

Planning and Highways Committee
8th January 2024

REPORTS FOR CIRCULATION

REPORT BY EXECUTIVE DIRECTOR – CITY DEVELOPMENT

PURPOSE OF REPORT

This report is circulated to the Committee. It includes additional information received after the preparation of the Committee Report. This information may allow a revised recommendation to be made.

LIST OF CIRCULATED ITEMS

Application 4 of Item 4

23/001899/LP3 – Internal arrangements to provide supported accommodation for up to 5no individuals

Since the publication of the committee agenda, additional representations have been received which relate to:

- Land use and planning policy;
- Noise and disturbance;
- Transport; and
- Safeguarding

The below tends to the respective concerns, in turn.

Land Use and Planning Policy

The representations, under this heading, begin by contesting commentary provided in the submitted design and access statement ('DAS') and, by extension, the proposal in full, where citing the following passage: *"...to assist an application to utilise the existing dwelling's layout to create a new layout that contains: 'not more than six residents living together as a single household where care is provided for residents'"*. The representations refer to Use Classes C3(a) and C3(b) of The Town and Country Planning (Use Classes) Order 1987 (as amended). Specifically, the representations state

that the proposal may more closely align with Use Class C3(b) and or Use Class C4 (rather than the proposed C2 Use) in view of the excerpt which reads “not more than six residents living together as a single household where care is provided for residents”. Use Class C3(b) relates to dwellinghouses, wherein the given definition states:

Class C3. Dwellinghouses - Use as a dwellinghouse (whether or not as a sole or main residence) by— (a) a single person or by people to be regarded as forming a single household; (b) not more than six residents living together as a single household where care is provided for residents; or (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within class C4). Interpretation of Class C3 for the purposes of Class C3(a) “single household” is to be construed in accordance with section 258 of the Housing Act 2004.

Use Class C3(b) is regarded as being reserved for situations wherein the occupants, benefit from care provision. Article 2 of the Order states that “care” means personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in Class C2 also includes the personal care of children and medical care and treatment”. In this regard, the LPA are content that the application includes the provision of care within the meaning of Article 2, the scope of the care to be offered, and the appropriate use class of this facility (justified below).

Class C4. Houses in multiple occupation - Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”. Interpretation of Class C4 – For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004.

Firstly, it should be noted that Use Class C3(b) refers to ‘care’ as being personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder. Use Class C2 goes one step further by also including care which might be medical and/or involve some form of treatment. In this regard, the LPA consider that the broader meaning of ‘care’, as provided within Use Class C2, would more clearly align to the proposal detailed within this application. Use Class C4 does not cover the issue of care and, as such, is discounted as a possible use for this facility.

The question then falls on whether, or not, the persons living there are themselves capable of living together as a single household. In this regard it is the view of the LPA that the residents will come and go based on their individual needs but essentially the accommodation is aimed at providing ‘short-term’ care and support whether this be days, weeks or months. The proposal will therefore offer more transient housing accommodation and the LPA feel that this will make it more difficult for residents to live together as a single household/family.

Consequently, for the reasons given above the LPA conclude that the proposal more comfortably falls within the definition of Use Class C2. Indeed, it should be noted that had the proposal fallen under Use Class C3(b), in view of its current lawful C3 use and no proposed works to constitute development in line with Section 55 of the Town and Country Planning Act 1990, planning permission would not have been required in the first instance. Therefore, with the proposal instead falling under Use Class C2, the proposal has been assessed in the fullest terms (in so much that the acceptability of the principle of development has been rigorously assessed along with its potential impact upon the receiving environment) and considered to be acceptable at this location.

Having established that Use Class C2 is the most appropriate Use Class in relation to the proposal, it is pertinent to again read the proposal in terms of its compatibility with immediate and surrounding uses in the locality which, as noted, prevalently comprises residential dwellings (Use Class C3). By definition, Use Class C2 “residential institutions” signposts the fact that the end use principally relates to a form of residential development. In these terms, and further to Section 55(2)(f) of The Town and Country Planning Act 1990 (which provides that a change to a different use falling within the same use class as the original use does not require planning permission), the proposal can be considered to be compatible with the immediate and surrounding residential land use. The potential impacts of the proposal have been cumulatively and respectively assessed by the appropriate statutory and non-statutory consultees which unanimously agree that the proposal is or, through conditions, as currently recommended, can be made acceptable. The compatibility of development is a material planning consideration, however, the proposal, for the reasons detailed in the last Planning Committee Report, remains acceptable at this location, with no evidence to preclude nor outweigh the recommendation to approve the planning application.

