

## **DEVELOPMENT PLAN**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

### **Unitary Development Plan - current status**

The Unitary Development Plan for Sunderland was adopted on 7th September 1998. In the report on each application specific reference will be made to those policies and proposals, which are particularly relevant to the application site and proposal. The UDP also includes a number of city wide and strategic policies and objectives, which when appropriate will be identified.

## **STANDARD CONDITIONS**

Sections 91 and 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 require that any planning application which is granted either full or outline planning permission shall include a condition, which limits its duration.

## **SITE PLANS**

The site plans included in each report are illustrative only.

## **PUBLICITY/CONSULTATIONS**

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010

## **LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION**

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These reports are held on the relevant application file and are available for inspection during normal office hours at the Office of the Chief Executive in the Civic Centre or via the internet at [www.sunderland.gov.uk/online-applications/](http://www.sunderland.gov.uk/online-applications/)

Janet Johnson  
Deputy Chief Executive

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**Reference No.:** 13/03256/FUL Full Application**Proposal:** Change of use from public house to gym, dance studio, and a salon. Various external works to include first floor extension to existing toilet block and external alterations (amended 17th March 2014).**Location:** The Grindon Mill 131 The Broadway Grindon Sunderland SR4 8HB**Ward:** Sandhill**Applicant:** GW Architectural**Date Valid:** 28 January 2014**Target Date:** 29 April 2014

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**PROPOSAL:**

Planning permission is sought for the change of use of the former Grindon Mill Public House into a gym, dance studio and salon. The application includes proposals for external works to include a first floor extension to the existing toilet block, new fenestration and alterations to the external facades and car parking area. A proposal to alter the position of the existing access into the car park, off Chester Road, has been deleted from the application.

The gym is proposed to operate 24 hours per day and would comprise separate male and female gym facilities, dance studios, beauty salon and treatment rooms. The ground floor of the former pub would provide male gym/changing facilities along with salon facilities to include tanning and steam rooms. The existing kitchen area to the south west of the building would be subdivided to provide dance studios and exercise classes. Storage rooms are shown to the south of the building. On the first floor, the existing function room would become the female gym. A changing area would be created on this upper level by extending a single storey extension to the south of the main building, up to first floor level.

The applicants state that the proposed business could employ between 20 and 25 staff and would also provide the local community with facilities that could be hired out for exercise, drama and dance.

**TYPE OF PUBLICITY:**

Site Notice Posted  
Neighbour Notifications

**CONSULTEES:**

Network Management  
Sandhill - Ward Councillor Consultation

Health, Housing And Adult Services - Sports And Leisure  
Force Planning And Police Architectural Liaison Officer  
Environmental Health

Final Date for Receipt of Representations: **04.03.2014**

**REPRESENTATIONS:**

Details of the representation made in respect of this application will be contained within a supplement report to the main agenda.

**POLICIES:**

In the Unitary Development Plan the site is subject to the following policies;

B\_2\_Scale, massing layout and setting of new developments

T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

EN\_6\_Limit exposure of new noise/vibration sensitive developments to existing sources

**COMMENTS:**

The main issues remain under consideration and it is therefore anticipated that a further detailed report will be circulated to Members in advance of the meeting.

**RECOMMENDATION: Deputy Chief Executive to Report**

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**Reference No.:** 14/00089/FUL Full Application**Proposal:** **Change of use of rear section of building to supported living accommodation (C2 Use) to accommodate up to 8 no. children in need of full time care.****Location:** 17 Mowbray Road Sunderland SR2 8EW**Ward:** Hendon**Applicant:** HMO Northeast T/A Forevercare**Date Valid:** 5 February 2014**Target Date:** 2 April 2014

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**PROPOSAL:**

The proposal relates to the change of use of the rear section of 17 Mowbray Road, Hendon, Sunderland, SR2 8EW to supported living accommodation (use class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended)) to accommodate up to 8 no. children in full-time care.

