhood Local Plan policy 6 states that there is a local preference for homes that meet the need of a retired and less mobile older population with a key challenge for the local plan being how to accommodate an

ageing population

the proposed use.

Requests were made for the application to go to planning committee.

C2 does not determine the children that will be cared for and the 'future proofing' of

The change of use to a C2 institution will not be limited to the care of children, and

	 could be changed to any type of care without the need for a further change of use. The location of the site is not easily accessible to emergency services or nearby to hospital or treatment facilities appropriate this is therefore an unsustainable location. The fact that a change of use is required indicates that the type of activity level will not be in keeping with the established residential character of the road and will generate disturbance to the amenity and enjoyment of the nearby properties. The proposal would have an adverse impact on privacy to no. 10 Rowbury Drive due to slope of property. Rowbury Drive is situated on a steep hill which relies on neighbours going out and 'salting and clearing' the road in cold weather- carers would not be able to access the road as cars cannot get up during this time. The slope of the road is difficult for people with mobility issues particularly in snow or cold weather where the north facing slope means the road/pavement takes a long time to clear and is inaccessible by vehicles at times. The existing garage is not suitable for parking The rear garden is not suitable for children to play, with or without disabilities Insufficient facilities for children nearby – i.e. parks, lack of nearby public transport, peer interaction, dangerous to cross the busy Ashby road etc. The property's roof is not in a good condition 			
Human Rights Act Considerations	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.			
Crime and Disorder Implications	It is considered that the proposal does not raise any crime and disorder implications.			
Equalities Act 2010	Due regard, where relevant, has been given to the East Staffordshire Borough Council's equality duty as contained within the Equalities Act 2010.			
Planning Officer's Assessment	Site and Surroundings			
ASSESSITETI	The application site comprises a bungalow with a single garage attached to the side and is situated to the west of Rowbury Drive, a short cul-de-sac just off the A511, Ashby Road. The cul-de-sac has a total of 9 dwelling houses, comprising a mix of detached bungalows and two storey dwelling houses. Rowbury Drive comprises of a steep slope going upwards from Ashby Road. The dwelling is constructed from brick and tile, and is set back from the pavement behind a small open front garden. The property has an existing brick and tiled roof conservatory to the rear. The dwelling benefits from a good sized rear garden of approximately 180 sq metres which is enclosed by fencing.			
	There are two pedestrian accesses, one to each side of the dwelling providing access to the rear garden and a drive providing parking for 2 vehicles.			
	The area is predominantly residential in character.			
	The site is located within the settlement boundary as defined by the Local Plan.			
	The dwelling is situated within Flood Zone 1.			



Proposal

This application seeks consent for the change of use from a dwelling (Use Class C3) to a children's care home (Use Class C2) for children aged 7 to 17 years old, who are placed in government care.

No external alterations are proposed to the dwelling. Internally the following changes are proposed:

- The dining room will become an office/bedroom space for the carers and the conservatory will become another bedroom for one of the carers.
- The dining room will function as an office for both carers residing at the property during the daytime shift and then function as a bedroom for one carer during the night-time shift.
- The conservatory will only serve as a bedroom for the second carer residing at the property.
- The one bedroom already comprises an en-suite and it is proposed to add another en-suite to the other existing bedroom for the children.
- The remainder of the dwelling will stay the same i.e. kitchen, lounge, hall, bathroom and garage.

The site is proposed to cater for children 7 to 17 years old, who are placed in government care and will employ two full time carers to act as guardians, mostly providing regular parental duties. The movements and additional personnel visiting the site has been summarised as per the below table.

Activity	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
24 hour care							
worker							
arriving and							
leaving for 2	2	2	2	2	2	2	2
day shift							
Who else will							
be on the							
premises	1	1	1	1	1		
(Manager)							
School run	2	2	2	2	2		
Social /						2	2
Recreational							
visits							
Visitors			1				
Total	5	5	6	5	5	4	4
movement							
(in and out)							

The carers will be working shifts comprising of two days and two nights with 4 days off in between.

The shifts for the day and night time would be as follows:

7 am -11pm - Daytime (working) 11 pm -7am - Night time (sleeping)

The applicant currently has three homes within the local area, two are based in Swadlincote and one in Hatton which currently all have four children living in them and they all attend education. Two of the three homes are rated good in all areas and one is rated Outstanding. There is four grading's in which can be given; inadequate, requires improvement, good or outstanding. These homes provide care for 12 children who are settled and attend school, with no issues of any anti-social behaviour. The homes use a therapeutic parental model to support younger children.

