



Report of the Chief Planning Officer

SOUTH & WEST PLANS PANEL

Date: 07/03/2024

Subject: 23/06049/FU – Permission for a change of use from a single family dwellinghouse (Use Class C3) into a Residential Care Home (Use Class C2) and the erection of a fence above the existing boundary wall at 28 Lingwell Avenue, Middleton, Leeds, LS10 3SU

APPLICANT

Mabida Company

DATE VALID

14/11/2023

TARGET DATE

09/01/2024 (ext. of time agreed until 09/03/2024)

Electoral Wards Affected:

Middleton

Yes (Ward Members consulted referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: Approval subject to conditions

- Time limit on full permission
- Development to be carried out in accordance with the approved plans
- Management Plan Provision and Adherence
- Parking Implementation and Retention
- Details of Waste Collection Provision
- Boundary Treatment Height Retention
- Details of Additional Security Measures (Informative)

INTRODUCTION:

1. This application has been brought to plans panel at the request of Cllr Dixon, who has raised concerns that the following proposal will have a negative impact on public and highway safety and lead to an increase in anti-social behaviour. Cllr Dixon also expressed that the proposal would cause for there to be a saturation of care facilities within the area and that the introduction of a care facility will impact property values in the area.

2. The applicant seeks permission for a change of use from an existing single family dwellinghouse (Use Class C3) into a Residential Care Home (Use Class C2). From the supporting cover letter, it notes that the proposed care home will provide accommodation for a maximum of two children, up to the age of 18 who will be receiving care.
3. In addition to the proposed change of use the applicant has also proposed the erection of a close board timber fence above the existing southern boundary wall adjacent the public highway of Mount Pleasant to a height of 1.8m.
4. As will be outlined below the proposed change of use is considered to be acceptable in principle and will not cause adverse harm to residential amenity or highway safety. As such the application is recommended for approval.

PROPOSAL:

5. The applicant seeks permission for a change of use from a single family dwellinghouse (C3(a)) to a Residential Care Home for children with special and learning disabilities between the ages of 8 -17 years old (C2).
6. The applicant states within their supporting statement that the property will provide accommodation for 2 children who will be receiving care and will be a place of work for 3-4 members of staff who will be providing care for the children residing there. It goes on to note that a member of staff will be at the premises 24 hours a day, with the care staff operating on a shift basis.
7. Furthermore, the applicant has proposed the construction of a 1.8m close board timber fence behind the existing boundary wall and vegetation. The proposed fence will stretch along the side boundary line, behind a line of existing conifers, for approximately 26.0m.

SITE AND SURROUNDINGS

8. The application site relates to a detached bungalow style property which is constructed out of a mixture of red brickwork with elements of buff-coloured rendered stonework on the front elevation, all of which is covered by a hipped tiled roof.
9. The application property is located on a corner plot, with the site being at the intersection of Lingwell Avenue and Mount Pleasant. Due to the corner nature of the property, the associated amenity space of the property is relatively open to the public, with the current boundary treatment consisting of a 0.8m high boundary wall with additional vegetation behind it. It should also be noted that there are level differences between the main public highway and the rear amenity area of the application site, with the ground level along the public footpath being much higher.
10. Overall, the property is current used as a single dwellinghouse within a predominantly residential area, with the surrounding properties varying in terms of size, scale and design. Furthermore, the application site is located in an area which benefits from good public transport links and is in close proximity to public amenities.

RELEVANT PLANNING HISTORY:

Planning applications:

11. Reference: 23/04150/CLP

Proposal: Certificate of Proposed Lawful Development for change of use to a residential care home.

Status; Refusal

Date: 25-08-2023

Pre-application enquiries:

12. None

Planning Enforcement cases:

13. None

HISTORY OF NEGOTIATIONS:

14. The applicant previously applied for a certificate of proposed lawfulness for the change of use from a single family dwellinghouse into a residential care home in August 2023 (23/04150/CLP). But the certificate was not granted due to officers considering that a change of use from a C3(a) to C2 would amount to a material change of use and would therefore require planning permission.
15. During the course of the current application officers have requested from the applicant additional information in order to overcome concerns which have been raised by the public. For example, on the 2nd January 2024 the applicant provided a proposed block plan in order to demonstrate that there will be sufficient parking on site for members of staff and visitors.
16. In addition to this the applicant also provided on 21st December 2023 an example of the staff shift patterns in order to show that the changing of staff will not occur at unsocial hours which will disrupt neighbouring residents.
17. On the 19th February the applicant submitted a copy of the Management Plan created by the care home company (Madiba), in order to address some of the concerns raised through third party comments. The applicant also provided revised plans at the request of officers which places the proposed fence along the side line, behind the existing vegetation in order to reduce its visual impact on the streetscene, whilst also allowing the fence to be in line with the requirements set by OFSTED and West Yorkshire Police.

