

## Planning Committee

Report of Head of Planning and Building Control on 20 July 2023

**Plans List Item Number: 4**

### Reason for bringing to committee

Significant Community Interest

### Application Details

**Location:** 56, THE CRESCENT, WALSALL, WS1 2BZ

**Proposal:** CHANGE OF USE OF A FOUR-BEDROOM RESIDENTIAL DWELLING (USE CLASS C3(A)) TO A SMALL CARE HOME (USE CLASS C2) TO CARE FOR UP TO TWO CHILDREN.

**Application Number:** 23/0372

**Case Officer:** Jeff Penfold

**Applicant:** Walsall Council

**Ward:** Paddock

**Agent:** Lambert Smith Hampton

**Expired Date:** 18-May-2023

**Application Type:** Full Application: Change of Use

**Time Extension Expiry:** 01-Aug-2023



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## Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to
  - No new material considerations being received within the consultation period;
  - The amendment and finalising of conditions;
  - No further comments from a statutory consultee raising material planning considerations not previously addressed.

## Proposal

This planning application is for a proposed change of use from a single dwelling house (planning use class C3 - dwellinghouses) to a small care home (planning use class C2 - residential institutions) for up to two children.

The application property consists of four bedrooms, a kitchen/diner, a lounge, a utility room, water-closet, bathroom, integral garage and rear garden. Each resident would have their own bedroom and the remaining two bedrooms would be occupied by the carers. The kitchen/diner, lounge and rear garden will be used communally, and the existing garage would be converted to use as a staff office.

The planning application states that the home would be operated by Walsall Children's Services, with all referrals of residents to come from the same department. The care home would be registered with Ofsted (as the relevant regulator).

The children will be cared for by up to three staff between the hours of 07:30 and 22:00 and two staff between 22:00 and 07:30 each day, providing round-the-clock care. The submission states that staff will be suitably trained, experienced, qualified and supervised. The handover period between shifts would generally last between 15 to 30 minutes.

The submission states that a Registered Manager for the home will generally be based at the property between 09:00 and 17:00 on weekdays, although these hours may vary. The role of a Registered Manager is required by Ofsted with the purpose being to oversee the operations and safeguarding responsibilities, as well as deal with the relevant administration. In addition, families and friends may visit the home from time to time on pre-arranged basis.

The application states that the proposal would provide medium to long term accommodation for up to two children, between the ages of 6 to 18 with social, emotional and behavioural difficulties. The submission confirms that the proposal is not a 'half-way' house or a facility that would provide overnight lodgings. Rather, the operation is designed to ensure that the property functions as close as possible to a standard Class C3(a) use and has a layout typical to that of most dwelling houses. The covering letter advises that the aim of the home is for the children to attend schools locally in the catchment area and to also use services and facilities in the surrounding area.

The existing access point from The Crescent would be used and a separate planning application would be submitted to drop the kerb and widen the vehicular access to provide parking for four vehicles once the front wall is removed.

The submission states that no internal or external works requiring planning permission are proposed and the garage conversion would replace the existing garage door with a window.

## Site and Surroundings

The application property is four-bedroom, two storey detached dwelling house with off-street parking for two vehicles on the front driveway. The house has a private rear garden and includes an integral garage.

The application site is accessed from The Crescent, which links to Broadway North (A4148) to the east and Sutton Road to the south via Princes Avenue.

The application site is located approximately 1 mile from Walsall Town Centre which is located to the north-west. The application site is located within a largely residential area and is bounded by residential properties to the south, west, east and north. The houses to either side, no's 54 and 58 are residential properties.

The site does not lie within the Cannock Chase Special Area of Conservation (SAC) 15km Zone of influence.

There are regular bus services from The Crescent (bus routes 77 (Walsall to Erdington), 77A (Walsall to Erdington) and 935 (Birmingham to Walsall), Sutton Road (bus routes 934) and Birmingham Road (51 and X51 between Walsall and Birmingham, and Birmingham and Cannock)

## Relevant Planning History

None

## Relevant Policies

### **National Planning Policy Framework (NPPF)**

**[www.gov.uk/guidance/national-planning-policy-framework](https://www.gov.uk/guidance/national-planning-policy-framework)**

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed places**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **National Planning Policy Guidance**

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations.

