



Report to West Area Planning Committee

Application Number:	23/05974/FUL
Proposal:	Change of use of existing dwellinghouse (use class C3) to create 2-bed children's residential care home (use class C2)
Site Location:	2 Loddon Road Bourne End Buckinghamshire SL8 5LT
Applicant:	Mr Hars Gill - Beacon Residential Homes Ltd
Case Officer:	Heather Smith
Ward(s) affected:	The Wooburns, Bourne End & Hedsor
Parish-Town Council:	Wooburn And Bourne End Parish Council
Date valid application received:	16th May 2023
Statutory determination date:	11th July 2023
Recommendation	Application Permitted

1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1 Full planning permission is sought for the change of use of existing dwellinghouse (use class C3) to create 2-bed children's residential care home (use class C2).
- 1.2 The proposed use is appropriate within a residential area and will not give rise to a loss of amenity to adjacent residents in the locality.
- 1.3 The proposed development will not result in detriment to highway safety, the character of the area, the environment or ecology and will not increase the risk of flooding in the area.
- 1.4 This application has been referred to the Planning Committee at the request of Cllr S Wilson, Cllr P Drayton and Cllr S Kayani, in order that the issue of the restrictive covenant can be addressed
- 1.5 Recommendation – approval

2.0 Description of Proposed Development

- 2.1 The application property is a two storey, semi-detached dwellinghouse, situated on the south western side of Loddon Road, just south of the junction with Blind Lane, Bourne End.

2.2 The existing property is a three bedroom dwelling and is attached to its neighbouring property, No 4 Loddon Road. To the north, the application property shares a boundary with No 20 Blind Lane, and to the south west with No. 16 Blind Lane.

2.3 It is proposed to convert the existing dwelling into a 2-bed children's residential care home. Details submitted with the application show that the third bedroom in the dwelling will be used as a staff office and sleep in room. A maximum of 2 children (aged between 8 and 18) would live in the house, with 2 staff on shift at night. During the day there will be 2 staff with 2 children who will be supervised 24 hours a day. There will also be a manager on site during the day. Visitors will be allowed and will have pre booked appointments unless in an emergency.

2.4 In their Planning Statement, the applicant states:

“Children will be supervised by staff at all times. We plan to have a maximum of 2 staff on shift at any one time and children will be in bed by 10.30pm. There will always be 2 staff on shift at night time between 10.30pm and 7.30am and therefore staff will not be coming in and out of the home or the road throughout the night time. Our full-time staff will be able to use the very accessible local transport links and will therefore not add to parking needs locally. In conclusion our parking requirements can be well accommodated within the site”

2.5 Further information has been provided by the applicant, during the course of this application, regarding the need for additional visiting support to the home. The applicant has stated:

“In regards to visitors to put this into context, we would have two children living in the home. Each child would have a statutory visit approximately every 4 weeks by their social worker and would not be at the same time. If there is a meeting, these are held once every 6 months and usually a maximum of 4 professionals would attend. This would not be more visitors in comparison to a family having friends occasionally to visit for a few hours.

Therapy is usually done with the children off site, occasionally the therapist may visit the home once a fortnight. It would be the same therapist for both children. Family do not visit the home due to safety and risks unless in exceptional circumstances but this is not usual. We would keep visitors as a minimum and would schedule them in so that one visit per child is permitted at any one time.

This really is to be created as a family home for two children and their main source of care and support is the carers and manager who would be in the home 24/7.”

2.6 The application is accompanied by:

- a) Planning Statement
- b) Ecology and Trees Checklist

3.0 Relevant Planning History

3.1 None.

4.0 Policy Considerations and Evaluation

Principle and Location of Development

Wycombe District Local Plan (August 2019): CP1 (Sustainable Development), CP3 (Settlement Strategy), CP4 (Delivering Homes), DM33 (Managing Carbon Emissions, Transport and Energy

Generation)

DSA: DM1 (Presumption in favour of sustainable development), DM6 (Mixed-use development)

4.1 The application site is situated in an established residential area within the Bourne End and Wooburn Green Settlement Boundary.

4.2 The use of the application property as a 2 bed children's home, is acceptable in principle.

Transport matters and parking

Wycombe District Local Plan (August 2019): CP7 (Delivering the infrastructure to support growth), DM33 (Managing Carbon Emissions, Transport and Energy Generation)

DSA: DM2 (Transport requirements of development sites)

Wooburn and Bourne End Parish Council, Neighbourhood Plan: Policy WBE/PD4 (Parking Standards for All Planning Applications for New Developments and Existing Properties)

4.3 The Council's Highways Officer has considered the highway impacts of this development and has provided the statement below:

"Loddon Road is an unclassified residential road subject to a speed restriction of 30mph, parking and waiting restrictions are not in place within the vicinity of the application site. The road benefits from pedestrian footways and street lighting.