The proposal affects an annexe at the rear of a substantial three-storey detached property which occupies a large (approximately 815 sq. metres) plot at the junction of Mowbray Road and Toward Road. The main building is set behind a large walled front garden and is a relatively attractive property of some age, but to its rear is the fairly modern, substantial two-storey annexe, which is attached to the main building via a connecting enclosed hallway. The area surrounding the subject building is predominantly residential in nature, with residential terraces to the south, on the opposite side of Mowbray Road, to the west (The Oaks) and to the north (St. Vincent Street). To the east are the relatively modern two-storey dwellings of the cul-de-sac St. Lucia Close.

Before describing the details of the current proposal, it is considered useful to give an overview of the planning history of the subject building. It would appear that the property was historically a vicarage for the nearby St. Ignatius Church, but planning permission was granted in 1982 for a change of use of the building to a nursing home (ref. 82/0652). Subsequent applications proposing extensions to the nursing home (i.e. the aforementioned annexe) were then approved in 1985, 1994 and 1996.

In 1998, planning permission was granted to change the use of the building to a house in multiple occupation (HMO) to provide student accommodation (application ref. 98/00677/FUL). A condition of this approval (condition no. 5) stipulated that: 'the accommodation shall only be occupied by students in full-time education, in order that the Local Planning Authority may retain control over the development'.

In 2007, as Members may recall, planning permission was granted to temporarily change the use of the property to supported residential accommodation for

homeless youths, a facility to be operated by the charity Centrepont (application ref. 07/05332/FUL). This was granted for a temporary period of 2 years, although the approval of two subsequent applications to renew this permission (refs. 09/04607/REN and 11/01635/REN) resulted in the use being authorised until March 2012.

Centrepont's use of the building has ceased and it is currently vacant. The authorised use of the premises has therefore reverted back to its previously approved use, i.e. the student accommodation approved in 1998.

The current application, which has been submitted by HMO North East (trading as 'Forevercare'), seeks to change the use of the annexe to the rear of the property to supported living accommodation for up to 8 no. children in need of full-time care, a use falling within use class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended). A second application (ref. 14/00380/VAR) proposes the removal of a condition attached to the 1998 approval to allow the retained HMO in the main, front part of the building to be occupied by persons other than full-time students and is also to be determined by this Committee.

The application for the supported living accommodation for children does not involve any physical alterations to the building and only minor internal changes are required. The statement supporting the application advises that the accommodation is for up to 8 no. children with emotional behavioural difficulties. It will afford 8 no. bedrooms across the two floors, together with a ground floor lounge, computer rooms, shower rooms and a manager's office, whilst the first floor provides a kitchen/dining room, shower rooms and a store/laundry. The connection to the main building via the aforementioned covered corridor is to be blocked.

The supporting statement goes on to advise that the children to reside at the home will be aged between 12 (or younger if there is an express need) and 17 years old. Children of either sex will be accepted and will be in need of full-time care. The children will be referred by a Local Authority and assessed by management to determine if they are suitable and their needs can be met by the services on offer. Children are anticipated to be from a variety of backgrounds and may not be able to reside with their family unit because, for example, of a breakdown in their family relationship, or if a court has ordered supervised contact only or because of previous offending behaviour.

The children will be supervised at all times within the home and contactable at all times when outside the home by way of a mobile phone to be supplied by staff on admission to the facility. All staff will have experience of working within a residential child-care setting and be qualified to at least NVQ Level 3 and be expected to deal with confrontational situations quickly and effectively and build up positive relationships with residents. Staffing ratios will be determined by the number of children resident within the home, but there will be at least two staff and a manager on shift at all times. Two staff will be on shift during the night (sleeping-in) to ensure continuous supervision and safeguarding. Local residents can be provided with a direct telephone number for staff at the building to report any issues with occupants or concerns in relation to management practices.

A Management Plan has also been submitted with the application, which sets out an introduction to Forevercare's background and aims and objectives in providing

care for children and notes their intention to be registered with Ofsted. The management plan goes on to set out detailed staffing arrangements, Forevercare's referral and admission policies and the company's policy in relation to children going missing from the home. It also details the risk assessment procedure to be completed at the point of admission to the facility, which will be reviewed as and when required if any concerns arise during a child's occupancy of the home.

