



Planning Committee

Report of Head of Planning and Building Control on 25 July 2024

Plans List Item Number: 6

Reason for bringing to committee

Called in by a Councillor Russell on the grounds that the proposal causes demonstrable harm to the amenities currently enjoyed by occupiers of neighbouring properties.

Application Details

Location: 54, HOLTSHILL LANE, WALSALL, WS1 2JA

Proposal: PROPOSED CHANGE OF USE FROM DWELLING (USE CLASS C3) TO 1NO CHILDREN'S RESIDENTIAL CARE HOME (USE CLASS C2) FOR 3 RESIDENTS WITH 2 FULL TIME EMPLOYEES, DEMOLITION OF EXISTING GARAGE FOR 5NO. PARKING SPACES AND ERECTION OF REAR EXTENSION. (AFFECTS PUBLIC FOOTPATH WAL74).

Application Number: 24/0201

Case Officer: Leah Wright

Applicant: St Benedicts Care Solutions Ltd.

Ward: St Matthews

Agent: BPN Architects

Expired Date: 16-Jul-2024

Application Type: Full Application: Change of Use

Time Extension Expiry: 29-Jul-2024



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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:
 - The amendment and finalising of conditions.

Proposal

This application proposes a change of use from dwelling (use class C3) to 1no children's residential care home (use class C2) for 3 residents with 2 full time employees, demolition of existing garage for 5 no. parking spaces and erection of rear extension. The application affects Public Footpath Wal74.

The Planning Statement confirms that there will be a manager or deputy manager on the premises during working hours along with 1-2 carers.

Vehicular access to the site is off the main throughway off Holtshill Lane. A refuse and recycling area will be located within the external amenity area.

Site and Surroundings

The application site is a large, detached dwelling sited to the eastern side of Holtshill Lane. The dwelling is set back from the main road and from the established building line.

There is a metal gate with chain and padlock on the upper part of the cul-de-sac to restrict unauthorised parking.

In addition to the dwelling, there is also a single storey garage to the front of the plot.

The property is not within the Green Belt, nor is it within a Conservation Area.

Relevant Planning History

No relevant history.

Relevant Policies

National Planning Policy Framework (NPPF)

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". The NPPF is a material consideration in the determination of a planning application.

Human rights and reducing inequalities

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been considered in reaching the recommendation contained in this report. The articles/protocols identified below were considered of relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 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 (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Walsall Council Development Plan

[Read more on the development plan published on the council website.](#) .

Planning law requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Our Development Plan includes:

- Black Country Core Strategy (BCCS)
- Walsall Site Allocations Document
- Unitary Development Plan
- Walsall Town Centre Area Action Plan

Planning guidance is published within a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

Public consultation has been carried out in accordance with the Development Management Procedure Order and the council's Statement of Community Involvement.

Consultation Replies

Coal Authority - The site falls within the Coal Authority's defined Development Low Risk Area. No specific comments to make. Coal Authority's Standing Advice is recommended.

Community Protection - No comments/concerns.

Environmental Health - No material comments. Advisory regarding food safety and hygiene.

Environmental Protection - No significant industrial or commercial environmental impacts, or any concerns about air quality or contaminated land that are material planning considerations for this application.

Highways - Support. Condition shall be imposed requiring the new parking spaces to be fully implemented prior to the care home first coming into use and thereafter retained and for a proposed cycle shelter.

Housing Standards - Property is in additional licencing area and may require licensing. Not been able to confirm room sizes as not all dimensions given.

Planning Policy – No objection.

Severn Trent Water - Due to a change in processes, we no longer look at extensions under the planning application process. All extensions are dealt with by Building Regulations, and if an asset is affected by the works, then the applicant will need to contact STW.

West Midlands Fire Service - Proposal will need to meet all the functional requirements stated within B5: Access and facilities for the fire service of Approved Document B, 2019 edition incorporating 2020 and 2022 amendments – for use in England.

West Midlands Police - No objection, recommend principles of secure by design.

Representations

At the time of writing this report, eight objections had been received (some from the same person/address) which are summarised as follows (Officer's comments in italics).

- The site is a residential family area and is not appropriate for this type of business (*Proposal would retain the residential character of the area and would not affect the built fabric of the area. C2 use is not considered over and above what would be expected by any other residential property in the locality*).
- Work on the building ongoing before planning application. This shows that the company who have bought this have zero interest in local residents (*This is noted. Extension has been included in the description of development*).
- Before the barrier on the car park there were issues with substance abuse and prostitution and therefore nature of the use is in poor taste (*Police and Environmental Protection have no objections to the application. Fear of crime is only a material consideration where there is current evidence of such*).
- Worried about abuse of parking and insufficient parking for residents (*Highways consider the parking provision to be appropriate*).
- Proposed use has the potential to de-value properties (*Not a material planning consideration*).
- Not comfortable with residents with a history of substance abuse and nearby private vehicles. Major security concern (*Behaviour of people and safeguarding are outside of planning legislation*).
- WHG owns the access road and applicant claims they have access. No consultation with WHG in this regard (*Land disputes are a legal issue and are outside the planning legislation*).
- WHG object on the basis that the proposals indicate five spaces off the access road which would negatively impact on the amenity of existing customers (*Highways have considered the parking to be appropriate*).
- Increased traffic impact (*Highways have no objections to development subject to conditions*).
- Increased noise and activity (*No objection raised from Environmental Protection*).
- Concern with future security measures to ensure the safety and security of young residents and surrounding community (*A condition will be included in*

regard to secure by design to ensure the implementation of appropriate security measures).