The application proposes the change of use of an existing dwellinghouse (Use Class C3) to create a 2-bed children's residential care home (Use Class C2). Having assessed the existing and proposed developments, I do not consider the proposals to result in a significant intensification of vehicular movements associated with the application site.

I therefore have no objections to the continued use of the existing site access.

When assessed using the Buckinghamshire Countywide Parking Guidance (BCPG) policy document, the existing development requires 2(no) parking spaces, and the proposed development requires 1(no) parking space. Both existing and proposed developments can accommodate 2(no) parking spaces within the site curtilage.

Mindful of the above, I have no objections to the proposed development, subject to the following condition." (retention of parking provision).

4.4 Concern has been expressed by local residents that this proposal will increase the demand for on street parking in the area. However, in light of the above, it is considered that this proposal will provide sufficient off street car parking and will not result in a loss of highway safety or inconvenience to other road users in the vicinity.

Raising the quality of place making and design

Wycombe District Local Plan (August 2019): CP9 (Sense of place), DM34 (Delivering Green Infrastructure and Biodiversity in Development), DM35 (Placemaking and Design Quality)

DSA: DM11 (Green networks and infrastructure), DM16 (Open space in new development)

Housing intensification SPD

W&BENP: Policy WBE/PD2 – Residential Infill and Quality Design

4.5 This application involves the change of use of the existing dwelling into a 2-bed children's home only. No alterations are proposed to the property itself.

4.6 The level of activity arising from the proposed children's room is considered to be similar to that of a standard dwelling and therefore the proposed development will be compatible with the residential character of the surrounding area.

- 4.7 It is considered that this proposal will have no adverse effect upon the character of the surrounding area or the visual amenity of the street scene.

Amenity of existing and future residents

Wycombe District Local Plan (August 2019): DM35 (Placemaking and Design Quality), DM40

(Internal space standards)

Housing intensification SPD

- 4.8 Concern has been expressed by local residents that this proposal will result in a significant loss of amenity to existing residents, by way of increased noise and disturbance; increased on street parking; loss of privacy; lack of stability and stress to existing residents and children alike, from transitory nature of the home; potentially challenging behaviour of children – in terms of aggression, personal injury and abuse; suitability of the property as a home; the need for a care home in Buckinghamshire the safeguarding of children, and the suitability of the applicant.
- 4.9 In addition, local residents have sited that a restrictive covenant exists which prevents a business from running at the property and that the application itself is invalid as the applicant does not own the property.

Noise and Disturbance:

- 4.10 The adjacent residents are concerned that the existing properties lie so close to each other that conversations within existing dwellings and their gardens can be heard from adjacent properties. Concern is raised that the children within the proposed care home will create noise and disturbance that will have an adverse effect upon neighbouring residents.
- 4.11 The concerns of the neighbours regarding the close proximity of properties in the area and noise from children within the home are noted. However, given that only two children will reside at the application property, at any one time, the level of residential activity will be akin to that of a standard residence and, in itself, will not give rise an increase in undue noise and disturbance. It is considered reasonable to impose a planning condition limiting the number of children to a maximum of two, who can reside at the property at any one time, in order to ensure that he level of use does not give rise to a loss of amenity to adjacent residents.
- 4.12 It has been suggested by a local resident that the behaviour of the children to be placed in the home is likely to be challenging. However, the Local Planning Authority cannot take into consideration the behaviour of individuals within a residence, when determining a planning application nor can it assume that the future children within the home will be noisy, disruptive and/or abusive to adjacent residents. To do so could be seen as discriminatory.

Loss of Privacy.

- 4.13 Concern has been raised that the existing layout and proximity of properties in this location affords little privacy to individuals. One adjacent resident has commented that views are available into the side windows and garden area of the application property from adjacent dwellings.
- 4.14 However, the layout and elevations of the application property are not changing as a result of the proposed development. Therefore, any issues regarding privacy, or the lack of it, will not be affected by the proposed change of use.

4.15 However, the Local Planning Authority cannot take into consideration the behaviour of individuals within a residence, when determining a planning application nor can it assume that the future children within the home will be noisy, disruptive and/or abusive to adjacent residents. To do so could be seen as discriminatory.

