



**Havering**  
LONDON BOROUGH

**Planning  
Committee  
22<sup>nd</sup> August 2024**

<b>Application Reference:</b>	<b>P1027.23</b>
<b>Location:</b>	<b>51 Windermere Avenue Hornchurch RM12 5EP</b>
<b>Ward</b>	<b>Elm Park</b>
<b>Description:</b>	<b>Retrospective change of use from single dwellinghouse to C2 (Ofsted regulated residential childrens home to accommodate not more than 2 children between the ages of 8 and 17).</b>
<b>Case Officer:</b>	<b>Cole Hodder</b>
<b>Reason for Report to Committee:</b>	<b>A Councillor call-in has been received which accords with the Committee Consideration Criteria</b>

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**1 SUMMARY OF KEY REASONS FOR RECOMMENDATION**

- 1.1 The proposed use of the property subject to safeguarding conditions is considered to comply with the objectives of the Havering Local Plan 2016-2031, the NPPF and London Plan. Based on the limited occupancy proposed which can be restricted through condition the proposed use would not be distinguishable from any other lawful use of the premises, for example C3(B) (six unrelated individuals receiving care) or its continued use as a single dwelling house which may accommodate a large multi-generational family.

**2 RECOMMENDATION**

- 2.1 That the Committee resolve to GRANT planning permission subject to:

- 2.2 That the Assistant Director Planning is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

### **Conditions**

- Time Limit
- Accordance with Plans
- Management Plan (The management plan shall include details of how the premises will be run to control noise, disturbance and Anti-social Behaviour (ASB); how reports of any ASB can be made; details on notification to neighbours of contact numbers, should they wish to report concerns and complaints procedure including minimum response timescales. The premises shall be operated in accordance with the approved management plan as approved.)
- Restricted occupancy (2 children maximum up to the age of 17 as per Paragraph 3.1 of the Planning Statement submitted)
- Restricted use C2
- Scheme for control of noise (Recommended by LBH Public Protection)
- *Secured by Design (Recommended by DOCO) (If Committee members feel it is required this can be imposed, otherwise see Para 5.3)*

## **3 PROPOSAL AND LOCATION DETAILS**

### **Site and Surroundings**

- 3.1 Application site comprises one half of a semi-detached pair. The site is neither listed, nor within a Conservation Area.

### **Proposal**

- 3.2 Consent is sought for the change of use of the premises (retrospective) to provide care for up to two children. The use commenced operating in May 2023 and is staffed by three adults who work on a shift basis caring for the resident(s). There are no external changes to the building or internal layout.
- 3.3 The intended use is for one child with learning disabilities, however by the nature of these uses there may be occasions where emergency placement is required for another child. Given the size of the property it is capable of accommodating this level of occupancy, however the applicant has been clear in indicating that this would be an exceptional circumstance. By allowing for up to two children this would not remove their ability to provide an emergency placement.
- 3.4 For the purposes of assessment, the applicant agreed to alter the description to make provision for a maximum of two children and the application has been assessed on that basis.

## **4 Planning History**

- 4.1 The following planning decisions are relevant to the application:

P1349.13 51 Windermere Avenue - Single storey front extension – APPROVED WITH CONDITIONS

## **5 CONSULTATION RESPONSE**

5.1 The views of the Planning Service are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.

5.2 The following were consulted regarding the application:

5.3 LBH Highway Authority – No objection made.  
Environmental Health – No objection made subject to condition  
Fire Brigade – No objection made  
LBH Waste / Recycling – No objection made  
DOC0 – SBD Condition recommended

(OFFICER RESPONSE: Mindful of the limited scale of the proposed use an SBD condition as recommended is not considered to be proportionate or reasonable. Other conditions where recommended have been outlined at Para 2.2. However should the Committee feel that this condition is necessary, this can be negotiated with the applicant with a suitable timeframe for accreditation/measures being implemented).

## **6 LOCAL REPRESENTATION**

6.1 A total of 8 neighbouring properties were invited to comment on the application submission.

6.2 The outcome of all consultation is as follows:

No of individual responses: 54 of which 47 objected

Petitions received: None submitted

6.3 The following Councillor made representations:

Councillor Barry Mugglestone objecting and calling-in on grounds of:

- Added Parking Pressure and movement of vehicles especially at 23:00 on shift turn overs.
- Noise & Disturbance resulting from use.
- Fear of crime
- Increase in ASB due to age range of the children
- Increase demands on the Police due to increase in ASB
- Can't simply change a residential property into a care home, with high risk children.
- Lack of info on how the care home will be set up.
- Movement and hand over during shift times early in the morning and late at night

## **Representations**

6.4 The following issues were raised in representations that are material to the determination of the application, and they are addressed in substance in the next section of this report:

### Objections

- Police attending premises/ASB
- Negative impact on community
- Potential noise/disturbance in particular during changeover
- Increased parking pressure
- Fear of crime/vandalism

(OFFICER RESPONSE: The comments received describe situations where disturbance has been caused by the operation of the property. It is evident that the use of this property has created some issues and has operated in some capacity for an extended period, however no record of any planning enforcement complaint is held.