The proposal has been read against the provisions of the adopted Core Strategy and Development Plan Policy H5 which contains criteria broadly seeking to prevent the loss of residential housing stock. Criterion 2 of Policy H5 of the adopted CSDP states that development which would result in the loss of residential housing stock, particularly family housing, through change of use or redevelopment will not be permitted unless it is demonstrated that:

- i. the dwelling(s) no longer provide accommodation of a satisfactory standard;
- ii. it is financially unviable to improve or adapt the existing dwelling(s); and
- iii. the locality and character of the surrounding are no longer appropriate for residential use

Sequentially tending to the above criteria and, for the avoidance of doubt, the dwelling remains suitable for providing accommodation of a satisfactory standard; it is viable to improve or adapt the existing dwelling (though not relevant or pertinent in this case); and the character of the immediate and

surrounding area remains appropriate for residential use in the locality. Notwithstanding the fact the proposal is unable to coalesce with the criteria of policy H5 in terms of loss of a family dwelling (as noted and conceded in the Committee Report), the proposed use wholly relates to a place of residence, providing residential accommodation to those in need of a specialist facility. The Committee Report refers to the fact that, were the proposed use to cease, the host building could easily (owing to the absence of any internal or external alteration to the existing dwelling) revert to operate as a dwellinghouse in line with Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Policy H1 at criterion 2(i) seeks to ensure that there is a choice of suitable accommodation for older people and those with special housing needs, including bungalows and Extra Care housing. This policy mirrors the requirement set out at paragraph 60 of the National Planning Policy Framework ('NPPF'). As noted in the Committee Report, the proposed development would provide a form of accommodation which would seek to address a specific continuous short-term need (supported living accommodation) over the lifetime of the development and, thus, is in compliance with the objectives of policy H1.

Noise and Disturbance

The representations states that the semi-detached property to which the application property adjoins will be impacted by noise and disturbance, as well, to a lesser extent, the two properties bounding the south of the site at Ashley Close. Further reference is made in the representations to the submitted DAS where the representations isolates terminology used, specifically, the below:

- "potential issues"
- "There will be a curfew in operation"
- "challenging behaviour"
- "Non-engagement with support"

The representations assume, given mention of the above citations in the submitted DAS, that this indicates that issues pursuant to the above are likely to occur. The representations then proceed to cite a lack of commentary pertaining to how, in the instances disruption, this will be managed by the care provider. Furthermore, the representations state that there is a lack of information surrounding staff rotation.

As can be noted from the Committee Report, the Environmental Health Section were consulted to assess, amongst other impacts, the potential for the proposal to give rise to adverse impacts in relation to noise and disturbance.

Again, as can be noted from the Committee Report, there is no evidence to suggest that a proposal of this nature would cause any adverse impacts in relation to noise and or disturbances associated with comings and goings of

residents, visitors, and staff, or in relation to any other impacts in respect of residential amenity. It should also be noted (and, as mentioned in the Committee Report), that the applicant has confirmed all staff will be capable of proactively dealing at source with any issues that arise, with risk assessments undertaken by the support staff and rigorous training in how to deal with difficult situations delivered. It is important to note that this detail serves as an academic contingency as there is no evidence to suggest that the proposal would give rise to unacceptable impacts in terms of noise, disturbance or any other impact incidental to amenity.

In respect of the point made toward a lack of information about staff rotation, the Local Planning Authority consider that this is not the case owing to the fact the Committee Report details staffing arrangements and, indeed, goes further in recommending a condition inhibiting the number of staff present at the application site associated with the care element of the development at any one time. This is in the interests of preserving residential amenity and highway safety.

To that end, it continues to be considered that the proposed development would, subject to adherence to the recommended condition, accord with Policy HS1 and Policy BH1 of the adopted CSDP.

Transport

The Highways Authority has been re-consulted following receipt of the additional representations received owing to concerns contained raised within.

The Transportation Section has duly responded to the applicable and corresponding parts of the representations and commented that:

“The objection is of the assumption that 6 to 9 cars will be arriving and departing during the course of a day. This appears to be an excessive estimation given the scale and size of the property to be used. It also assumes all staff will travel by car independently (single car occupancy). The parking space provided within the curtilage of the property is acceptable.

...In terms of the bus stop usage, there are three timetabled services which could potentially stop at the nearby bay location. These are the service 4 (15 minute frequency), 84 (20 minute frequency) and 8 (30 minute frequency) at the time of writing. The frequency of bus services is not an issue, and any motorist exiting the property should do so with due care and attention, and if the bus bay is occupied wait for a very short period of time.”