Increased Parking On-Street.

4.16 The concern of adjacent residents regarding the lack of on-street parking at present, is noted. However, although on-street parking does occur, space still exists, on-street within the locality.

4.17 As stated above, the application site can provide sufficient parking on-site, for the both the existing residence and the proposed development, in accordance with the Buckinghamshire Countywide Parking Standards. It is accepted that the proposed care home will attract some visitors. However, in accordance with the details submitted, these will not occur often and will not be above the level that would normally occur at a standard residential property. As such, there is no evidence that this proposal will give rise to an increase in the demand for on-street parking that would be detrimental to the amenities of neighbouring properties.

4.18 It is considered reasonable to impose a planning condition requiring the parking provision to be retained, in order to ensure that this development does not give rise to a loss of highway safety or amenity to adjacent residents.

Transitory Nature of the Home

4.19 It is accepted that the children and staff residing at the home will change overtime. However, given that the property is intended to be their main place of residence, the transitory nature of the care home is not considered to be so significant as to result in undue harm to the amenities of the neighbouring residents.

The Applicant and the Running of the Home

4.20 Concern has been raised regarding the proposed applicant; the day to day running of the home and the suitability of the size of rooms within the property for a care home. However, these are not planning matters and cannot be taken into account in the determination of this application.

4.21 The Council's Childrens Services have been contacted regarding this application and have raised no concerns regarding the suitability of the property for its intended purpose.

Restrictive Covenant

4.22 A restrictive covenant was placed on the application property by the former Wycombe District Council when it was sold to the previous tenants, in February 1986. One clause of the covenant states that the property shall only be used as a single private dwelling.

4.23 Although, the restrictive covenant is held by the now Buckinghamshire Council, (and it would appear that this proposal would not be in compliance with the covenant), this is a separate legal matter and not a material consideration in the determination of this planning application. As such, the Local Planning Authority can only consider this application on planning matters alone and therefore the requirements of the restrictive covenant cannot form part of the decision-making process.

Invalid Application

4.24 Concern has been raised by a local resident that the application is not valid or lawful as the applicant does not own the application property. However, the applicant has confirmed that this accusation is not true and that they do own all the property. Therefore, the Certificate A which has been signed and submitted by the applicant, is accepted as accurate and the application itself is valid.

Need for a children's care home

4.25 One local resident has suggested that there is not a need for such care home facilities within Buckinghamshire and that the specific location of the application property has limited local amenities which would support such a use. However, the Council's Children's Services have confirmed that there is a need for such a facility in Buckinghamshire and have not raised any concerns regarding the provisions of local services. The property is in a sustainable location with good access to public transport, local shops and recreational facilities.

Other Matters Raised

4.26 It is considered that the suitability of the application property as a care home, in terms of its day to day running; the suitability of the applicant to run a care home and the day to day care of the children to be looked after are not planning matters.

Conclusion

4.27 The concerns of the local residents have been noted. However, given the scale of the care home proposed, it is not considered that this development will give rise to a loss of amenity to adjacent residents, that lies within the control of the local planning authority.

Environmental issues

Wycombe District Local Plan (August 2019): CP7 (Delivering the infrastructure to support growth), DM20 (Matters to be determined in accordance with the NPPF)

4.28 There are no environmental matters that would be adversely affected by this proposal.

Flooding and drainage

Wycombe District Local Plan (August 2019): DM39 (Managing Flood Risk and Sustainable Drainage Systems)

4.29 The application property is located within a Flood Risk Zone 1 and no watercourse crosses the site. The application property does lie in a water source protection zone, but there are no know surface or ground water flooding issues.

4.30 In light of the above, the proposed development is not at risk from flooding and will not increase the risk of flooding elsewhere.

4.31 Given that this proposal only involves a changes of use to a residential care home, it is considered that the proposed use will have no adverse effect upon water quality in this area.

Ecology

Wycombe District Local Plan (August 2019): DM34 (Delivering Green Infrastructure and Biodiversity in Development)

DSA: DM13 (Conservation and enhancement of sites, habitats and species of biodiversity and geodiversity importance), DM14 (Biodiversity in development)

- 4.32 Policy DM34 requires all development to protect and enhance both biodiversity and green infrastructure features and networks both on and off site for the lifetime of the development.
- 4.33 No assessment has been provided with this proposal so it falls to the Local Planning Authority to consider what would be proportionate for the development proposed.
- 4.34 In this case the extension would not have a negative impact upon biodiversity or green infrastructure and given the limited scope of the proposal, enhancement is not considered proportionate.