Notwithstanding this some of the issues raised go beyond what is considered by the planning system including disturbance during works. The comments raise a number of examples of what could be reasoned to be poor management of the premises which would be capable of being addressed by other legislative powers.

The evidence of police attendance is limited, no police reports or substantive information has been present in representations made.

Officers requested further information regarding incidents involving the police for the intervening period from when comments were originally made by the Council's Designing Out Crime Officer (approx. 12 months). When originally commenting this would have been a consideration. Nevertheless in searches undertaken in conjunction with the Elm Park Safer Neighbourhoods Team it was confirmed that no calls for the police were made from or in relation to the subject property in that period July 2023 – July 2024. Observations made by residents who indicate that police have attended the premises are not disputed, however there is no evidence before officers as to the purpose of those visits or their frequency.

The fear of crime and its perception is of course a material planning consideration when it is based on sound evidence. Comments made refer to the behaviour of residents being anti-social and give examples where the police have attended the premises. However the low level of occupancy proposed which could be controlled through planning condition is not suggestive of a use which if managed properly would not be capable of integrating with the surrounding environment.

In some instances where the prospective occupancy of a care related use is low it can be argued that planning permission is not required. On the basis that an application has been made to the Council there is opportunity to impose conditions to try and mitigate any adverse impacts which may arise. It is noted

also that many representations refer to concern over prospective impacts of the use and seem unaware that the use has been in situ since May 2023.

### **Non-material representations**

6.5 The following issues were raised in representations, but they are not material to the determination of the application:

- Loss of property value
- Financial gain for developer

### **Procedural issues**

6.6 The following procedural issues were raised in representations, and are addressed below:

- Some comments refer to a lack of transparency/notification. (OFFICER RESPONSE: In response to this the statutory requirement of the LPA when consulting on such a planning application is to notify only those that directly adjoin an application site. The Council is satisfied that it has fulfilled its statutory obligations and has not prevented anyone with an interest from commenting on the application or making representations.

## **7 MATERIAL PLANNING CONSIDERATIONS**

7.1 The main planning issues raised by the application that the committee must consider are:

- Principle of development
- Quality of accommodation/suitability
- Design
- Impact on amenity
- Highways/Parking
- Other issues

### **Principle of development**

7.2 Class C2 as defined by the Use Classes Order 1987 (as amended)(UCO) is the use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses). Use as a hospital or nursing home, use as a residential school, college or training centre. It is the first limb of Class C2 that is relevant: "Use for the provision of residential accommodation and care to people". The use of the word "and" means the provision of "residential accommodation" and "care" are conjunctive. It is not sufficient for a use to fall within this class that it involves the provision of "residential accommodation" only.

7.3 The definition of "Care" in Article 2 to the UCO is 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". The Use Class Order does not specify what "care" comprises, how it is delivered or by whom it is delivered. There is no pre-requisite in the

UCO that the staff delivering care are nurses or social workers for example or that the care is delivered by permanent staff, as opposed to agency staff.

- 7.4 Policy H12, the London Plan supports the delivery, retention and refurbishment of supported and specialised housing which meets an identified need should be supported. The form this takes will vary, and it should be designed to satisfy the requirements of the specific use or group it is intended for. Policy 6 of the Havering Local Plan 2016-2031 requires consideration of the following when assessing Specialist Accommodation:
- 7.5 The provision of appropriate housing to meet the specialist needs of local people will be supported where it can be robustly demonstrated that:
- i. There is an identified need within the borough;
  - ii. The site has access to essential services and shops by walking and cycling;
  - iii. The site is well served by public transport;
  - iv. The proposal contributes to a mixed, balanced and inclusive community;
  - v. The site is suitable for the intended occupiers in terms of the standard of facilities, the level of independence, and the provision of support and/or care;
  - vi. An appropriate level of amenity space is provided to meet the needs of the intended occupants taking account of the need for an attractive outlook;
  - vii. Consideration has been given to all possible future needs and the development can be easily adapted to meet the needs of future occupants;
  - viii. The proposal does not have any adverse impacts on the surrounding area and will not be likely to give rise to significantly greater levels of noise and disturbance to occupiers of nearby residential properties;
  - ix. The proposal meets the parking requirements set out in Policy 24 and it will not have an unacceptable impact on parking conditions and traffic congestion in the area; and
  - x. Adequate provision for visitor and carer parking facilities is provided and where appropriate, provision is made for the safe and convenient storage of wheelchairs and mobility scooters.
- 7.6 There is no compelling evidence that there is not a need for the use proposed. Mindful that the proposals concern only one resident and at most (in certain circumstances two) it is not considered that a detailed need case is required to be put forward. It is recognised also that the use being sought is being done so retrospectively which lends further weight to there being an undisputed need for it.
- 7.7 Having considered the main objectives of the Policy and mindful of the low prospective occupancy it is not considered that there would be conflict with Policy 6(i), (ii), (iii), (iv), (v), (vi) or (vii). The other criteria as well as the broader character impacts, if any, will be considered in the following sections of this report.