It is the applicant's intention to provide care facilities for children with disabilities or lifelong medical conditions, the Director's medical background would be advantageous in providing this care which would be better situated within a bungalow rather than a two storey dwelling house. It would further be the intent to have each child attend school and make those social relationships away from the home as far as it would be possible given each child's circumstances and required care.

The plans have been amended during the course of the application, to include staff bedroom facilities and to provide 2 additional parking spaces to the frontage (4 in total).

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 identify 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 and disturbance.

Winshill Neighbourhood Plan

Policy 6 states:

Particular support will be given to proposals which provide appropriate mix of house types, tenures and sizes (based on evidence of need), including 1 and 2 bedroomed homes, low cost market homes generally and homes that meet the needs of older and less mobile population.

Two of the objectives of the Neighbourhood Plan are to ensure that new housing provision meets the identified housing needs including the needs of the local community and to improve the employment prospects for Winshill residents – Policy 9 relates.

Policy 9 states that:-

- "Home-based businesses will be supported provided that it can be demonstrated that:
- (a) the impact on the amenity of neighbouring properties will not be unacceptably harmed by virtue of noise, smell, traffic generation, health and safety impacts, scale, design, appearance or nature of operations;
- (b) the operation of the business activity can be contained within the existing boundaries of the premises;
- (c) the operation of the business activity does not require substantial external modification of the premises;
- (d) there will not be detriment to the safe operation of the highway."

Policy 11 states that:-

"Adequate and suitable off-street parking shall be provided for all new developments, including residential conversions and redevelopment. This shall be based on a minimum of two spaces per dwelling up to 3 beds, and a minimum of 3 spaces per dwelling of 4 beds and more, except where it can be demonstrated that a lower provision would not cause significant harm in terms of highway safety. In the case of dwellings particularly targeted at people of retirement age and above, a lower provision may be justified.

Wherever possible, dwellings provided for the specific use of older age groups should incorporate at least one fully accessible parking space for larger mobility vehicles, designed in a way which allows wheelchair users to board and alight from vehicles by means of a tail lift or suitable ramp. Any development which involves the paving of existing garden space to provide parking or access shall incorporate the use of permeable surfaces."

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 proposal would result in the re-use of an existing residential dwelling as a privately run children's care home (Class C2). The premises will provide care for 2 No. children with 2 No. full time residential 24 hour care workers Monday to Sunday. The carers work in shifts of two days and two nights with four days off in between. Vehicle movements are proposed twice daily for the school run, with a manager visiting daily during the week.

Over the weekend two social/recreational visits would occur. The use is considered to be consistent with the existing use as a dwelling house and as such there is considered to be no material change to the premises.

The proposal is situated in a sustainble 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 the existing 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 can be secured via condition to prevent any other uses within Class C2 being implemented without planning permission.

Whilst objectors have raised the issue of the loss of a dwelling suitable for elderly occupants, that is identified as a need in Policy 6 of the Winsall Neighbourhood Plan, the applicant has specifically chosen a single storey property to meet the needs of the chidren likley to be accommodated that may have mobility requirements. This is considered an appropriate justification for the loss of a property suitable for elederly occupants.

Therefore in principle the proposal is considered to be acceptable and in compliance with Policies SP1 and SP2 of the Local Plan, Policies 9 and 11 of the Winshill Neighbourhood Plan and the NPPF.

Impact on Visual Amenity

The application building is not proposed to undergo any external alterations. The proposal relates solely to the change of use of the building including some internal alterations.

It is therefore considered that the proposals would have no significant impact on the visual amenities of the locality in compliance with Policies SP24, DP1 and DP3 of the Local 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 proposed use of the premises to care for two children between the ages of 7 and 17 with two carers would be akin to the existing use of the building as a dwelling.

Given the permitted use of the premises as a two bedroomed dwelling, with the potential for between approx. 2 and 4 residents, the proposal would 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 be generated by the permitted use or for any residential use where there is a demand for visiting health staff. The Council's Environmental Health Team have been consulted on the application and have raised no objections. It is therefore considered that any intensification in the use of the application building by its use as a care home is likely to be limited and consequently there would be no material adverse impact upon the living conditions enjoyed by the occupiers of neighbouring properties.

The proposal would result in changes to the internal use of the existing dining room and conservatory, the remainder of the rooms would be retained as it is and all the rooms would comply with the internal spacing standards of the Separation Distances and Amenity SPD. Whilst the sleeping arrangements require for one of the bedrooms for the carers to be situated in the existing conservatory which is accessed via the office/sleeping area for the other carer, this is not considered sufficient reason to sustain a refusal. Access to the conservatory can also be taken from the garden providing separate accesses when required. Whilst the single storey rear extension is referred to as a conservatory, it comprises a brick and tiled roof structure and so is considered appropriate for conversion to a bedroom. Both rooms dedicated as bedrooms/office space for the carers do comply with the internal space standards and whilst the floor plans indicate the area as open plan there is in fact a door that separates the two rooms to provide sufficient privacy for each carer. The garden area/rear of the dwelling can still be accessed via a door off the kitchen.