Building sustainability

Wycombe District Local Plan (August 2019): DM41 (Optional Technical Standards for Building Regulations Approval)

- 4.35 Given the small scale nature of the proposed use, it is not considered necessary to condition water efficiency in accordance with Policy DM41

5.0 Weighing and balancing of issues / Overall Assessment

- 5.1 This section brings together the assessment that has so far been set out in order to weigh and balance relevant planning considerations in order to reach a conclusion on the application.
- 5.2 In determining the planning application, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act relating to the determination of planning applications and states that in dealing with planning applications, the authority shall have regard to:
 - a. Provision of the development plan insofar as they are material,
 - b. Any local finance considerations, so far as they are material to the application (such as CIL if applicable), and,
 - c. Any other material considerations
- 5.3 As set out above it is considered that the proposed development would accord with the development plan policies.
- 5.4 In line with the Public Sector Equality Duty the LPA must have due regard to the need to eliminate discrimination and advance equality of opportunity, as set out in section 149 of the Equality Act 2010. In making this recommendation, regard has been given to the Public Sector Equality Duty and the relevant protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation). The application provides for the change of use of an existing three bedroom dwelling house to a residential care home for 2 children, and associated staff. In this instance, it is not considered that this proposal would disadvantage any sector of society to a harmful extent.
- 5.5 The Human Rights Act 1998 Article 1 the protection of property and the peaceful enjoyment of possessions and Article 8 the right to respect for private and family life, have been taken into account in considering any impact of the development on residential amenity and the measures to avoid and mitigate impacts. It is not considered that the development would infringe these rights.

6.0 Working with the applicant / agent

- 6.1 In accordance with paragraph 38 of the NPPF (2019) the Council approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments.
- 6.2 The Council work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applicant/agents of any issues that may arise in the processing of their application.
 - In this instance, the applicant/agent was updated of any issues after the initial site visit and was requested to provide further information regarding the use of the property. The applicant/agent complied. The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

7.0 Recommendation

- 7.1 It is recommended that this application be **GRANTED**, subject to the following conditions:
 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (As amended).
 2. The development hereby permitted shall be built in accordance with the details contained in the planning application hereby approved and plan numbers 01; 03 and 04; unless the Local Planning Authority otherwise first agrees in writing.
Reason: In the interest of proper planning and to ensure a satisfactory development of the site.
 3. The use hereby permitted shall accommodate a maximum of 2 children living at the property, at any one time.
Reason: In the interests of the amenity of the nearby residential properties and highway safety.
 4. The scheme for parking indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.
Reason: To enable vehicles to draw off and park clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway.

Informative:

In accordance with paragraph 38 of the NPPF2 Buckinghamshire Council approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments. Buckinghamshire Council work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application. In this instance, the applicant/agent was updated of any issues after the initial site visit and was requested to provide further information regarding the use of the property. The applicant/agent complied. The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

APPENDIX A: Consultation Responses and Representations

Councillor Comments

Cllr P Drayton:

If the planning officer is minded to approve this application, I request a call-in to committee for a full examination of the restrictive covenant that is on this property.

Cllr S Wilson:

If the Officer is minded to approve this application, I would want to call-in the decision to planning committee. The title deed for 2 Loddon Road has a restrictive covenant from Wycombe District Council which restricts its use for use as a single private dwelling house. The application to convert to C2 use as a care home and business would appear to be contrary to this restrictive covenant.

Cllr S Kayani:

If the planning officer is minded to approve this application, I request a call-in to committee for a full examination of the restrictive covenant that is on this property.

Parish/Town Council Comments

Wooburn And Bourne End Parish Council

No Objections subject to a satisfactory response from Children's Services

Consultation Responses

Highway Authority:

No objection, subject to a condition requiring the provision/retention of off-street parking.

Environmental Health:

The application and associated documents in respect of this case have been reviewed. As a result, Environmental Health do not have any comments to make in respect of this application.

Children's Services:

We would like to request this establishment benefits Buckinghamshire's young people, as the property is located within the county. Children's Commissioning Services will view to liaise with the provider to gather more information relating to the registration they are pursuing to deliver. Following the shortages of Children's Homes, this provision could be a benefit to support Buckinghamshire's young people.