The site plan submitted with the application indicates an area at the rear of the property which, it is suggested, could be used for parking for up to 6 no. vehicles, although the parking layout shown would require parking in tandem.

An application of this nature would normally be determined under the Council's Delegation scheme, but it has been referred to the Committee at the request of Ward Councillor McClennan.

#### **TYPE OF PUBLICITY:**

Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Hendon - Ward Councillor Consultation  
Network Management  
Environmental Health  
Force Planning And Police Architectural Liaison Officer

Final Date for Receipt of Representations: **27.02.2014**

#### **REPRESENTATIONS:**

Public Representation

Representations have been received from the occupiers of 20, 22 and 23 St. Lucia Close, 3 Park Place East (on behalf of the Park Place East Residents' Association), 6, 10 and 12 Mowbray Road, 5 St. Vincent Street and one supplied without an address. Identical letters have also been received from the secretaries of the Park Place East and The Oaks Residents' Associations.

Much of the concern of the objectors relates to the previous use of the building by Centrepoint and the perceived similarities with the proposed use. The objections explain in some detail the anti-social behaviour issues endured during Centrepoint's use of the building (e.g. intimidation of neighbouring residents, petty crime, vandalism, littering, outdoor drinking and drug abuse, noise and disturbance) which, it is asserted, resulted in significant harm to the amenity of the area and regular visits to the site by the police. It is suggested that the proposed use as accommodation for children in need of full-time care will give rise to similar anti-social behaviour at a time when residents have been enjoying improved living conditions since Centrepoint vacated the building.

It must be stressed at this point that whilst the anti-social behaviour issues encountered by local residents during Centrepoint's occupancy of the premises are not disputed, it is not reasonable to directly compare the proposed use of the

building directly to the previous use and make assumptions that the same issues will automatically arise. Firstly, this application proposes a different use of the building (Centrepoint provided accommodation for homeless young persons) and has been submitted by a different applicant who will manage the premises in a different way. The proposal also only affects the rear annexe to the building and so is far less intensive than Centrepoint's use of the building, which affected the whole premises.

The potential impact of the proposed use of the building on the amenity of the locality is, however, given full consideration in the next section of this report.

The objections also query the suitability of the subject building for a care facility, the effectiveness of this form of living accommodation in terms of providing support for children and the effect the use may have on businesses in the area (e.g. the guest house at 12 Mowbray Road). Concerns are also raised in respect of highway safety and the parking facilities at the premises and the fact that the applicant has carried out refurbishment works (which have taken place prior to the submission of the planning application), sometimes at unsociable hours.

The objections from the secretaries of The Oaks and Park Place East Residents' Associations are detailed and balanced in their summary of the previous uses of the building and the planning considerations in relation to the determination of the current application. The letters essentially conclude that it would be preferable if the application was refused and, as an alternative, a conversion to residential apartments is suggested. If the Council is minded to approve the application, it is requested that clarification of the applicant's intentions for the main building is sought (it is now apparent that the applicant intends for the remainder of the building to be used as an HMO) and that any permission is only granted for a temporary period, is limited to the specific use applied for and is subject to a detailed management plan.

A petition has also been received, which features signatures from 11 no. residents of St. Lucia Close. The signatories object to the application, citing concerns over the lack of outdoor amenity space for children and the possibility that the anti-social behaviour experienced during Centrepoint's occupancy of the building will return.

Northumbria Police

The police force's planning and architectural liaison office has been consulted in respect of the application, but no comments have been received in response to date.

## **POLICIES:**

In the Unitary Development Plan the site is subject to the following policies;

EN\_10\_Proposals for unallocated sites to be compatible with the neighbourhood  
B\_2\_Scale, massing layout and setting of new developments

T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

H\_17\_Nursing and rest homes to respect amenity / established local character

## **COMMENTS:**

### **RELEVANT POLICY BACKGROUND**

The National Planning Policy Framework (NPPF) provides the current Government's national planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. The NPPF sets out a series of 12 'core planning principles' which underpin plan-making and decision-taking and are considered to contribute to the over-arching aim of delivering sustainable development. Particularly relevant in this case are the principles that development should always seek to secure a high quality design and a good standard of amenity and should encourage the effective re-use of land and property.