### **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act') sets out 9 protected characteristics which should be taken into account in all decision making. Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV32: Design and Development Proposals
- H6: Nursing Homes and Rest Homes for the Elderly
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- CSP4: Place Making
- DEL1: Infrastructure Provision
- TRAN2: Managing Transport Impacts of New Development
- ENV3: Design Quality

### **Walsall Site Allocation Document 2019**

HC2: Development of Other Land for Housing  
HC3: Affordable Housing and Housing for People with Special Needs  
T4: The Highway Network

## **Supplementary Planning Document**

### **Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW7 Diversity
- DW10 Well Designed Sustainable Buildings

### **Consultation Replies**

#### **Environmental Protection – No objections**

**Fire Officer** – No objections subject to compliance with B5, Access & Facilities for the fire service

**Local Highway Authority** – No objections subject to retention of existing dropped kerb, wall and planting and replacement of existing loose gravel material drive surfacing

**Police** – No objections and recommend the principles of Secured by Design which can be included as an informative.

#### **Strategic Planning Policy – No objections**

#### **Severn Trent Water – No objections**

## **Representations**

### ***(Local Planning Authority comments in italics and brackets)***

A petition with 68 signatures has been received objecting to the proposal on the following grounds;

- Unsuitable location
- Likely to attract undesirable elements to the area *(No evidence has been put forward to substantiate this claim regarding the future occupiers of the property)*
- Only space for one vehicle when cars are parked at busy times and buses no's 77, 77A and the 935 are held up frequently by congestion
- Traffic congestion especially at school times
- One less parking space on the road if the front garden is converted for parking
- Constant stream of vehicles visit these homes and they will attempt to park on The Crescent
- Not suitable for commercial use as overlooking of neighbouring properties from the rear garden *(The proposal is a form of residential use in a residential location)*

A second petition with 5 signatures has been provided objecting on the following grounds;

- Restrictive covenant that the property could not be used for any trade or business (*the presence of a restrictive covenant is not a consideration material to the grant of planning permission*).

Two further objections from residents have been received on the following grounds;

- Removing front hedge will allow views into the property (*The hedge is not protected and can be removed without planning approval*)
- Hard-surfaced drive will look industrial
- Unsuitable location
- Transient residents (*No evidence has been put forward to substantiate this claim regarding the future occupiers of the property and transience is not a material planning consideration*)
- More like a business than a home (*The proposal is a form of residential use in a residential location*)
- Car headlights
- Anti-social behaviour (*No evidence has been put forward to substantiate this claim regarding the future occupiers of the property*)
- Risk of exploitation (*No evidence has been put forward to substantiate this claim regarding the future occupiers of the property and transience is not a material planning consideration*)
- Increased traffic
- Behavioural problems (*This is not a material planning consideration*)
- House bought by Council without consultation with neighbours and a full public enquiry is required (*This is not a material planning consideration*)
- Spending £100,000 on renovation which is a waste of money (*This is not a material planning consideration*)
- May be sold to a private service provider (*This is not a material planning consideration*).

The Agent's response to the above petitions can be found via the following link:  
[75477-387164.pdf \(walsall.gov.uk\)](#).

No changes have been made to this report nor the officer's recommendation following this submission.

#### Determining Issues

- Principle of Development
- Character of the Area
- Amenity of Neighbours and Amenity of Future Occupiers
- Safety and Security
- Access and Parking

## Assessment of the Proposal

### Principle of Development

Saved UDP policy H6 refers to nursing homes and rest homes for the elderly but contains advice about parking and the types of property that will be suitable.

Paragraph (b) VIII states that large, detached properties are the most obviously



suitable for these uses. Paragraph (b) X states that the Council will take account of the accessibility of a property to local amenities and public transport.

SAD policy HC3 states that the Council will encourage the provision of housing for people with special needs, including single people, the elderly, people with disabilities and any other groups who require specialist accommodation, in locations that would be acceptable for general housing. Such housing will be particularly encouraged in and close to centres, provided the sites are not required for centre uses.

The minister of state for housing and planning made a written statement to Parliament on 23rd May about planning for accommodation for looked after children: <https://questions-statements.parliament.uk/written-statements/detail/2023-05-23/hcws795>. This states:

*“I ...wish to set out the Government’s commitment to support the development of accommodation for looked after children, and its delivery through the planning system.*

*The planning system should not be a barrier to providing homes for the most vulnerable children in society. When care is the best choice for a child, it is important that the care system provides stable, loving homes close to children’s communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love.*

*Today we use this joint statement to remind Local Planning Authorities that, as set out in paragraph 62 of the National Planning Policy Framework, local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions.*

*Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country. It is important that prospective applicants talk to local planning authorities about whether their service is needed in that locality, using the location assessment (a regulatory requirement and part of the Ofsted registration process set out in paragraph 15.1 of the Guide to the Children’s Homes Regulations) to demonstrate this.”*

The application property is a detached house in a residential location with access to local amenities and regular bus services. The proposed use can therefore be supported on strategic planning policy grounds.

### **Character of the Area**

The application property is located within a residential area consisting of detached, terraced and semi-detached properties. The change of use from residential to another residential use, in a residential area is considered compatible for this location.