CONSULTATION RESPONSES:

Statutory and Non-Statutory Consultees:

18. Flood Risk Management: No objection
Highways: No objection, subject to conditions
West Yorkshire Police: No objection, subject to conditions

PUBLIC/LOCAL RESPONSE:

19. A site notice was put on display in the immediate vicinity of the application site on the 14th December 2023. In response to the notice going up the follow comments have been made by third party individuals:

Comments in Support:

20. 5 letters of support were received in relation to this application. The following is a summary of the points raised in these letters of support:

- Benefit to residents of development and their families.

- Brings employment opportunities to the area.

The Agent dealing with a neighbouring application (23/06050/FU) also provide comments stating that the change of use would create a space place for all children in need.

Comments in Objection:

21. 30 letters of objection were received in relation to this application. The following is a summary of the points raised in these letters of objection:

- Was not informed by the Council of this development – site notice was removed.
- The proposed fence is not in keeping with the character of the streetscene.
- The proposed fence will cause overshadowing issues.
- Concerns raised surrounding the internal layout of the property and how it would be inappropriate for users.
- Noise and disturbance raised due to movement happening at the property.
- The proposed change of use would give rise to crime and anti-social behaviour, due to the occupants of the property. Thus, having an impact on the safety of local residents.
- Lack of sufficient parking on-site to cater for both staff and visitors and would cause further traffic congestion.
- The proposed development is considered inappropriate as it will change the general residential character of the area.
- Inappropriate locations should be in a more affluent area of Leeds.
- Overwhelm the Police and other services.
- Impacts on the drainage system.
- Concerns that permission will be given to one set of vulnerable individuals but the actual end user will be different.
- Decrease in property values.
- General objection to the type of development and residents who will reside in the property.

Comments from Ward Members:

22. Ward Members from the Middleton Area also submitted comments in relation to this application. The following is a summary of the points raised in Ward Members Letters.

- High saturation of care facilities within the area.
- Decrease in property values within the area.
- Gives rise to anti-social behaviour.
- Highway concerns regarding; On street parking, road safety concerns.
- The residents would not be rooted in the community (Lack of community cohesion)

PLANNING POLICIES:

LOCAL PLANNING POLICY AND GUIDANCE

The Development Plan

23. Section 38(6) of the Planning and Compulsory Purchase Act states that for the purpose of any determination to be made under the Planning Acts, the determination must be in accordance with the plan, unless materials considerations indicate otherwise. The development plan currently comprises the adopted Local Development

Framework Core Strategy (as amended 2019), those policies saved from the Leeds Unitary Development Plan Review (2006), the Aire Valley Leeds Area Action Plan (2017), the Natural Resources and Waste Local Plan (as amended 2015), the Site Allocations Plan (as amended 2024) and any made Neighbourhood Plan.