The relevant guidance of the NPPF detailed above feeds into policies EN10, B2, H17 and T14 of the City Council's adopted Unitary Development Plan (1998), which are considered to be pertinent to the determination of this application.

Policy EN10 of the UDP requires new development proposals to respect the existing pattern of land use in areas where there is no specific land use allocation. Policy H17, meanwhile, states that the provision of nursing homes and other residential accommodation for people in need of care (i.e. C2 uses) will normally be approved provided they are not detrimental to general amenity and the established character of the locality. Proposals must also demonstrate how parking and servicing requirements will be met.

Also relevant are policies B2, which requires new development proposals to maintain an acceptable standard of visual and residential amenity, and T14, which states that new development must not result in conditions which are prejudicial to highway and pedestrian safety.

### **ISSUES TO CONSIDER**

With regard to the above policy framework, it is evident that the main issues to consider in determining the application are:

1. the principle of the proposal;
2. the impact of the proposal on the amenity of the locality;
3. the implications of the proposal in respect of highway and pedestrian safety.

#### **1. Principle of Proposal**

The proposed use of the premises is, ultimately, residential in nature and the building is located within an area which is primarily residential in character. Broadly speaking, the proposal does not, therefore, conflict with the established pattern of land use in the neighbourhood or raise any new land-use implications. The proposal consequently accords with policy EN10's requirements in this regard.

### **CONCLUSION**

With regard to the above comments, it is considered that the broad principle of the proposed supported living accommodation in the subject unit is acceptable in terms of the primarily residential land-use of the neighbourhood.

However, the implications of the proposed use of the premises in relation to the amenity of the locality and highway and pedestrian safety are still being considered. It is anticipated that full consideration of these outstanding matters will be completed shortly and details will be reported on a Supplementary Report. The Supplementary report will also provide a recommended decision and, if applicable, suggested conditions.

**RECOMMENDATION: Deputy Chief Executive to Report**

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**Reference No.:** 14/00380/VAR Variation of Condition**Proposal:** **Removal of condition no.5 of planning permission 98/00677/FUL to allow general HMO occupation****Location:** Oakwood House 17 Mowbray Road Sunderland SR2 8EW**Ward:** Hendon**Applicant:** HMO Northeast T/A Forevercare**Date Valid:** 21 February 2014**Target Date:** 18 April 2014

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**PROPOSAL:**

The proposal relates to the removal of condition no. 5 of planning permission ref. 98/00677/FUL to allow for general occupation of the existing house in multiple occupation at 17 Mowbray Road, Hendon, Sunderland, SR2 8EW.

The proposal affects a three-storey (with additional rooms in the roof space) detached property occupies a substantial (approximately 815 sq. metres) plot at the junction of Mowbray Road and Toward Road, which flanks its western side. The main building is set behind a large walled front garden and is a relatively attractive property of some age, but to its rear is a fairly modern, substantial two-storey annexe, which is attached to the main building via a connecting enclosed hallway. The area surrounding the subject building is predominantly residential in nature, with residential terraces to the south, on the opposite side of Mowbray Road, to the west (The Oaks) and to the north (St. Vincent Street). To the east are the relatively modern two-storey dwellings of the cul-de-sac St. Lucia Close.

Before describing the details of the current proposal, it is considered useful to give an overview of the planning history of the subject building. It would appear that the property was historically a vicarage for the nearby St. Ignatius Church, but planning permission was granted in 1982 for a change of use of the building to a nursing home (ref. 82/0652). Subsequent applications proposing extensions to the nursing home (i.e. the aforementioned annexe) were then approved in 1985, 1994 and 1996.