The internal layout changes are considered would do not harm to the character of the surrounding area. The application property would continue to have the appearance as a dwellinghouse and a safeguarding condition preventing any external advertisements to the property may be imposed to retain this residential character.

### **Amenity of Neighbours and Amenity of Future Occupiers**

The neighbouring properties are residential. The existing building is a house and would continue to be used for residential living accommodation with the same level of amenity and similar relationship to neighbouring houses as is already the case. The level of noise is anticipated to be no greater than would be expected than any other residential property in the locality.

No evidence has been provided to demonstrate that there would be safety issues as a result of this proposal. There would be staff support and supervision for the two residents on a 24-hour basis.

### **Safety and Security**

Whilst the fear of crime is a material consideration in planning decisions, the weight that can be given, is often limited unless there is significant evidence to show that the increased fear of crime would actually occur in relation to this specific proposal and the specific future occupiers.

The police have no objections to the proposal and have recommended security considerations for the application property which can be included as an informative note.

### **Access and Parking**

The Local Highway Authority has no objections to the proposal and comments that access to the property is directly from The Crescent with off street parking to the front of the property and a single garage.

The Crescent allows two-way traffic movements. There are no restrictions to car parking along The Crescent close to the application site. Most properties have off street parking in this area. There are footways either side of The Crescent and the surrounding road network. The nearest bus stops to the east and west of the application site on The Crescent.

The only material change will be conversion of the existing garage to office space. Losing a single car parking space. The UDP Policy T13 requires that for a four-bedroom property a minimum of three car parking spaces are provided. The drawings provided show that it is intended to remove the existing low wall and vegetation screening to provide additional spaces to the front of the property which is acceptable. This will require the widening of the existing dropped vehicle crossing and the submission states that an application for a widened dropped kerb would be submitted and this requirement can be conditioned by means of a Grampian condition as the dropped kerb sits outside the application site.

The highways authority has updated their comments which have been taken into account as part of this decision.

## **Conclusions and Reasons for Decision**

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, it is considered that the proposal would be an acceptable use of this previously developed site within an existing residential area.

There is no evidence that the proposal would increase crime and anti-social behaviour in the area or give rise to an unacceptable level of noise and disturbance. The proposal would not result in a significant loss of amenity for adjoining neighbours. The



application has demonstrated sufficient off-street parking to serve the needs of the development and the inclusion of a planning condition to restrict occupancy of the care home to a maximum of two residents can be included.

This proposal is therefore considered to be acceptable and in accordance with local and national planning policies and guidance set out in this report.

Taking into account the above factors it is considered that the application should be recommended for approval. The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment.

#### Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding the limited information provided initially and a planning statement and existing and proposed floor plans have since been provided which enable support to be given to the scheme.

### Recommendation

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to
  - No new material considerations being received within the consultation period;
  - The amendment and finalising of conditions;
  - No further comments from a statutory consultee raising material planning considerations not previously addressed;

### Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents: -

- Location Plan, drawing no. EPMS 4989/4, deposited 23/03/23.
- Existing Site Plan, drawing no. EPMS 4989/5, deposited 23/03/23.
- Proposed Site Plan, drawing no. EPMS 4989/3, deposited 23/03/23.
- Existing Floor Plans, deposited 23/03/23.
- Proposed Floor Plans, deposited 23/03/23
- Covering letter from Lambert, Smith Hampton dated 15/03/23 and deposited 23/03/23

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3. Prior to occupation of the development hereby permitted shall not be implemented otherwise than in accordance with a minimum of 3no. off road vehicular parking spaces each measuring a minimum of 2.4m by 4.8m shall be provided on the drive within the curtilage of the application dwelling. The parking spaces shall be consolidated hard surfaced and drained to prevent surface water from the driveway running on to the public highway or into any highway drain. The off-road vehicular parking spaces shall thereafter be retained for the purposes of parking vehicles and for no other purpose for the lifetime of the development.

Reason: In accordance with the requirements of saved Unitary Development Plan policies GP2, T7, T13 and ENV40 and in the interest of highway safety.

4. Notwithstanding the details as submitted, the development hereby permitted shall not be carried out otherwise than in accordance with the new crossing not exceeding five 900mm flat kerbs and two 900mm taper kerbs and shall thereafter be retained for the lifetime of the development

Reason: To ensure the satisfactory completion and operation of the access, in accordance with UDP Policy GP2 and in the interests of highway safety.

5. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details of a residential care home for up to a maximum of up to two children between the ages of 6 and 18 years and for no other purpose (including any other purpose in Schedule 1, Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To control the level of parking demand and vehicle movements at the property in accordance with UDP Policy T7 and T13 and in the interests of highway safety.

6. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and there shall at no time be any advertisement(s) displayed to the frontage of the property.

Reason: In the interests of maintaining the character of the area.

### **Notes for Applicant**

#### **Highway**

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

2. The applicant will be required to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the extended dropped kerb footway crossing within the public highway. For further information and application forms

please visit the Council's webpage under Transport and Streets - Parking Roads and Vehicles.

## **Police**

If young residents I recommend liaison with Walsall Children's Services. Children's homes require registration with Ofsted under The Care Standards Act 2000. Staff 24/7.

<https://www.gov.uk/government/publications/ofsted-and-cqc-joint-registration-guidance-childrens-homes-and-health-care/childrens-homes-and-health-care-registration-with-ofsted-or-cqc>

[Applying to register a children's home: top tips - Ofsted: social care \(blog.gov.uk\)](#)

The below information for the applicant

The applicant to refer to crime prevention and home security advice contained within SBD Homes.

Please see: [HOMES GUIDE 2023 web.pdf \(securedbydesign.com\)](#)

External LED lights with daylight sensors to the external walls, by entrances and parking.

This to provide security for residents entering and leaving. (SBD Homes 2023 page 47, 27.2).

Alarm and cctv installers should be approved by NSI, SSAIB or both.

Please see <https://www.nsi.org.uk/> and <https://ssaib.org/>

Dwelling entrance door-sets (SBD Homes 2023 page 36, 23, 1-9).

PAS 24: 2022 standard doors for houses and apartments.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

## **Petitions Received**

Petitions on following pages

Development Management  
The Civic Centre Walsall.  
Application Number 23/0372

Mr David Wilkinson  
58 The Crescent  
Walsall  
WS12BZ  
19<sup>th</sup> April 2023



Objection To Change Of Use For 56 The Crescent

We wish to object to this application on the grounds of it being an unsuitable development in such a built up residential area and is likely to attract undesirable elements to the area.

Parking is a continual problem and with the parked cars and at busy times it only gives enough space for one vehicle to pass down the centre of the road. It is also the bus route for the 77, 77A and the 935 which are frequently held up by congestion in this very narrow part of these routes.

The Crescent is used most days by parents dropping off and collecting children for the two schools on the Sutton Road and at exam times parking wardens have to patrol the road to keep it open.

At 56 they intend to convert the front garden to parking for the 3 members of staff, which then results in one less parking space in the road that is used by residents that have no parking.

I am advised that a constant stream of vehicles visit these homes, Managerial checks and meetings, Maintenance and checks of all types and Deliveries, all of which will attempt to park in The Crescent.

56 is not suitable for commercial use as anyone using the back garden can see into 54 and 58 because of the lay out of the properties.

Continues on to 2<sup>nd</sup> page.

58 THE CRESCENT  
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To Development Management

Mr David Wilkinson

The Civic Centre Walsall

58 The Crescent

Application Number 23/0372

Walsall

19<sup>th</sup> April 2023

WS1 2BZ

**Re- Application for Business Use At 56 The Crescent And Restrictive Covenants**

At a recent consultation meeting with the residents of The Crescent and Princes Avenue , Council Officer Mr Alan Davies, Group Manager, stated that the proposed residential home at 56 The Crescent, would be run as a business and he intended on behalf of Children's Services to apply for a change of use from Residential to Business Use.

On 16<sup>th</sup> March I sent a letter to Sally Rowe, The Executive Director of Children's Services saying that It is my understanding that 56, 58, 60, 62 The Crescent and 21, 23 Princes Avenue all of similar construction, were all built on former Church Land about 1957 and Restrictive Covenants had been placed on the land.

When we purchased our individual properties we all, including the Council purchasing 56 agreed and signed to accept the Restrictive Covenants as stated on the Land Registry, Property Register.

Included within the Restrictive Covenants 3 pages...

**1a Not to carry on or permit or suffer to be carried on upon said land or any part thereof or in or upon any building erected or to be erected thereon or any part thereof any trade or business whatsoever but to use permit or suffer same to be used as a private dwellinghouses only.**

I then pointed out, I realise that some things have changed since 1957 but this is still a legal document that all of us owners have signed accepting the

Covenants saying we will only use them as a private dwellinghouses and as a joint legal agreement it gives each of us owners protection from anyone who would apply to change the use of the above properties.

We residents expected them to cancel the change of use and yet they are still proceeding with the application in full knowledge of the Restrictive Covenants.

**We ask The Planning Committee to respect the Restrictive Covenants and turn down the application.**

We are the other 5 owners of properties on the former Church Land that signed to accept the Restrictive Covenants when purchasing their property.

58 The Crescent

60 The Crescent

62 The Crescent

21 Princes Avenue

23 Princes Avenue



**End of Officer Report**