

North Northamptonshire Area Planning (Kettering) Committee 30/09/2021

Application Reference	NK/2021/0122
Case Officer	Natalie Westgate
Location	52 Church View Road, Desborough
Development	Full Planning Permission: Change of use of dwelling (C3) to care home for a child with two staff (C2)
Applicant	Mrs J Jones Esland Care
Agent	Mrs A McManus AM Planning Consultants Limited
Ward	Desborough St. Giles
Overall Expiry Date	09/04/2021
Agreed Extension of Time	04/10/2021

All plans and documents can be viewed using the application reference number at <https://www.kettering.gov.uk/planningApplication/search>

Scheme of Delegation

This application is brought to committee because it falls outside of the Council's Scheme of Delegation because there are unresolved, material objections to the proposal.

1. Recommendation

- 1.1 That planning permission be GRANTED subject to conditions.

2. The Proposal

- 2.1 The application seeks permission for a change of use of the property from a single dwelling house (C3) to a care home for one child and two carers (C2).
- 2.2 Although the service provider is not relevant in that the planning permission will run with the land and not the end user, in this case, the following information has been

submitted to enable Members a deeper understanding of the type of care that is to be provided.

- 2.3 The prospective occupiers, Esland Care, provide residential care for children between the ages of 7-18 years old with complex needs. The company currently provide residential care at other properties across the Midlands and elsewhere in the UK.

“The applicants very successfully operate over 40 children's homes throughout the UK and have received no complaints from residents or the Care Quality Commission about how these homes are being run.

The applicant provides a one-stop solution for the sector's most complex and challenging children who often suffer from autism or the effects of abuse. They adopt a three-stage process that underpins every child's placement to provide stability, develop resilience and facilitate the transition through a range of services to provide local authorities with a long-term plan to meet the individual needs of each child to enable them to become a valued member of society as they become adults.

All the children have a long period of assessment before being placed in a home to safeguard the children and the residents and are accompanied at all times 24/7 to ensure their safety and build up their confidence. These are not children with drug abuse issues and the applicant would work closely with the police to avoid any issues.”

3. Site Description

- 3.1.1 The site relates to a detached two-storey dwelling situated on the west side of Church View Road. The property has 4 bedrooms, including one with en-suite.
- 3.1.2 The property has an integral garage and two parking spaces on the driveway at the front of the property. There are no parking restrictions in the area.
- 3.1.3 Site Constraints:
None relevant.

4. Relevant Planning History

- 4.1 None relevant

5. Consultation Responses

A full copy of all comments received can be found on the Council's website at:
<https://www.kettering.gov.uk/planningApplication/search>

- 5.1 Desborough Town Council
Desborough Town Council object on the following grounds:

- The Town Council feel the property is too small for the proposed use and that there would be insufficient parking available for the necessary building users and visitors.
- Desborough Town Council is concerned that the application refers to one child but documentation submitted may not entirely substantiate this and the Council would seek information on how such a limit would be policed.
- The Town Council wish for reassurances that the appropriate Children's services have been advised, consulted, and have been able to give clear views as to the suitability of the premises in this location for the proposed use.

5.2 Neighbours / Responses to Publicity

2 numbers of letters have been received. The issues raised are summarised below:

- Traffic generation - The street has a lack of parking provision. The proposed site lists parking for three vehicles, yet the application states there will be four members of staff, therefore there is insufficient off-street parking at the premises. Additionally, staff will be in attendance on a 24x7 basis.
- Noise and disturbance – The proposal will alter the character of the area given the nature of the business and the need for staff to be coming and going on a 24x7 basis, and the fact that the clients will be young people in need of specialist support, including substance abuse.
- Boundary treatments - The fence is in a parlous state and would need replacing for safety and security reason.
- Overdevelopment - There are permissions for 4 more dwellings in the street so already overdeveloped.

5.3 Local Highway Authority (LHA)

No objections subject to condition on parking.

5.4 NNC Environmental Health Officer

No comments.