In 1998, planning permission was granted to change the use of the building to a house in multiple occupation (HMO) to provide student accommodation (application ref. 98/00677/FUL). A condition of this approval (condition no. 5) stipulated that: 'the accommodation shall only be occupied by students in full-time education, in order that the Local Planning Authority may retain control over the development'.

In 2007, as Members may recall, planning permission was granted to temporarily change the use of the property to supported residential accommodation for homeless youths, a facility to be operated by the charity Centrepont (application ref. 07/05332/FUL). This was granted for a temporary period of 2 years, although

the approval of two subsequent applications to renew this permission (refs. 09/04607/REN and 11/01635/REN) resulted in the use being authorised until March 2012.

Centrepoint's use of the building has ceased and it is currently vacant. The authorised use of the premises has therefore reverted back to its previously approved use, i.e. the student accommodation approved in 1998.

The current application, which has been submitted by HMO North East (trading as 'Forevercare') seeks to remove the aforementioned condition 5 of the approved 1998 application for the HMO to allow it to be occupied by persons other than students.

The correspondence held on the file for application ref. 98/00677/FUL indicates that the restriction of the occupancy of the HMO to students only was imposed primarily with regard to parking considerations. A letter from the applicant's agent to the case officer for the application suggests that a use of the building as a guest house had been mooted, but concerns were raised by the Council in relation to the additional on-street parking such a use may generate. The applicant therefore proceeded with the proposal for student accommodation, a use which, in the Council's opinion, did not raise the same on-street parking concerns.

The current application only relates to the front (older) part of the building - a second application (ref. 14/00089/FUL) proposing to change the use of the rear annexe to supported living accommodation for up to 8 no. children in need of full-time care has been submitted and is also to be determined by this Committee.

This application to remove the student occupancy condition does not involve any physical alterations to the building and only minor internal changes are required. The statement supporting the application advises that the accommodation can be occupied by up to 15 no. persons and it will afford 15 no. bedrooms, together with shared bathrooms, a laundry, kitchen and large kitchen/lounge on the first floor. An office will also be provided. The connection to the rear annexe via the aforementioned covered corridor is to be blocked.

The supporting statement goes on to advise that the applicant's potential tenants are those referred by the Local Authority agencies, charitable organisations and other support and social services groups. Tenants will be from a range of different backgrounds, but the applicant does not intend to offer accommodation to those with a criminal record or known offending behaviour involving violent crime, addiction or sexual offences. Nor does the applicant intend to accept tenants who 'turn-up' at the property without a prior referral.

On-site staff at the HMO include a 'live-in' warden, maintenance and cleaning staff, a staffed office throughout the day and 'floating' staff on call a 24 hours-a-day, 7 days-a-week. It has also been advised that local residents and residents' associations can be supplied with a direct telephone number for the property and a mobile telephone number for a member of Forevercare's senior management member to allow the reporting of any matters of concern.

A Management Plan has also been submitted with the application, which sets out the applicant's vetting procedure for any potential tenants and gives details of the expected routines of tenants and staff. The Plan stresses that there will be a

'zero tolerance' policy towards anti-social behaviour and that alcohol and other intoxicating substances will not be allowed on the premises. Violation of this policy will result in a tenancy being terminated. Tenants are also encouraged to take part in meaningful activity throughout the day and the applicant has engaged with a training company offering vocational and leisure-related courses.

An application of this nature would normally be determined under the Council's Delegation scheme, but it has been referred to the Committee at the request of Ward Councillor McClennan.

#### **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Network Management  
Hendon - Ward Councillor Consultation

Final Date for Receipt of Representations: **26.03.2014**

#### **REPRESENTATIONS:**

Public Representation

Representations have been received from the secretary of The Oaks Residents' Association and the occupier of 30 Park Place East.