The operation of a children's care home from the site would not result in any adverse impacts over and above the existing use of the site as a family dwelling house in terms of noise and disturbance given the number of occupiers and staff proposed. The only difference would be that the adult carers would not reside at the application site permanently.

The intensity of the use can be controlled by a condition restricting the number of occupants and age of occupants (excluding carers) to not more than 2 children 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 proposal will have no significant impact on residential amenities in compliance with Policies SP24, DP1, DP3 and DP7, Policies 9 and 11 of the Winshill Neighbourhood Plan, the Separation Distances and Amenity SPD and the NPPF.

Highway Safety Implications

The Highway Authority have been consulted on the proposal and have raised no objections to the proposal on the basis that the care home would operate in a similar way to the existing dwelling with a similar number of vehicle movements. The existing dwelling benefits from 2 off street parking bays on the driveway. The existing garage doesn't comply with current Highway standards for internal parking i.e. 2.5 m by 5 m, however given that the garage is in-situ and has been approved it would be able to provide parking for smaller vehicles. The agent has however confirmed that the garage would not be used for parking and therefore the plans show a widened driveway to provide parking for a total of 4 vehicles. It is noted that representations have been received in relation to vehicle movements and highway safety. The agent has submitted details of expected vehicle movements. 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 dwelling house.

The Highway Authority are satisfied that the access arrangements to serve the development are acceptable in highway safety terms and that adequate car parking provision with easy access to the driveway can be accommodated to serve the children's home use within the site. A condition would be attached 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 Winshill Local Centre with good public transport links.

Therefore it is considered that the proposal would not adversely affect highway safety and the proposal complies with Policy SP35 of the Local Plan, the objectives of the Parking Standards SPD and Policies 9 and 11 of the Winshill Neighbourhood Plan.

Planning Officer's response to Parish Council and Neighbour comments

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

In terms of the matters not relating to planning that has been raised please note the following:

- The slope of the road and safety in inclement weather is not a material planning consideration and the property would effectively remain as a dwelling.
- The condition of the roof is not a material planning consideration and would have a similar impact were it to remain as a dwelling.

Conclusion

Accordingly, having regard to the above it is considered that the proposed development is acceptable and accords with Policies SP1, SP2, SP24, SP27, SP35, DP1, DP3 and DP7 of the adopted Local Plan, Policies 9 an 11 of the Winshill Neighbourhood Plan and the relevant guidance set out in the NPPF.

Engagement

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.

Section 106 required?

No

Recommended condition(s)

1: Time Limit - 3Yr Standard

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2: Approved Plans

The development hereby permitted shall be carried out in accordance with the following approved plans subject to compliance with other conditions of this permission:

A102, 1:1250 Location Plan, dated as received on 24th October 2022

A101, 1:500 Site Plan, 1:100 Existing and Proposed Floor Plans, dated as received on 16th January 2023

Supporting Statement by Spark Design and Planning, dated as received 24th October 2022

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 SP1, SP2, SP24, SP27, SP35, DP1, DP3 and DP7 of the adopted Local Plan, Policies 9 an 11 of the Winshill Neighbourhood Plan, the East Staffordshire Design Guide, Separation Distances and Amenity SPD, Parking Standards SPD and the National Planning Policy Framework.

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 two children between 7 and 17 years of 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, SP35 and DP7 and the National Planning Policy Framework.

4: Parking Spaces

Prior to the first use of the premises for the use hereby approved 4 No. car parking spaces (as shown on the plans approved under condition 2) shall be provided and 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, the Winshill Neighbourhood Plan Policies 9 and 11, the East Staffordshire Design Guide Revised Car Parking Standards Supplementary Planning Document and the National Planning Policy Framework.

Recommended informative(s)

1: Police Architectural Liaison Officer

The applicant is advised to note and act upon as necessary the comments of the Police Architectural Liaison Officer. Where there is any conflict between these comments and the terms of the planning permission, the latter takes precedence.

2: Engagement (Acceptable as submitted)

The Local Planning Authority has taken a positive approach to decision-taking in respect of this application concluding that it is a sustainable form of development which 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 secured 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.

3: Food / Health & Safety:

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.

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.
Officer Details	Femke Roux Tel 01283 508678 Femke.foux@eaststaffsbc.gov.uk