

APPLICATION NO:	22/00207/COU
LOCATION:	29 Kennington Park, Widnes, Cheshire, WA8 9PE
PROPOSAL:	Propose change of use from a dwelling [Use Class C3(a)] to a children's home for two children up to the age of 17 [Use Class C2]
WARD:	Birchfield
PARISH:	None
APPLICANT:	Mr Tony Hallam, 20 Leeswood, Skelmersdale, WN8 6TH.
DEVELOPMENT PLAN:	ALLOCATIONS:
Halton Delivery and Allocations Local Plan (2022)	Primarily Residential.
Joint Merseyside and Halton Waste Local Plan (2013)	
DEPARTURE REPRESENTATIONS:	No.
KEY ISSUES:	Representations from 4 contributors have been received from the publicity given to the application.
RECOMMENDATION:	Principle of Development and Highways.
SITE MAP	Grant planning permission subject to conditions.



THIS APPLICATION IS BEING CONSIDERED BY THE DEVELOPMENT MANAGEMENT COMMITTEE AS IT HAS BEEN CALLED IN BY WARD COUNCILLOR MIKE FRY FOLLOWING CONCERNS RAISED WITH HIM BY RESIDENTS.

1. APPLICATION SITE

1.1 The Site

The property subject of the application is 29 Kennington Park in Widnes. The property is a detached house with an integral garage and a double width driveway to the front. The site is designated Primarily Residential in the Halton Delivery and Allocations Local Plan.

1.2 Planning History

The site has been subject to the following relevant planning history:

03/00572/FUL – Proposed conservatory to rear – Granted 28/07/2003.

21/00673/PLD - Application for a Lawful Development Certificate for the proposed use of the property as a small children's care home (use class C3b) with no more than 6 people at the home at any one time – Withdrawn 22/04/2022.

2. THE APPLICATION

2.1 The Proposal

The application proposes a change of use from a dwelling [Use Class C3(a)] to a children's home for two children up to the age of 17 [Use Class C2].

Members will note from the planning history section at 1.2 that an application for a Lawful Development Certificate for the proposed use of the property as a small children's care home (use class C3b) with no more than 6 people at the home at any one time was submitted for this property last year (application reference 21/00673PLD).

This application was withdrawn by the applicant on 22nd April 2022. The reason why the application was withdrawn was due to the fact that the proposal was not lawful development and planning permission was in fact required, hence the current application.

2.2 Documentation

The application is accompanied by relevant plans only.

3. POLICY CONTEXT

Members are reminded that planning law requires for development proposals to be determined in accordance with the development plan, unless material considerations indicate otherwise.

THE DEVELOPMENT PLAN

3.1 Halton Delivery and Allocations Local Plan (2022)

The following policies contained within the Halton Delivery and Allocations Local Plan are of relevance:

- C1 Transport Network and Accessibility;
- C2 Parking Standards;
- GR2 Amenity;

3.2 Joint Merseyside and Halton Waste Local Plan (2013)

The following policies, contained within the Joint Merseyside and Halton Waste Local Plan are of relevance:

- WM8 Waste Prevention and Resource Management;
- WM9 Sustainable Waste Management Design and Layout for New Development.

MATERIAL CONSIDERATIONS

Below are material considerations relevant to the determination of this planning application.

3.3 National Planning Policy Framework

The National Planning Policy Framework (NPPF) was published in July 2021 to set out the Government's planning policies for England and how these should be applied.

3.4 Equality Duty

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.

Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

There are no known equality implications arising directly from this development that justify the refusal of planning permission.

3.5 Other Considerations

The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a persons rights to the peaceful enjoyment of property and Article 8 of the Convention of the same Act which sets out his/her rights in respect for private and family life and for the home. Officers consider that the proposed development would not be contrary to the provisions of the above Articles in respect of the human rights of surrounding residents/occupiers.

4. CONSULTATION RESPONSE.

4.1 Highways and Transportation Development Control

Further to your consultation we have considered the proposed application as the Highway Authority and would make the following representation;

Whilst detail is limited, no material changes are proposed to the dwelling in terms of access or parking nor will significant intensification of use result from the proposed change of use. Therefore Highways has no objection to the submitted application.

5. REPRESENTATIONS

5.1 The application was publicised by nine neighbour notification letters sent on 5th May and a site notice posted on Kennington Park on 5th May.

5.2 Representations from four contributors have been received from the publicity given to the application. A summary of the issues raised is below:

- This business will not operate like a family home;
- This is not a business area;
- The proposal contravenes restrictive covenants;
- No pre application consultation was undertaken with neighbours;
- Adequacy of parking provision for the proposed use;

- Increased traffic generation impacting on the highway and residential amenity;
- Would compromise the accessing of existing driveways on the street;
- Increased noise and disturbance;
- Anti-social behaviour resulting from groups congregating;
- Lack of information on the company/staffing and OFSTED reports;
- Staff unwilling/unable to take responsibility for issues residents may cause;
- Application form is incorrect. The house is vacant and has been for some time;
- Lack of consultation on the proposed development by the Council.

6. ASSESSMENT

6.1 Principle of Development

The property is a dwellinghouse located in a Primarily Residential Area as designated on the Halton Delivery and Allocations Local Plan Policies Map. Residential is therefore the predominant land use in this locality.