The letter from The Oaks Residents' Association is very detailed but raises the following broad concerns and points for consideration:

- the Association is 'totally opposed in principle' to the proposal on the grounds that it could have an unacceptable impact on the residential amenity of the surrounding area;
- there are practical limitations on the management being able to effectively control behaviour of residents, especially off the premises;
- reservations expressed in relation to the potential cumulative effect of the removal of the student occupancy condition proposed by this application and the children's home application proposed by the tandem application ref. 14/00089/FUL;
- notes that the application site is in Hendon ward, where the Council's recent Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) now allows greater control over the change of use of single dwellinghouses to HMOs - the Direction is considered to demonstrate that the Council acknowledges that HMOs can have a harmful effect on residential amenity;
- there is already a concentration of 'hostel-type' uses in the locality, which has affected the character and amenity of the area;
- it is suggested that the Council could, if so minded, grant permission for a temporary period rather than permanently, in order to allow for the effect of the removal of the condition to be reviewed in the light of experience;

- the proposed installation of CCTV cameras at the building will help 'police' its immediate environs but would not prevent anti-social behaviour in the wider neighbourhood;
- the management plan submitted with the application is 'inadequate' and 'vague', particularly in relation to the management of the off-site activities of tenants;
- there is 'ambiguity' in the applicant's tenant eligibility tests - it is unclear as to whether persons with any form of criminal record will be ineligible for tenancy, or only those with more serious convictions;
- questions the applicant's assertion that the original condition restricting occupancy of the HMO to students only is reasonable and enforceable;

The letter concludes by re-affirming the opposition to the application, but recognises that the Council will have to give regard to the planning history of the building. If approval is given, it is suggested that this is only done so on a temporary basis and is subject to the submission and approval of a detailed and enforceable management plan.

The letter from 30 Park Place East provides details of the anti-social behaviour issues experienced by local residents during Centrepunkt's occupancy of the subject building and suggests that the same issues will arise again if permission is granted for the unrestricted HMO and children's home in the premises.

## **POLICIES:**

In the Unitary Development Plan the site is subject to the following policies;

B\_2\_Scale, massing layout and setting of new developments

EN\_10\_Proposals for unallocated sites to be compatible with the neighbourhood

T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

H\_18\_Proposals for provision/ conversion of dwellings for multiple occupation

## **COMMENTS:**

### **RELEVANT POLICY BACKGROUND**

The National Planning Policy Framework (NPPF) provides the current Government's national planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. The NPPF sets out a series of 12 'core planning principles' which underpin plan-making and decision-taking and are considered to contribute to the over-arching aim of delivering sustainable development. Particularly relevant in this case are the principles that development should always seek to secure a high quality design and a good standard of amenity and should encourage the effective re-use of land and property.

The relevant guidance of the NPPF detailed above feeds into policies EN10, B2, H18 and T14 of the City Council's adopted Unitary Development Plan (1998), which are considered to be pertinent to the determination of this application.

Policy EN10 of the UDP requires new development proposals to respect the existing pattern of land use in areas where there is no specific land use

allocation. Policy H18, meanwhile, states that the conversion of non-residential buildings which are vacant or under-used into flats or multiple shared accommodation will normally be approved where it will not conflict with other policies and proposals of the Plan and there is satisfactory provision for parking, servicing and other design aspects.

Also relevant are policies B2, which requires new development proposals to maintain an acceptable standard of visual and residential amenity, and T14, which states that new development must not result in conditions which are prejudicial to highway and pedestrian safety.

Regard should also be had to proposed policy DM4.4 of the Council's Core Strategy and Development Management Policies Draft Revised Preferred Options document of the emerging Local Plan. The policy states that HMO uses will be permitted where:

- (a) increased traffic and activity would not be detrimental to local amenity;
- (b) the intensity of the use would not adversely affect the character and function of the locality;
- (c) the use would not be detrimental to the amenities of neighbouring properties by causing undue noise and disturbance;
- (d) there are adequate parking, servicing, refuse and recycling arrangements and the maintenance and management of the property can be demonstrated through the submission of a management plan;
- (e) the proposal would not result in an over-concentration of HMOs

Members are advised that whilst the draft Development Management Policies document has been subject to public consultation, it is not anticipated to be formally adopted until 2015-16 and as such, the policies within can only be given limited weight in the determination of planning applications, at this time.