24. **Core Strategy (as amended by the Core Strategy Selective Review 2019)**- The Core Strategy (as amended) is the main strategic document within the Local Plan for Leeds and sets out the strategic policy framework for the district to 2028 and a housing requirement to 2033. It comprises a long-term spatial vision and strategic objectives, a spatial strategy, thematic policies and a monitoring and implementation framework. The following Core Strategy (as amended) policies are relevant:
- P10: Design
H9: Minimum Space Standards
T2: Highway Safety
25. **Unitary Development Plan (UDP) adopted in 2006**- The UDP sets the spatial strategy for the Leeds Metropolitan district and allocates sites within the area for specific uses. Many of the UDP policies have been superseded by the Core Strategy, Natural Resources and Waste Local Plan, The Aire Valley Leeds Area Action Plan and Site Allocations Plan. However, there are 'Saved Policies' which remain relevant for Development Management purposes. The application site is not designated for any specific purpose within the UDP Review (2006) although it lies within an area for neighbourhood renewal. The following saved policies are of relevance:
- GP5: General Consideration
BD5: Amenity Consideration
N25: Boundary Treatments
26. **The Site Allocation Plan (SAP) as amended in 2024** – This allocates land following for housing and employment and designates green space and retail centres within the Metropolitan District of Leeds (except for the AVLAAP area). *The Site Allocations Plan was adopted in July 2019. Following a statutory challenge, Policy HG2, so far as it relates to sites which immediately before the adoption of the SAP were within the green belt, has been remitted to the Secretary of State and is to be treated as not adopted. All other policies within the SAP remain adopted and should be afforded full weight.* The application site is not specifically referenced in the SAP.
27. **Natural Resources and Waste Local Plan (NRWLP) amended 2015** – This comprises of policies and allocations relating to climate change, air quality, flood risk, mineral and waste. The following policies are relevant to the submitted proposal:
- WATER 7: All Developments are required to ensure no increase in the rate of surface water run-off into the existing formal drainage system and development expected to incorporate sustainable drainage techniques.
28. **Made Neighbourhood Plans** – Planning applications need to take into account any made Neighbourhood Plans in addition to the plans adopted by the Council. There are no made Neighbourhood Plans relevant to this site.
- Relevant Local Supplementary Planning Guidance/Documents
29. **Supplementary Planning Documents (SPDs)**- SPDs and supplementary guidance provide additional planning guidance to policies in the adopted Local Plan. SPDs and supplementary guidance considered of relevance:

SPD Neighbourhoods for Living (2003 – updated 2015)
SPD Transport (2023)

NATIONAL PLANNING POLICY AND GUIDANCE

National Planning Policy Framework

30. The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.
31. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004). The National Planning Policy Framework is an important material consideration in planning decisions.
32. The following sections of the NPPF are most relevant for the purposes of determining this application:
- Section 2: OBJ Achieving Sustainable Development.
 - Section 8: OBJ Promoting healthy and safe communities.
 - Section 9: OBJ Promoting sustainable transport.
 - Section 12: OBJ Achieving well-designed and beautiful places.

National Planning Practice Guidance

33. The Planning Practice Guidance (PPG) provides commentary on the application of policies within the NPPF. The PPG also provides guidance in relation to the imposition of planning conditions. It sets out that conditions should only be imposed where they are necessary; relevant to planning and to the development to be permitted; enforceable; precise and reasonable in all other respects.

CLIMATE EMERGENCY:

34. The Council declared a climate emergency on the 27th March 2019 in response to the UN's report on Climate Change.
35. The Planning Act 2008, alongside the Climate Change Act 2008, sets out that climate mitigation and adaptation are central principles of plan-making. The NPPF makes clear that the planning system should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions in line with the objectives of the Climate Change Act 2008.
36. As part of the Council's Best City Ambition, the Council seeks to deliver a low-carbon and affordable transport network, as well as protecting nature and enhancing habitats for wildlife. The Council's Development Plan includes a number of planning policies which seek to meet this aim, as does the NPPF. These are material planning considerations in determining planning applications.

PUBLIC SECTOR EQUALITY DUTY:

37. The Equality Act 2010 requires local authorities to comply with the Public Sector Equality Duty. Taking into account all known factors and considerations, the requirement to consider, and have due regard to, the needs of diverse groups to eliminate discrimination, advance equality of opportunity and access, and foster good relations between different groups in the community has been fully taken into account in the consideration of the planning application to date and at the time of making the recommendation in this report.