6. Relevant Planning Policies and Considerations

6.1 Statutory Duty

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

6.2 National Policy

National Planning Policy Framework (NPPF) (2021)
 Section 2 – Achieving sustainable development
 Section 5 – Delivering a sufficient supply of homes
 Section 8 – Promoting healthy and safe communities
 Section 9 – Promoting sustainable transport

6.3 North Northamptonshire Joint Core Strategy (JCS) (2016)

Policy 1- Sustainable Development
 Policy 8 –Place shaping principles
 Policy 28 - Housing requirements

Policy 29 – Distribution of new homes
Policy 30 – Housing mix and tenure

6.4 Local Plan
Kettering Saved Policy 35 - Housing: Within Towns

Emerging Policy - Site Specific Part 2 Local Plan (Inspector's Main Modifications 'sound' July 2021)

LOC1 - Settlement Boundaries

HOU3 - Retirement Housing and Care Homes

6.5 Other Relevant Documents
The Equalities Act (2010) Section 149 created the public sector equality duty which requires public authorities to have due regard where there are equality implications arising from a proposal in the determination of the application.

7. **Evaluation**

The key issues for consideration are:

- Principle of Development
- Visual Impact
- Impact on Neighbouring Amenity
- Highway Matters

7.1 **Principle of Development**

7.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. As detailed above, the Development Plan consists of the North Northamptonshire Joint Core Strategy (JCS) and the Saved Policies of the Local Plan.

7.1.2 Paragraph 11 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development. In this case the relevant part of paragraph 11 is c) which states that for decision taking this means *“approving development proposals that accord with an up-to-date development plan without delay.”*

7.1.3 The site is located within an established residential area inside the settlement of Desborough. The settlement boundary was last defined through the 1995 Local Plan for Kettering Borough. Saved Policy 35 (Local Plan) is used to define the extent of the settlement boundary and supports housing development within it. Policies 11 and 29 of the North Northamptonshire Joint Core Strategy direct development to the existing market towns to support regeneration and local services, and encourage the re-use of previously developed land and buildings in the growth towns.

7.1.4 Policies 28-30 of the North Northants Joint Core Strategy (NNJCS) allow for the creation of sustainable, inclusive and mixed communities delivering housing for the different groups within the communities.

- 7.1.5 The Town & Country Planning (Use Classes) (amendment) (England) Order 2017 defines Class C3 dwelling houses as:
*“by a single person or by people living together as a family; or
a) by not more than 6 residents living together as a single household (including a household where care is provided by residents).”*
- 7.1.6 Children’s homes run by workers on a shift pattern do not fall into either class a or b and therefore the dwelling house is not considered to be a C3 dwellinghouse.
- 7.1.7 Class C2 defines Residential institutions as:
“the provision of residential accommodation and care to people in need of care, use as a hospital or nursing home, residential school, college or training centre.”
- 7.1.8 In this instance, the proposal falls under Class C2 as its use is a residential care home.
- 7.1.9 The provision of residential care homes are by their very nature a residential use which, in this residential area within the settlement boundary, is an appropriate and acceptable use of this dwelling.
- 7.1.10 In this case, the proposed development would help towards meeting a specialised housing need within Kettering Borough. The proposed use of the property remains residential in nature and therefore there is no conflict with local or national planning policy in this regard.

7.2 **Visual Impact**

- 7.2.1 Policy 8 of the North Northamptonshire Joint Core Strategy requires all new development proposals to be high quality in design and respect and enhance the character of its surroundings through form, scale, design and materials.
- 7.2.2 The change of use of the building from a single dwelling house to a care home for 1 child with 2 carers at any given time will have no material impact on the surrounding area by way of its external appearance as no external alterations are proposed. Although the use of the property would be run as a business rather than as a typical household with a single family, the proposed use remains as a residential use. This level of accommodation would be consistent with normal domestic arrangements associated with a large family unit. There is no reason to believe that the comings and goings associated with that level of accommodation and care would have an adverse impact on the areas character.
- 7.2.3 The use proposed however, falls under use Class C2, which includes other uses such as residential schools and training centres which may not be acceptable at this location. As such there are conditions attached restricting the use to that proposed C2 use and for one resident (not including carers).
- 7.2.4 The applicant has stated in the Planning Statement that there would be installation of bird boxes and feeders within the rear garden which is to be encouraged.

7.2.5 For the reasons set out above, in this instance the proposal complies with Policy 8 of the North Northamptonshire Joint Core Strategy and the National Planning Policy Framework.

7.3 Impact on Neighbouring Amenity

7.3.1 Policy 8 of the North Northamptonshire Joint Core Strategy requires that development protects amenity by not resulting in an unacceptable impact on the amenities of future occupiers, neighbouring properties or the wider area by reason of noise, vibration, smell, light or other pollution, loss of light or overlooking.