In furtherment and in the interest of openness and transparency, the Transportation Section also submitted response to respective ward councillors which states:

“The proposed site plan submitted with the application shows that the grounds to the front of the property could potentially accommodate spaces for up to five cars in addition to an existing garage. This is unchanged from the

existing situation for its current use as a residential dwelling and could take place now.

The applicant states that in normal circumstances there will only be two support staff members on site at a time. This could increase to a maximum of three if needed. These staff members may drive to the property, but could also travel by bus, cycle or walk if they live nearby. No residents will own vehicles and any visitors would be pre-arranged by appointment only.

It is understood that there is no need for more than three parking spaces to be occupied at any one time. Based on this, there would be sufficient space remaining within the grounds to allow cars to turn and leave in a forward gear.

The vehicular access to the property is much wider than a standard footway crossing and allows good visibility in both directions. If a bus is stopping to the right for passengers, a driver wishing to exit would need to wait a short period or exit with caution. This is unchanged from the existing situation for its current use as a residential dwelling and could take place now.

Taking these factors into considerations there are no objections to the proposal in terms of road safety.”

That is to say, for the avoidance of doubt, the proposal can be suitably serviced in the interests of preserving highway safety to the satisfaction of Policy ST2 and Policy ST3 of the adopted CSDP.

Safeguarding

Within the objections it is claimed that:

“The high volume of pupil activity outside the boundary of the property has the high potential to lead to safeguarding issues for both potential residents of the scheme and to the pupils themselves.

• With respect to the residents of the scheme, the negative sentiment toward the scheme from the local community raises the very real risk of anti-social behaviour toward the property and its residents. The existing high volume of activity outside the property, particularly of pupils, means the potential of misguided behaviour to occur is significantly higher than would be the case in other locations.”

In this regard, it is acknowledged that the ‘fear of crime’ and ‘anti-social behaviour’ is capable of being a material planning consideration. This means that fear of crime / anti-social behaviour can be properly considered by local authorities as a reason to refuse a planning application. However, there are a series of tests which the local authority must pass before ‘fear of crime’ can be properly considered as a reason for a planning refusal. In particular:

1. the fear of crime must be objectively justified;
2. the fear of crime must have some reasonable basis; and

3. the fear of crime must relate to the use – in planning terms – of the land in question rather than assumptions “not supported by evidence as to the character of future occupiers” (Smith v FSS [2005] EWCA Civ 859).

The representations submitted fail to provide any evidence to support the claims that the use of The Sheiling for vulnerable young women would lead to a high potential for safeguarding and anti-social behaviour issues to arise. The representations appear to be based on assumptions, unevidenced allegations or prejudice, and these do not meet with the tests outlined above.

It should also be noted that ‘fear of the unknown’ could not be a material consideration, and attention should be drawn to the proposed on-site management (24/7 staffing; residents curfew; visitors only between office hours; etc.).

Northumbria Police have also commented on the proposal and offered the following comments:

“1. We note that there are a significant number of local objections and comments which make particular reference to the property housing people with drug and alcohol issues, but we could not find that information in the application documents published on the portal.

2. Some responders reference a mail drop that refers to “change of use to a Halfway house for young, homeless people with drug/alcohol issues.” And mentions that Drug/alcohol issues was highlighted in bright pink. Do we know the source of this mail drop on 6th October because it doesn’t appear to have been part of the official consultation which concluded earlier.

3. The proposal is regarding internal arrangements to provide supported accommodation for up to five single females.

4. It is a matter of record that Northumbria Police have expressed concerns when care facilities have had, or are likely to have, impact on public amenity. It would therefore be contradictory of us if we didn’t consider the potential impact of this supported housing proposal.

The prior use of this property was as a Bed & Breakfast but there have been no calls for service originating from, or about, the premises in the last 21 years.

It would be naive to assume that the proposed use would have no impact at all on the locality, but the question for consideration is that potential impact addressable through proper management of the facility.

The Applicant proposes 24/7 care with teams of two care staff working eight hour shifts, and provision made to increase that level of support if needed. They will also operate a curfew and restrict visitors to the address. The care provider, Changing Lives, has also said that they will seek to create a positive

impact and ensure the smooth transition of the scheme into the locality in line with their social values, and provide a specific point of contact for the public, to enable queries and issues to be dealt with promptly by them.

In terms of genuine mitigation we consider that likely to be sufficient to address any predictable risk and strong links with the local policing team will be established.

5. Given the level of management and the nature of the care provision and the community it will serve, it seems unlikely that drug detritus will originate from the property or be a problem in this locality because of the presence of the facility.