Representations

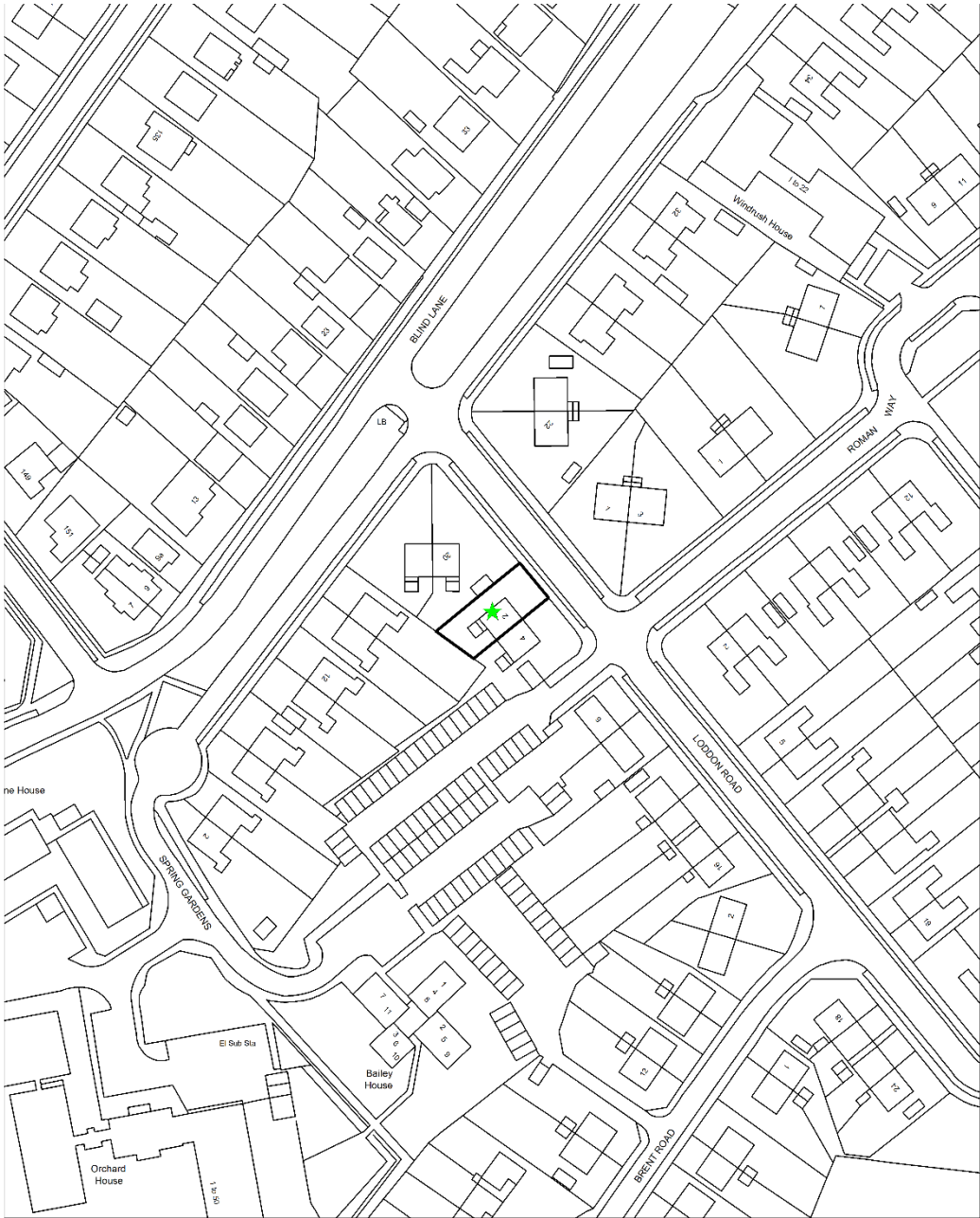
Letters of objection have been received from adjacent local residents. The grounds of objection include:

- Increased noise and disturbance
- Loss of privacy/overlooking
- increased demand for on-street parking
- Behaviour of children is likely to be challenging, including failing to comply with social norms; aggressive, verbally abusive and intimidating.
- Lack of space inside dwelling for a care home

- Lack of need for a care home in this location
- Transitory nature of the use will cause instability and stress to adjacent residents
- Safeguarding of the children is an issue as the application property is close to a road and river
- Concerns over the suitability of the providers themselves
- Restrictive covenant on the property prevents change of use.
- Location itself does not have sufficient amenities for a care home

APPENDIX B: Site Location Plan

23/05974/FUL
Scale 1/1250



Planning Committee
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Ordnance Survey 100062456