7.3.2 It is not considered that the low-key use of the property as a small care home would impact on neighbours with regards to significant noise and disturbance. Although there would be shift patterns, the applicant has provided the following information in that these are *“typically 8am – 11pm and then sleep in and leave in the morning. We do tend to reduce the staffing overnight on a risk assessment basis so may only have 1 staff member sleeping in. We also don't do fixed shifts eg blocks – 2 staff for 2 days and then another 2 staff for another 2 days etc. We will rotate and offer a rolling shift pattern so only one staff will be leaving/ coming on most days.on a roll' The manager hours is flexible – some earlies some lates etc”*.

7.3.3 It would appear that shift handovers at 8am would be at a time when most households have typical traffic movement through normal work/school patterns and in this case, it is unlikely that the pattern of household movements would give rise to undue noise or disturbance to neighbouring occupiers. There are no comments of concern from the Environmental Health Officer. The proposal accords with Policy 8 of the North Northamptonshire Joint Core Strategy.

7.4 Highway Matters

7.4.1 Policy 8 of the North Northamptonshire Joint Core Strategy requires all new development to create well connected places by ensuring that it integrates well with existing cycle, pedestrian, public transport and vehicular movement networks (a.ii) and makes safe and pleasant streets by; prioritising the needs of pedestrians, cyclists and public transport users and resisting developments that would prejudice highway safety (b.i) and ensures a satisfactory means of access (b.ii). Policy HOU3 of the Site Specific Part 2 Local Plan supports care homes with good access to public transport and local facilities.

7.4.2 Paragraph 111 of the National Planning Policy Framework reflects policy 8 to a large degree. Paragraph 111 states that *“development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

7.4.3 The site is relatively close to the town centre and local facilities of Desborough. The property benefits from a single garage with further off-street parking provision for 2 spaces to the front of the garage within the driveway which is adequate for the amount of parking required for the proposed use. Therefore, the

recommended condition on parking numbers by the Highways Officer is not necessary. However, there is a condition to ensure there remains adequate parking provision on the site. Given the age and circumstances of the residential user then it is unlikely there would be much demand from the main resident living at the site. Given the proposed development is well served by public transport near to the site and the low level of two staff at any given time then the parking provision would be adequate.

- 7.4.4 There are no on-street parking restrictions and should there be the occasional need for additional visitors to park on the street then it is not considered that this would cause such an intensification of need for additional parking provision that would warrant a refusal on highways grounds.
- 7.4.5 It is considered that the access arrangements will be adequate to provide manoeuvring and parking arrangements for all staff, visitors and support services, particularly at the staff handover points.
- 7.4.6 In this regard, the proposal is considered acceptable under Policy 8 of the North Northamptonshire Joint Core Strategy and the National Planning Policy Framework.

8. Other Matters

- 8.1 Neighbour comments:
 - 8.1.1 Although it has been drawn to the Local Planning Authority's attention that the fence requires replacing/repairing, this is not a matter for the planning department to intervene in and is a private matter between the two parties.
 - 8.1.2 There was an objection of overdevelopment with 4 more dwellings within the street but each application is determined on its own merits.
 - 8.1.3 The comments by Desborough Town Council in relation to the appropriate Children's services having been advised and consulted upon as to the suitability of the premises in this location for the proposed use have been reviewed. However, the care sector is regulated by other primary legislation and the concerns above are not necessarily planning related.
 - 8.1.4 In relation to the care home being used more intensely, the description of development applied for is "*the use of the property as a care home for a child and two staff members.*" Whether the internal space would be adequate for the care of more than one child would be a matter for the care home provider to decide. However, there is a condition to ensure there would only be one child living at the premises. A new application would be required to alter the number of children to be cared for if this were to be the case.
- 8.2 Equality:
 - 8.2.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:- "*(1) A public authority must, in the exercise of its functions,*

have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. “

- 8.2.2 The equality implications arising from this application relate to the protected characteristics of vulnerable children and their on-going residential needs that need to be appropriately accommodated.
- 8.2.3 In this regard, the recommendation to approve has been addressed in the assessment of the application in regards to, and in line with both local and national planning policies.
- 8.2.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

9. Conclusion / Planning Balance

- 9.1 The proposal is an acceptable use for the property with minimal impact on existing residential occupiers in relation to noise and disturbance. The proposed use will not cause highway hazard and provides sufficient on-site parking for the proposed use.
- 9.2 The proposal complies with Policies 1, 8, 28,29 and 30 of the North Northants Joint Core Strategy, Saved Policy 35 of the Kettering Borough Local Plan and the relevant sections within the National Planning Policy Framework.