### **Quality of accommodation/suitability**

- 7.8 A key requirements of Policy 6 of the Havering Local Plan 2016-2031 is that the proposed building is suitable for the intended occupiers in terms of the standard of facilities, the level of independence, and the provision of support and/or care. It also requires that an appropriate level of amenity space is provided to meet the needs of the intended occupants taking account of the need for an attractive outlook.
- 7.9 The proposals under consideration are not suggestive of any internal or external changes to the subject property which has historically been used as a single dwelling house. The intent of the applicant is to provide accommodation for residents in a family environment. There are no changes proposed which would prevent the dwelling from returning to its former use at a later date if no longer required. It is reasonable to assert that one of the three bedrooms might be allocated to staff to rest whereas the rest of the property is sufficiently sized to enable staff to work.
- 7.10 The indication is that only one young person would reside at the property at most times. With staff present through the night it is not inconceivable that one staff member would remain awake if required and the other would sleep in the allocated room leaving a further room for any additional need as required. There is no substantive evidence to demonstrate that the scheme would in itself materially change the character of the area, particularly as the development has a residential appearance and that the property would function much like a typical family home.
- 7.11 There is nothing inherent within the proposed layout or wider site including garden area which would weigh against the proposals in terms of the facilities offered. The development would on balance comply with Havering Local Plan 2016-2031 Policy 6, in so far as it would suitable for the intended occupiers in terms of the standard of facilities, the level of independence, and the provision of support and/or care as well as provision of amenity areas - Policy 6 (iv, v, vii).

### **Design / Impact on street-scene**

- 7.12 It is considered that the proposal does not adversely affect the street scene, as there are no external changes. Further to this the Design and Access Statement (DAS) submitted does not describe a use which generates significant levels of activity.
- 7.13 The premises would maintain the appearance of a single dwelling house within a residential environment. There is no evidence before officers that the use of the site for the purposes intended would be conspicuous or materially harmful to the residential character of the area in particular given the low prospective occupancy

### **Impact on amenity**

- 7.14 A requirement of Policy 6 of the Havering Local Plan 2016-2031 is that the proposed use must not have any unacceptable adverse impacts on the

surrounding area and not give rise to significantly greater levels of noise and disturbance to occupiers of nearby residential properties.

- 7.15 Care-related/specialist accommodation can run smoothly with no significant impacts on residential amenity if appropriately managed. Generally, residential areas are the most appropriate places for these types of use as they tend to exhibit little in the way of outward signs of the use and occupants are able to live within the community. This is recognised to be an important part of the overall objective of care-related uses. It is accepted that some care uses by contrast may well bring long-term harm and significant amenity concerns for adjoining/neighbouring residents. This is usually due to the scale and intensity which presents in high numbers of occupants, complex care needs and associated levels of activity through comings and goings.
- 7.16 The main planning consideration is whether the level of activity associated with the proposed use could be regarded as an intensification over and above that of the previous use or any other not requiring permission. To that end, the use is seeking to accommodate up to two children between the ages of 8 and 17. The level of comings and goings described within the planning statement are regarded as being low. Activity associated with staff is described at Para 3.2 of the applicant's Planning Statement. The applicant in their statement indicates that there would be three staff members expected to be on a two days on, four days off rota pattern.
- 7.17 The indication is that staff would sleep at the premises when their shift had ended so as to reduce movement at unsocial hours. It is unlikely that if managed correctly that noise and disturbance during turnover times that these periods would be long in duration or cause significant detriment to amenity. Three members of staff as a maximum would be at the premises at any given time. The child's social worker would attend once every six weeks, whilst the independent reviewing officer would attend every six months.
- 7.18 Given how the use is described it is not unreasonable to consider that the level of activity would likely be lesser than, for example, a multi-generational family using a single dwelling house. Occupants would, by nature of the level of care provided likely have complex care needs. However such children can and do live in traditional family dwellings in residential areas. Furthermore through permitted development a dwelling is capable of being used for up to six unrelated individuals receiving care without planning permission – through Use Class C3(B). Minded that this would not require planning permission officers do not consider that there are any in principle grounds to withhold permission for a C2 use as described.
- 7.19 Officers consider that the former use would have had the potential to attract an equivalent or greater level of comings and goings to the property than the proposed use sought if managed correctly. Further to this the occupancy of the dwelling by a single multi-generational family would not be comparable to that of one (at most two children) and three adults with other occasional visits made by other parties as described.