The application proposes a change of use from a dwelling (Use Class C3a) to childrens home for two children up to the age of 17 (Use Class C2). The application form indicates that the children would be supervised by two carers 24 hours a day and sleep at the home in the two remaining bedrooms. The two support staff would work on a shift basis and a manager would be at the home Monday - Friday 9am-5pm. The support staff work on a 2 day on 4 off basis comprising of just three shift changes during a week.

It is not considered that the associated comings and goings (Children travelling to and from a place of full time education and staff travelling to and from the property, which would be their place of work) would be of such a significant level that would be detrimental to the amenity of persons residing in the locality.

This view is based on the details provided in the application and it is considered reasonable to attach a condition which states that the property can be used as a childrens home for up to two children and that care for the up to two children shall be provided by not more than one manager and two support staff on a shift basis. Whilst the proposed description makes reference to the proposal being for a childrens home for two children (Use Class C2), the condition proposed would provide clarity on what is permitted in terms of staffing.

In conclusion, the proposed use is considered sympathetic to surrounding land uses and would not be significantly detrimental to the amenity of the locality in compliance with Policy GR2 of the Halton Delivery and Allocations Local Plan.

6.2 Highways, Transportation and Accessibility

The property benefits from an integral garage and a double width driveway, which is a total of three off-road parking spaces.

Concerns have been raised regarding parking, traffic generation and the ability to access existing driveways.

Based on staff numbers and likely movements to and from the property, the Highway Officer has not objected to the application as it is considered that no material changes are proposed to the dwelling in terms of access or parking nor will significant intensification of use result from the proposed change of use.

It is therefore considered that a refusal of the application on highway grounds could not be sustained.

In conclusion from a highway perspective, the proposal is considered acceptable in compliance with Policies C1 and C2 of the Halton Delivery and Allocation Local Plan.

6.3 Issues raised in the representations not addressed above

In principle, any consideration, which relates to the use and development of land is capable of being a planning consideration.

In terms of what weight can be given to a material consideration, the law makes a clear distinction between the question of whether something is a material consideration and the weight which is to be given to a material consideration. Whether a particular consideration is material will depend on the circumstances of the case and is ultimately a decision for the courts. Provided it has regard to all material considerations, it is for the decision maker to decide what weight is to be given to the material considerations in each case, and (subject to the test of reasonableness) the courts will not get involved in the question of weight.

Concerns have been raised that this is a business and will not operate like a family home. The proposed use of the building is the consideration of this application and it is considered sympathetic to surrounding land uses.

In respect of the property not being in a business area, it is in fact a primarily residential area and a residential use is being proposed which is considered sympathetic to surrounding land uses.

In respect of the proposal contravening restrictive covenants, this is a private matter and not a reason on which the refusal of this application can be sustained.

Whilst desirable, the applicant is not obliged to undertake any pre application consultation with neighbours.

With regarding to increased noise and disturbance and anti-social behaviour resulting from groups congregating, there is no evidence to suggest that this is the case. It is the suitability of the land use that is the subject of this application.

Concerns have been raised on the lack of information on the company/staffing and OFSTED reports. The Council as Local Planning Authority has sufficient information to consider the suitability of the proposed C2 use in this property.

In any case, a subsequent planning permission is for the use rather than for a particular operator.

Regarding staff unwilling/unable to take responsibility for issues residents may cause, this is a future management issue rather than a reason on which the refusal of planning permission could be sustained.

It is alleged that the application form is incorrect and that the house is vacant and has been for some time. Again, it is the suitability of the proposed use, which is the consideration with this application.

The Council has undertaken publicity on this application, which exceeds the statutory requirements.

6.4 Planning Balance

Based on the above assessment, the proposal is considered to be in accordance with the Development Plan.

When assessed against the policies in the NPPF taken as a whole, taking into account the details of the scheme and any material planning considerations, the proposal is thus sustainable development for which the NPPF carries a presumption in favour.

As such, the proposal is considered to accord with the Development Plan and national policy in the NPPF.

7. CONCLUSIONS

The proposed use of the property as a children's home for two children up to the age of 17 is considered sympathetic to surrounding land uses.

No external alterations are proposed which would impact the character of the area.

The property benefits from an integral garage and a double width driveway and based on staff numbers and likely movements to and from the property no highway objection is raised to the proposal.

The proposed change of use is therefore considered acceptable in compliance with Policies GR2, C1 and C2 of the Halton Delivery and Allocations Local Plan.

8. RECOMMENDATION

Grant planning permission subject to conditions.

9. CONDITIONS

1. Time Limit – Full Permission.

2. Approved Plans.
3. Restriction on Use.

10. BACKGROUND PAPERS

The submitted planning applications are background papers to the report. Other background papers specifically mentioned and listed within the report are open to inspection at the Council's premises at Municipal Building, Kingsway, Widnes, WA8 7QF in accordance with Section 100D of the Local Government Act 1972

11. SUSTAINABILITY STATEMENT

As required by:

- The National Planning Policy Framework (2021);
- The Town and Country Planning (Development Management Procedure) (England) Order 2015; and
- The Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2015.

This statement confirms that the local planning authority has worked proactively with the applicant to secure developments that improve the economic, social and environmental conditions of Halton.