MAIN ISSUES:

- Principle of Development
- Impact on Visual Amenity
- Impact on Residential Amenity – Amenity of Occupants and Amenity of Neighbours
- Impact on Public and Highway Safety
- Drainage and Flood Risk Management
- Public Sector Equality
- Representations

APPRAISAL:

Principle of Development

38. Spatial Policy 1 of the Leeds Core Strategy relates to the location of development and confirms that the overall objective is to concentrate the majority of new development within and adjacent urban areas, taking advantage of existing services, high levels of accessibility, priorities for urban regeneration and an appropriate balance between brownfield and greenfield land, to promote sustainable development.
39. The proposal seeks to change the use of No.28 Lingwell Avenue from a dwellinghouse within Use Class C3 (a) into a Residential Care Home for children/young adults within the Use Class of C2. The existing property is located within a popular and sustainable residential area with good links to highway networks and public transportation. However, concerns have been raised that the proposed development would be inappropriate in this location, due to it having an impact on the residential character of the area.
40. Whilst this concern is noted, the residential character of the immediate area would not be disturbed by the introduction of a care home, such that there would be an unsustainable impact. The care home is a low intensity use, with the manner of occupation similar to that of a standard C3 family dwelling. The home will have 2 resident children and 2-4 adult staff being present for each shift, depending upon the needs of the individual children. The number of individuals at the property and the ratio between adults and children is therefore akin to many residential dwellings with two adults and two children, or if greater staffing ratios are required, those where multiple generations live under one roof (child, parents, grandparents). Furthermore, the change of use and the resulting movements which will occur around the property, such as shift changes for staff and the children being taken out for school and extra activities, would not alter the residential character of the area. As these movements would be similar to the patterns of movement that would happen on an average day for a normal C3 dwellinghouse, e.g. parents going to work, children going to school and after school activities and the comings and goings of general visitors to a dwellinghouse.

41. There are many scenarios within a standard C3 dwelling where a range of movements occur at different times of day. Those working shift patterns will leave and return from work at non-standard hours, and where people are receiving visits from carers there will be multiple vehicle movements to and from the property, throughout the day. Therefore the proposed end use would not result in an unsustainable impact upon the immediate area, and accords with the aims of Spatial Policy 1, and there is no policy context that could reasonably prevent a change of use from a C3 use to a C2 use. Therefore, the principle of the change of use is considered to be acceptable, subject to a consideration of other issues such as impact upon residential amenity and highways, which will be discussed in further details below.

Impact on Visual Amenity

42. The National Planning Policy Framework states that “good design is indivisible from good planning” and authorities are encouraged to refuse “development of poor design”, and that which “fails to take the opportunities available for the improving the character and quality of an area and the way it functions, should not be accepted”. Leeds Unitary Development Plan Policy GP5 states that “development proposals should seek to resolve detailed planning considerations including design” and should seek to avoid “loss of amenity whilst Policy BD6 states that “all alterations and extensions should respect the form and detailing of the original building”, whilst N25 relates specifically to boundary treatments and requires that they are contextually appropriate.
43. As stated within the site and surroundings section of this report, the application property is set on a corner plot at the intersection of Lingwell Avenue and Mount Pleasant, with both its front and side boundary being adjacent to the highway. It was also highlighted within this section that the current boundary treatment encircling the property is a 0.8m high brick wall, with the wall along Mount Pleasant having stepped down design towards the rear in order to accommodate the change in land levels along this street.
44. Within the immediate area there is a sense of space and openness which is considered to be an attractive characteristic feature of the streetscene. This sense of space and openness is strengthened by the large majority of dwellings within the surrounding area being bounded to the front by low walls and vegetation or benefiting with no boundary treatments at all, which helps soften the divide between public and private spaces.
45. Initial concerns were raised through third party comments that the proposed boundary fence would disrupt the establish character within the streetscene by introducing a large and defensive boundary treatment. Justification for the placement and height of the fence was given by the applicant, stating that the 1.8m height was a requirement set by OFSTED. Considering both comments officers sought to compromise with the applicant, noting that there was a drastic level difference between the rear garden and the boundary wall, as well as there being a row of decorative conifers behind the existing wall. It was therefore requested and later agreed upon that the proposed fence be repositioned behind the existing conifers. This allows for the requested height of 1.8m to be retained and for there to be a minimal impact of the visual amenity of the streetscene.
46. In addition to the proposed boundary treatment, officers consider that the proposed change of use from a C3 dwelling to a C2 care home is unlikely to cause harm to visual amenity of the property and the locality. This is because the proposed change

of use will not drastically alter the dwelling's established character as the building will continue to appear as a single family dwellinghouse within its residential setting.