- 7.20 It is of course recognised that the frequency of visits may be prone to change based on the needs of any future occupant. However the use as described by the applicant if managed correctly is not suggestive of one which would be unsuitable in a residential environment for the reasons given.
- 7.21 It is recommended to impose a condition restricting the number of occupants as well as the use of the property. Further to this a detailed management plan shall be required through condition which shall include methods of contacting/raising any issues observed by residents to the management company and timeframes for response. It is not considered that a scheme of sound-proofing would be reasonable or would meet with the tests of the Framework.
- 7.22 Comments made by residents relate to behaviour of staff and the behaviour of residents. It is accepted from the planning statement provided that residents would be particularly vulnerable and may have complex care needs. Whilst the fear of crime is a material planning consideration, it is not considered sufficient to withhold permission in this instance. In much the same way as the property might be let privately there is little scope to withhold permission based on the potential behaviour of a future resident.
- 7.23 In the opinion of officers there does not exist sufficient evidence to conclude that the proposals would unduly harm the amenity of surrounding residents, nor be detrimental to the sense of place, safety and community experienced by those residents if properly managed. The proposals would therefore, subject to safeguarding conditions not be contrary to Havering Local Plan Policies 6, 16, 26 and 34 as well as Policies S1 and S2 of the London Plan and the objectives of the NPPF.

#### **Highways/Parking**

- 7.24 Policy 6 of the Havering Local Plan requires that the site is well served by public transport, that the parking requirements set out in Policy 24 are met and that there would not be any unacceptable impact on parking conditions and traffic congestion in the area. It requires also that adequate provision for visitor and carer parking facilities is provided and where appropriate, provision is made for the safe and convenient storage of wheelchairs and mobility scooters. There is no parking standard as such, with Local Policy requiring assessments to be made for uses such as this to be made on an individual basis using a transport assessment.
- 7.25 The applicant provided a transport statement which indicates that three spaces (in a tandem arrangement) are achievable to the frontage of the site. Whilst not an entirely convenient method of arranging parking it is accepted that vehicle ownership would be by staff attending the site and other visits, owing to the age of prospective occupants. It is acknowledged by nature of the use that parking on the site could be managed between staff and visitors/other health professionals and that acceptable arrangements would be capable of being made.

- 7.26 How vehicles attend the site and when would need to be carefully managed by the applicant/property manager so as not to inconvenience other residents. However there is no evidence before officers that the parking demand would be greater than any former use or that which could be undertaken without planning permission. Officers reach this view mindful of alternative lawful uses for the premises which may attract a greater level of adults residing at or visiting the property - C3(B) for example, or a large multi-generational family as a single dwelling house C3(A). These uses would have a far greater likelihood of increasing parking demand/stress in the locality which is noted not to have any restrictions within the immediate vicinity.
- 7.27 Often with similar uses comments are made over the behaviour of staff in particular relating to matters of parking. The planning system is not able to control how people choose to park only whether adequate provision would be made. To that end, it is difficult to argue how the use would attract greater vehicle movement than any other use capable of being implemented.
- 7.28 No details of refuse storage have been provided however it is recognised that there would have been a previous domestic arrangement. It is unlikely that the situation would be worsened or that further details are required through condition given the historic residential use. Cycle storage would be sought through condition in the interests of encouraging alternative means of travel to the site for staff/visitors and occupants. The applicant indicates that cycle storage would be provided, however does not provide sufficient detail as to whether this would align with the London Plan/TFL Guidance in terms of its means of being secured etc.
- 7.29 Subject to those measures as outlined the development would be compliant with Havering Local Plan 2016-2031 Policies 6 and 24 which seek to ensure adequate parking provision.

### **Environmental and Climate Change Implications**

- 7.30 Given the limited scale and nature of the proposals which concern the repurposing of an existing dwelling house, no specific measures to address climate change are required to be secured in this case.

### **Financial and Other Mitigation**

- 7.31 None relevant.

### **Equalities**

- 7.32 The Equality Act 2010 provides that in exercising its functions (which includes its role as Local Planning Authority), the Council as a public authority shall amongst other duties have regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

7.33 The application, in this case would seek to provide accommodation for up to two children with learning disabilities (a protected characteristic) which is relevant to the consideration of the application

## **8 Other Planning Issues**

8.1 None relevant

## **9 Conclusions**

9.1 All other relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out above. The details of the decision are set out in the RECOMMENDATION.