10. Recommendation

- 10.1 APPROVED subject to the Conditions on commencement of time, compliance with approved information and plans, parking spaces, no more than 1 resident and use only as residential care home or dwellinghouse.

11. Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
REASON: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and to prevent an accumulation of unimplemented planning permissions.
2. The development hereby permitted shall not be carried out other than in accordance with the approved information and plans and details listed below.

REASON: In the interest of securing an appropriate form of development in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

3. The parking spaces so provided within the garage and front garden area of the property shall not be obstructed and shall thereafter permanently remain available for car parking and turning.

REASON: To ensure that adequate off-street parking are available to accord with Policy 8 of the North Northants Joint Core Strategy.

4. No more than one resident (not including carers) shall live at the property at any one time.

REASON To protect the amenities of neighbouring residential properties in accordance with Policy 8 of the North Northants Joint Core Strategy.

5. The property subject to this permission shall only be used for purposes associated with a residential care home or as a dwellinghouse and for no other purposes whatsoever.

REASON: In the interest of residential amenity, the area's character and highway safety in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

12. Informatives

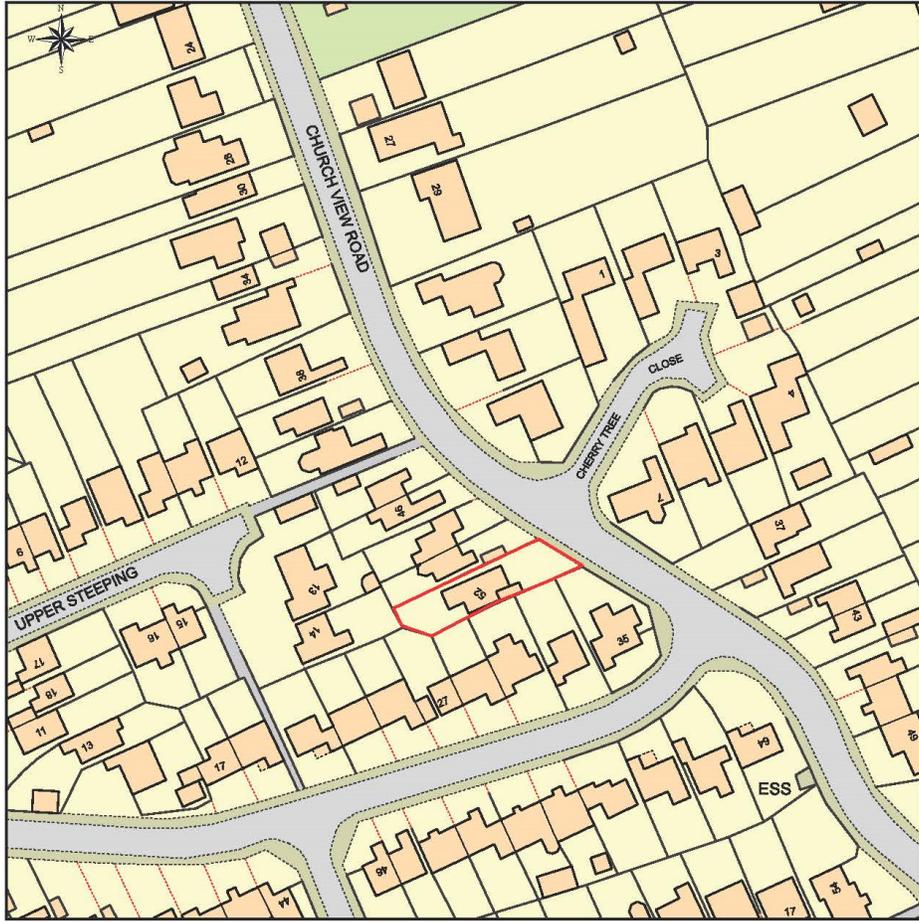
Positive/Proactive - pre-application advice

List of plans

The plans and documents, some of which may have been subsequently referenced by the LPA, are set out below and form the basis for this decision:

Title	KET Ref.	Agent's Ref	Received Date
Location plan	NK/2021/0122/1		15.02.21
Existing floor plan		A101	15.02.21
Planning Statement	NK/2021/0122/2		15.02.21

52 Church View Road, Desborough



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0m 20m 40m 60m 80m 100m

Scale: 1:1250, paper size: A4

Location Plan



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plans

Prepared by: Aida McManus, 11-02-2021