Impact on Residential Amenity

47. Core Strategy Policy P10 notes that developments should protect amenity, and this is also reflected in saved UDP policies GP5 and BD5, with the latter noting that "all new buildings should be designed with consideration given to both their own amenity and that of their surroundings." Regarding this officers consider that the amenity of both the occupants and the surrounding neighbours will not be harmed by the proposed development, with full explanation for this judgement being set out below.

Amenity of Occupants:

48. The proposed floor plans show that there will be two bedrooms, kitchen/dining room, staff officer and a sensory lounge. Although Policy H9 of the Core Strategy (minimum space standards) only applies to new homes, it is considered to be a useful guide for ensuring that the property can comfortably accommodate its occupants. Therefore, a 2-bedroom bungalow property should have a minimum gross floor area of 70sqm, the application property is seen to have a floor area of approximately 90.5sqm which is considered to be a sufficient amount of floor space.
49. Notwithstanding this, a concern was raised by a neighbour that the proposed layout of the care home is inappropriate and would not be suitable for its proposed use, with the comment paying attention to the proposed bathroom in the staff office. Officers do recognise that there is a bathroom facility located within the staff office and consider this to be appropriate as this will not only be a home for those individuals seeking care but also a place of work for those providing care. Therefore, it is reasonable and appropriate for staff to have their own sperate bathroom. The submitted plans also show that there is a large central bathroom (labelled shower room on the plans) which will be used by the children.
50. In addition to the internal layout of the care home it is considered that the outdoor amenity space of the care facility is acceptable. Similar to above, while the guidance set in the Neighbourhoods for Living SPG (2003) relates to family dwellings its content is useful, especially in this case where the application site will operate like a C3 dwelling. Page 31 of the Neighbourhoods of Living SPG states that private gardens should have a minimum area of 2/3 of the total gross floor area of the dwelling. From the submitted site plan, the rear garden has an area of approximately 368sqm, thus complying with the guidance. As such the proposed development is consider by officers not to have a harmful impact on the amenity if its occupants, and thus acceptable in this regard.

Amenity of Neighbours:

51. Several concerns have been raised by public with regards to this application, with the issues stemming from the overshadowing impact created by the proposed boundary treatment and the level of noise and disturbance created by the development, to the possible fear that the end users will cause there to be a rise in anti-social behaviour and crime levels. The following section will aim to address each of these concerns in turn.
52. In terms of the proposed boundary treatment, initially plans showed the closed board timber fence to be placed on top of the existing boundary wall to a maximum height of 1.8m. Whilst the proposed fence would be visually obtrusive it was not considered to

have an overshadowing impact on the properties along Mount Pleasant. This was because the fence is situated to the south, meaning that throughout the day the shadow casted by the sun will be over the applicant own private amenity space and will thereby no prevent light from shining into the main windows of the properties along Mount Pleasant. Since the initial submission of the scheme, revised plans have been provided (date: 19th February) which shows the proposed fence to be situated behind existing vegetation and to be lower down, due to land level differences. This in turn further minimises the presence of the fence and eliminates any possible overshadowing harm. Furthermore, as there are little to no alterations to the exterior of the original dwellinghouse, it is considered by officers that the proposed development would not have an impact on the amenity of neighbouring residents through over-dominance nor overlooking.

53. One of the primary concerns express by neighbours was that the proposed change of use would lead to an increase in noise and disturbance, especially from the comings and goings of staff members and children (school and additional activities). As stated within the Principle of Development section in this report, it is believed that the care home will share similar characteristics to that of a traditional residential property, which includes the movement of its inhabitants and level of noise which it will produce.
54. In order to demonstrate that proposed care home will not cause adverse harm to neighbours, officers requested from the applicant to show how typically shift patterns will fall in a 24-hour period. From this it was demonstrated that the shifts would start and finish at points in the day when ordinary family movements may occur. For example, the day shift starts at 07:30, a similar time to when people may be leaving for work and ends at 23:00. While officers acknowledge that vehicle movement at 23:00 may not be considered typical behaviour, it could be akin to the movements those who work night shifts and other unsociable hours. This combined with their only being 2 members of staff who will leave at this hour is considered to be reasonable and would not result in excessive noise and disturbance which would be harmful to the living conditions of neighbouring occupants.
55. Another concern mentioned within third party comments is that the proposed development, particularly the end users of the development would cause for there to be an increase in anti-social behaviour and crime in the area, with some even going on to state that the development would be a strain on public services, like the police, or that it should be located in a more "affluent area" of Leeds.
56. Due to these concerns regarding the increase of anti-social behaviour and crime, officers thought it would be reasonable to consult with West Yorkshire Police on this application. In response to this consultation West Yorkshire Police stated that the proposed change of use is acceptable in principle and will not cause adverse impact on the living conditions of neighbouring residents, subject to the attachment of conditions relating to increasing the security of the residential care home. Besides from confirming that the proposed change of use would not give way to an increase in anti-social behaviour, the consultee also confirmed that the proposed development is unlikely to put a strain on existing police resources.
57. It should also be noted that the applicant has provide a management plan which highlights the protocol taken if concerns around noise and anti-social behaviour do arise (referral process and Emergency Support). Furthermore, as this is a care facility it is likely to be regulated and managed the appropriate associated bodies (i.e. OFSTED). Therefore, it can be viewed that a C2 property (care home) would be managed and regulated in a way that standard C3 dwellinghouse would not be, as