6. Many of the objector's express concern about the safety of pupils attending the local comprehensive school, but it is not clear that the case is made that residents of the home represent any direct risk to young people, and in any event, matters of placement would be agreed with the local authority and the care provider and take into account possibility of third-party risk.

Conclusion

Northumbria Police acknowledge the views expressed by residents and recognise that many of the comments are based upon genuine concerns, however experience has shown that the sort of negative behaviours identified by responders are neither exclusive to, or certain to occur, if a premises is well managed.

Northumbria Police accept that there is a need for such premises and that such facilities should be provided, where possible, in the home locality. Indeed, we also recognise that such facilities have a better chance of being successful if they aren't in more challenged localities but are still local.

We are however concerned about the number of residents that oppose this application, because it could make it more difficult for the facility to be assimilated into the immediate community.

On balance we think that with appropriate management, good communication and well-structured care, a home in this location represents very little actual risk, and therefore we have no objection."

Consequently, for the reasons set out above, the LPA consider that only very limited weight can be afforded to the issue of crime, anti-social behaviour (safeguarding matters) in the overall planning balance and, subject to the conditions proposed, it is not considered that 'the use' would give rise to any significant impacts that could not reasonably be addressed through appropriate management of the facility.

Other matters

Use of the property as a Bed and Breakfast ('B&B')

It is noted that, under planning application ref. 89/00478/10, planning permission to change the use of the property from residential dwelling to a guest house was refused. Notwithstanding this refusal of planning permission, it is understood that the application property has, in recent years, been in commercial operation as a B&B. With the absence of any extant planning permission to permit such use, this can be considered unauthorised and unlawful. However, the unlawful use of the property as a B&B does serve to indicate that a use, incidentally, involving more transience than the proposal, can be satisfactorily accommodated at the application site considering the lack of disruption reported from the B&B during the lifetime of its operation thus far. Notwithstanding the use of the application property as a B&B, for the avoidance of doubt, the lawful use remains as a residential dwelling and the application has accordingly been assessed to reflect this.

Public Benefit

While not expressly stated in Committee Report, the proposal will provide accommodation for a disadvantaged group of people and provide the prospect of improving their quality of life outside the more formal constraints of an institution. This is a social benefit of the proposal which should be given due weight in determining the application.

Conclusion

Notwithstanding the abovementioned representations received and other matters discussed, the proposal is considered to be an acceptable form of development. To that end, and, in light of the comments above, the recommendation remains the same as set out in the Committee Report.

It is recommended that, in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), Members **GRANT CONSENT** for the proposal, subject to the draft conditions, as recommended.

Application 5 of Item 4

23/02281/LB3 – Proposed internal works (including installation of mechanical extract to ceiling of laboratory; and removal of damaged plaster and stud wall linings) and external works and alterations to roof (including new lead cover flashings and lead hips; replacement of flat roof of central tower; removal of flagpole, access equipment to roof, and 2no. rooflights (westernmost rooflight to be replaced with slate roofing to match existing and easternmost rooflight to incorporate slate mushroom vent)); guttering (replace existing lead guttering with stainless steel equivalent); pipework (removal of defected, redundant pipes); and external door to central tower (to be replaced with louvred door)

This report is to make Members aware of the following:

The recommendation within the Planning Committee Report needs to be amended so that it does not refer to Regulation 3 of the Town and Country Planning General Regulations 1992. The amended recommendation is therefore as follows:

*“It is recommended that Members **GRANT** Listed Building Consent for the proposed works subject to the draft conditions within the Committee Report and the amended condition 3 in the supplemental report”.*

Condition 3 relating to archaeology building recording needs to be amended to change the timing for the submission of the programme of archaeological building recording. The condition in the Committee Report states that no works shall take place until a programme of archaeological building recording has been completed. However, the contractor is likely to start by firstly stopping the water ingress on the roof before moving on to the interior attic repairs (which are the works that need recording). It is therefore recommended that Condition 3 be amended to the following:

“Within 6 months of the commencement of works hereby permitted, a programme of archaeological building recording shall be submitted to and approved in writing by the Local Planning Authority. The archaeological building recording shall provide details of the interior of the third floor and attic of the Sunderland Museum prior to conversion, as well as recording the presence of any historic fixtures and fittings following the removal of damaged internal plaster and stud wall linings prior to their replacement. The recording must be undertaken in strict accordance with the requirements of the "Specification for Archaeological Building Recording at Sunderland Museum and Winter Gardens", prepared by David Cockcroft (Tyne and Wear Archaeological Service).

REASON

In order to provide an archive record of the historic building in accordance with Policy BH9 of the adopted Core Strategy and Development Plan.”

END OF REPORT