## ISSUES TO CONSIDER

With regard to the above policy framework, it is evident that the main issues to consider in determining the application are:

1. the principle of the proposal;
2. the impact of the proposal on the amenity of the locality;
3. the implications of the proposal in respect of highway and pedestrian safety.

### 1. Principle of Proposal

It must be recognised from the outset that the property subject to this application is authorised to be used as an HMO following the approval of the aforementioned 1998 application (ref. 98/00677/FUL). The principle of the use of the premises as an HMO is therefore long-established. The current application simply seeks permission to remove the condition which restricts occupancy of the HMO to full-time students only and it is the implications of the removal of the condition which this report focuses on, rather than considering the merits of the use of the building as an HMO.

Given the above, the proposal is not considered to raise any new land-use implications, in accordance with policy EN10's requirements.

## 2. Impact of Proposal on the Amenity of the Locality

As noted in the first section of this report, the student occupancy-only condition attached to application reference 98/00677/FUL appears to have been imposed in relation to parking matters. Nevertheless, it is considered that a primary matter for assessment is whether the proposed removal of the student occupancy condition would result in the operation of the HMO causing any additional harm to the amenity of surrounding residential dwellings.

The two objections to the application have both raised concerns in this regard, with the objection from 30 Park Place East referring to the anti-social behaviour problems experienced during Centrepont's occupation of the premises.

As a broad principle, the planning system is concerned with the use and development of land and buildings and not the identity and background of any particular occupiers of any existing or proposed buildings. Any fears or concerns which may be held have to be attributable to the proposed use of the land or building and inherent to the nature of the proposed use. Where fears or concerns primarily relate to the potential behaviour of occupiers of a building, they must have some reasonable or evidential basis.

The primary fear of the objections to the proposal centres on the concern that allowing the HMO to be occupied on a general basis, rather than by students only, will result in it being occupied by tenants who may be more inclined to behave in an anti-social manner, to the detriment of the residential amenity of the locality. It cannot be assumed, however, that all, or even a high proportion of prospective residents will engage in anti-social behaviour. It would also be unreasonable to assume that non-student tenants would be more likely to engage in anti-social behaviour than the students who are currently authorised to occupy the premises.

The behaviour of residents on site, and to an extent beyond the site, can be managed and supervised by the applicant. In this regard, a management plan and supporting statement has been submitted with the application. The submitted management plan and supporting information indicates, for example, that the applicant will operate a vetting procedure for prospective tenants, with individuals with a serious criminal record not accepted. Tenants will be expected to behave in a responsible manner and consumption of alcohol and other intoxicating substances will not be tolerated on the premises. In addition, staff will be on-call to visit the premises 24-hours a day and be available for contact by local residents if required.

The objection from The Oaks Residents' Association has expressed concern at the detail and content of the management plan, particularly in relation to the applicant's tenancy vetting procedure and there being no apparent consideration given to the behaviour of tenants outside of the premises. It is not, however, for the Council, as Local Planning Authority, to dictate to the applicant the thoroughness of the background checks of prospective tenants they intend to undertake. Nor can the applicant be reasonably expected to account for the whereabouts of tenants or be responsible for their behaviour at all times.

The management plan and supporting statement and proposed staffing arrangements are, however, considered to demonstrate that the applicant

recognises their responsibilities in relation to the behaviour of their tenants and in operating a facility which co-exists satisfactorily with the other residential properties in the locality. Provided that the management plan submitted by the applicant is effectively enforced by staff and the applicant's apparent desire to operate a facility which will co-exist with other neighbouring residential properties is maintained, there is not considered to be reason to presume that the removal of the student occupancy only condition will result in a significant increase in noise, disturbance, crime or anti-social behaviour in the vicinity of the application site.

In the event that there are instances of noise and disturbance or anti-social behaviour, these matters can be addressed by the management team of the premises, whilst there would still be control over the operation of the HMO exercised through other regulations, including the HMO Licensing regime, environmental health legislation (in relation to noise nuisance), and the control of anti-social behaviour through police action.

In addition to the above, it must also be recognised that the subject premises is detached from surrounding residential properties, an arrangement which would assist in limiting the effect any noise emanating from the premises would have on the living conditions of nearby dwellings.