people are employed to ensure that no harm will come to both the residents of the care home and the surrounding neighbours.

58. Finally, regarding the comments made by members of the public that state that the proposed care home should be relocated into a more “affluent area” of Leeds, due to it having a negative impact on the area. There are a range of care homes across Leeds, serving the needs of children and adults, and recent applications identify that similar proposals to the current application are located in Wetherby, Adel, Halton, Cross gates, Moortown and Roundhay. It is thus the case that care homes are distributed across the city. It should also be noted that there is no evidence showing a correlation between the introduction of care homes for those with physical disabilities and a rise in anti-social behaviour.
59. Concern has also been raised regarding the possibility that the occupants of the care home will change in future years. It is the case, that planning permission would be granted for a C2 care home, which includes all types of possible care. Whilst it is difficult to envisage a lawful planning condition which restricted occupation to specific persons or children, the imposition of the management plan condition does provide some surety for those living with the area. As it will be necessary for the applicant to comply with the management plan, and this plan is specifically tailored to refer to children with physical and learning disabilities, should a different provider, offering a different type of care, take over the home, the management plan could no longer be adhered to. The council would then be able to take enforcement action. Thus, it is considered there are reasonable safeguards to protect the amenity of near neighbours in perpetuity.
60. As such the Council considers the proposed change of use to be acceptable as it will not cause undue harm to the living conditions of neighbouring residents.

Impact on Highway Safety

61. The Core Strategy Policy T2 states that new development should be located in accessible locations that are adequately served by existing or programmed highways, by public transportation and within safe and secure access for pedestrians, cyclists and people with impaired mobility. When consulting with highway colleagues, the accessibility of this application site is not a cause for concern, and it is in fact regarded to be in a highly sustainable location with the dwellinghouse being accessible to pedestrians as well as other forms of sustainable transportation.
62. However, a concern which has been raised in a few neighbour objection letters is that the application site will be unable to adequately accommodate staff and visitor’s vehicles onsite, thus giving way to the potential of increased on-street parking on the adjacent highway. Highway officers consider that the parking provisions within the application site are acceptable as it complies with the parking space guidance set out within the Transport SPD (2023), with the applicant demonstrating through additional plans that 3 vehicles can be accommodated within the application site.
63. Table 3-17 of the Transport SPD (page 130) states that for Residential Institutes, like a care home, there needs to be a ratio of 1 parking space per 3 residents. However, as the proposed care home will be a children’s residential institute, it is believed to be more akin to that of a secure residential institute which the vehicle parking ratio is determined individually, often based on the application’s own merits. Therefore, in this case, officers consider the guidance relating to a dwellinghouse to be the most acceptable with there needing to be a minimum of 2 off-street car parking spaces provided, which has clearly been provided on site. As such officers consider the level

of off-street parking at the application site to be acceptable for its intended use and will be conditioned to be retained.

64. In addition to the above, the Council's highway team have acknowledged that refuse bins will be stored alongside the house on the side elevation. Whilst this is acceptable in principle further details need to be provided regarding the bin store itself and its collection location, which can be obtained through the attachment of relevant conditions.

Drainage and Flood Risk Management

65. A concern which was raised through a neighbour objection letter is that the change of use would potentially lead to the intensified use of the properties drains and could then impact the sewage system which is connected to the neighbouring properties.
66. When consulting with the Council's Flood Risk Management Team it was considered that the change of use from C3 to C2 is unlikely to cause harm to existing drainage works. This is due to there being no identified risk of surface water flooding as well as there not being a need for new drainage connections. Nevertheless, due to the scale of the development if issue were to arise, they would be dealt through building regulations.

Other Considerations: Public Sector Equality

67. The application is accompanied by supporting information which states that the Change of Use would be of benefit to residents who have a protected characteristic under the Equality Act 2010 (age and disability).

Public Sector Equality Duty

68. In determining the planning application, the Council has to comply with the public sector equality duty. Section 149 of the Equality Act 2010 sets out the Public Sector Equality Duty whereby a public authority must, in the exercise of its functions (which includes planning) have due regard to the need to –
- a) Eliminate discrimination, harassment, victimization and any other conduct prohibited by the Act.
 - b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) Foster good relations between persons who shared a relevant protected characteristic and persons who do not share it.
69. With regard to b) above, due regard must be given to the need to:
- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The relevant protected characteristics include age, disability, gender, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

70. This Public Sector Equality Duty is in part support by policy H10 of the Core Strategy, which whilst this relates only to new build residential development, is nonetheless a policy which acknowledges the need to provide accessible and adaptable dwellings as part of the city's growing housing stock. Whilst there is no specific Development Plan policy that explicitly supports adaptations to existing dwellings to ensure they are accessible, and meet the needs of those with reduced physical mobility, this is nonetheless a matter that the Framework highlights in Section 8, noting that the housing needs of all sections of society should be considered.
71. As stated above, the proposed change of use will help provide accommodation for individuals with protected characteristics (age and disability). Planning seeks to create mixed and balanced communities, and as set out above the Council has a duty to reduce inequalities and disadvantages within our communities. Members must pay regard to this duty in their decision making.
72. As set out within supporting documentation the care home will house vulnerable children with additional needs (physical and/or learning disabilities) and this will not include those who may have a behavioural disorder. Children in care are those whose needs cannot be met within their birth family. Providing a care home to meet the needs of children with disabilities, and thereby seeking to minimise the disadvantages arising from their disabilities and family situation is a duty which can be given weight in the planning balance. The introduction of a care home to the area will not result in harm to the balance of housing stock within the area, and will also provide a much needed opportunity for these children, who without this facility could be subject to further disadvantage.
73. The Public Sector Equality Duty is an 'other consideration' which therefore weighs in favour of the application. The final balance of all material considerations and whether these clearly outweigh any potential harm is set out in the final planning balance below

Representations

74. The following comments are made in respect of the representations made:

A site notice was put on display within the local area on 14th December 2023. The following address's the material and non-material planning considerations which have not already been addressed in the main appraisal.

- Another concern raised in the received public response was that the proposed development would have a negative impact on property values in the immediate area. This is not a material planning consideration.
- An issue raised by many objectors was that the Council did not provide enough notification to the proposed development. It was stated that the site notice advertising the application was removed after the officer put it on display. Officers became aware of this issue and put up a new site notice within the immediate vicinity of the application site on 20th February 2024, and prior to this it is clear that people within the area were aware of the application and have had the opportunity make representations, which have been addressed within this report.

CONCLUSION:

75. The proposed change of use is considered to be acceptable in principle and will not cause harm to residential amenity or highway safety, these are considered to be

neutral matters which weigh neither for nor against the proposal. The application will also meet the needs of individuals who have a protected characteristic under the Equality Act; this benefit is given significant weight.

76. Furthermore, the proposed boundary fence in terms of its size, scale and siting would not cause adverse harm to visual or residential amenity. This is therefore considered to be a neutral matter which weighs neither for nor against the proposed.
77. The identified significant benefit combined together with neutral matters highlighted above ensure that the proposed change of use is an appropriate form of development. And thus, in accordance with paragraph 11 of the National Planning Policy Framework, the presumption in favour applies, and the application is recommended for approval.

BACKGROUND PAPERS:

Application file reference: 23/06049/FU

Certificate of ownership: Certificate B has been provided with the application form.