With regard to the above comments, it is considered that, the proposal accords with the requirements of policies H18 and B2 of the UDP and proposed policy DM4.4 of Council's Core Strategy and Development Management Policies Draft Revised Preferred Options document of the emerging Local Plan.

### 3. Implications of proposal in respect of highway and pedestrian safety

In response to consultation, the Council's Network Management team has advised that the proposal raises no concerns in respect of highway and pedestrian safety matters. In addition, the proposed removal of the condition does not raise any additional on-street parking concerns, with non-student occupiers of the building not considered any more likely to own a private vehicle than students. The proposal is therefore considered to comply with the requirements of aforementioned policy T14 of the UDP.

### IMPLICATIONS OF APPLICATION REF. 14/00089/FUL

As Members are aware, a second application proposing the use of the rear annexe of the subject building as supported living accommodation for up to 8 no. children in need of care has also been submitted and is to be considered by this Committee.

Whilst the two uses would affect the same building, they would occupy distinct parts of it and the current connection between the two would be closed. In addition, the plot occupied by the building and annexe is unusually large and consequently, the premises and its plot appear broadly capable of accommodating both uses together. With regard to the amenity of the locality, it is considered, for the reasons set out above, that allowing general occupancy of the existing and authorised HMO, insofar as it relates to the front part of the building, would not result in undue harm to residential amenity. Consideration of the impact of the proposed use of the annexe in the context of the authorised

HMO use on the amenity of the locality will be undertaken in the assessment of application ref. 14/00089/FUL.

## CONCLUSION

For the reasons given above, it is considered that the proposed removal of the condition restricting occupancy of the HMO to students only is acceptable in principle, whilst the proposal does not raise concerns in respect of highway and pedestrian safety.

The impact of the removal of the condition in respect of the amenity of neighbouring existing residential properties has been carefully assessed, but, as outlined above, it is considered that it would not be reasonable to presume that tenancy by non-students would inevitably result in occupancy by persons more inclined to engage in anti-social behaviour or generate unacceptable levels of noise and disturbance. The applicant is also considered to have demonstrated a pro-active and responsible approach to the management of the HMO in the management plan and supporting statement submitted with the application.

Furthermore, whilst the proposed staffing arrangements and management plan have been important considerations in assessing the implications of the proposal in respect of the amenity of the locality, it is considered that a condition attached to any grant of planning permission which attempts to ensure strict accordance with the stated intentions would be unreasonable and unenforceable. Nevertheless, in order to affirm the importance of the management plan, it is suggested that in the event Members are minded to grant planning permission, it is included in the list of approved plans and documents.

With regard to the above, it is considered that the implications of the removal of the condition in relation to residential amenity are acceptable.

The objection from the secretary of The Oaks Residents' Association has suggested that the Council should consider granting permission for the removal of the condition for a temporary period only, in order to allow for the implications of the condition's removal to be assessed again in light of experience, particularly with regard to the management of the HMO. The planning system does allow for temporary permissions to be granted, but Government advice is that such permissions should only be granted in certain circumstances and must be reasonable having regard to, for example, the capital expenditure involved in the development proposal and the particular nature of the proposal.

In this instance, it is considered that, having had regard to relevant material planning considerations, the proposed removal of the condition is acceptable to comply with the requirements of the aforementioned policies EN10, H18, B2 and T14 of the adopted UDP and the core principles of the NPPF. As a consequence, there is not valid reason to refuse permission or only grant permission for a temporary period.

The application is consequently recommended for approval, subject to the following conditions:

**RECOMMENDATION: Approve**

**Conditions:**

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.
- 2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:

the location plan received 19.02.2014;

the site plan received 19.02.2014 (drawing no. PL2\_673\_101);

the existing floorplans received 19.02.2014 (drawing nos. PL2\_673\_201 and 202);

the proposed floorplans received 19.02.2014 (drawing nos. PL2\_673\_301 and 302);

the management plan received 19.02.2014.

In order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.