- Approval will set a precedent for other non-residential uses in the area (*The proposed use is considered appropriate, and each planning application is considered on its own merits*).
- Fence erected which encroaches onto property and is attached to supporting wall. Worried it will cause damage to property and could cause subsidence due to soil type (*Issues with land ownership are a legal issue and are not material planning concerns*).
- Proposed plans show land which does not belong to the owner (*As above*).
- Substantial tall trees and hedges surrounding the property. Application states the opposite (*There are no protected trees on site. The extension to the rear is minor and the application is for a change of use*).
- Problems in this area due to past mining, necessitating extensive foundations and substantial buttressing to be made when excavating any ground in the vicinity. Should be incorporate into any development work on the property (*Coal Authority have no objections*).

Determining Issues

- Principle of development
- Design, layout, and character
- Neighbouring amenity
- Safety and security
- Drainage / Flood risk
- Highways safety / access

Assessment of the Proposal

Principle of development

The application site lies within a well-established, built-up urban area with good access to local transport links serving both local and wider areas.

There are no policies in the development plan specifically about children's care homes. Saved UDP policy H6 is about 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.

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.”

This is a detached dwelling close to Walsall town centre. As such, it would appear to be a suitable location for this type of use.

Paragraph 135 of the National Planning Policy Framework 2023 states that:

135. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming, and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The proposal accords with paragraph 135 in that it would retain the residential character of the area, would not impact on the built fabric of the area, and would provide for inclusive and accessible housing for vulnerable people.

The subject property is a large, detached house. Whilst it is not directly in a centre, it is approximately 0.6 miles from Walsall town centre and is therefore considered a sustainable location. It is considered there is the potential for the proposed use to give rise to noise disturbance. This would be mostly consolidated to the external areas such as private amenity space. Notwithstanding this, it is considered that the number of children proposed to be resident would be no different to the number in a single-family household. The application can therefore be supported on planning policy grounds.

As such, subject to the wider considerations within this report, the works are deemed acceptable in principle.

Design, layout, and character

The application proposes a single storey rear extension which will form an additional bedroom. There will be a walkway linking the extension to the dwelling and the corridor would have skylights and there is a new door and fenestration proposed to the extension. The extension is of an appropriate scale in comparison to the dwelling and is a minor addition to this large dwelling.

There are also minor internal changes proposed to facilitate the change of use to a children's home.

The change of use from residential to another residential use, in this residential area is considered compatible.

The subject property would continue to have the appearance of a dwellinghouse and a safeguarding condition preventing any external advertisements to the property will be attached to any permission granted to retain this residential character.

As such, subject to conditions, the works are deemed acceptable in respect of design and visual impacts.

Neighbouring amenity

The neighbouring properties are residential. The existing building is a detached dwelling 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.

Environmental Protection and Environmental Health have no objections to the proposed change of use.

No evidence has been provided to demonstrate that there would be any safety issues as a result of this proposal, nor any reasonable fear of crime as a result.

Housing Standards have questioned the room dimensions, however there are no minimum requirements for C2 care homes.

It is always necessary for developments to take into account the residential amenity of neighbours and impact on the environment. In this case, the proposal complies with the principles of good neighbourliness and the protection of existing residential amenities.

As such, the proposal would not likely lead to any materially harmful impact on residential amenity by way of loss of light, loss of outlook, loss of privacy or overbearing impacts.

Safety and security

Whilst the fear of crime is a material consideration in planning decisions, the weight that can be given, is dependent on whether 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. A condition will be included to ensure that the proposal meets safety and security requirements for residents and surrounding occupiers.

The behaviour of people in the street and safeguarding are all matters outside the scope of the planning legislation to consider.

Drainage / Flood risk

No concerns are raised in respect of drainage / flood risk. The works would not increase the level of flood risk vulnerability.

As such, the works are deemed acceptable in respect of drainage / flood risk.

Highways safety / Access

Vehicular access to the site is achieved via Holtshill Lane.

The site is positioned on the edge of Walsall Town Centre and as such is located within a sustainable location with a variety of local amenities and sustainable transport links accessible within a short distance of the site.

The development proposals will include 5no. car parking space. Walsall Unitary Development Plan (UDP) Policy T13 requires 1 car parking space per 3 beds. 3 bedrooms / 3 = 1 car parking space. The Highway Authority accepts the car parking provision.

Appropriate cycle parking needs to be provided and should be located within a secure and sheltered location; this can be secured by a condition.

In line with the comments from the Local Highway Authority it is considered that the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF December 2023 paragraph 115.

The proposal is therefore supported from a highways perspective subject to conditions requiring the consolidation of the parking area and full details of a proposed cycle shelter.

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.

Positive and Proactive Working with the Applicant

Officers have confirmed to the applicant's agent that the submitted details are acceptable, and no further changes have been requested.

Recommendation

Planning Committee resolve to delegate to the Head of Planning & Building Control to grant planning permission subject to conditions and subject to:

- The amendment and finalising of conditions.

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:

- 3101 REV 01- Existing Ground Floor Plan- rec 19/02/2024
- 3201 REV 01- Proposed Ground Floor Plan- rec 19/02/2024
- 3401 REV 01- Existing Elevations- rec 26/03/2024
- 3402 REV 01- Proposed Elevations- rec 26/03/2024
- 3002 REV 02- Existing Site Plan- rec 21/05/2024
- 3001 REV 02- Location Plan- rec 21/05/2024
- Planning, Design and Access Statement- rec 19/02/2024
- 3003 REV 02- Proposed Site Plan- rec 21/05/2024

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).

3a: Prior to occupation of the site, the frontage parking area shall be fully consolidated, hard surfaced and drained so that surface water run-off from the area does not discharge onto the highway or into any highway drain, full details of which shall be submitted to and approved in writing by the Local Planning Authority.

3b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the 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.

4a: Prior to the occupation of the development hereby permitted, details of a secure, covered and illuminated cycle shelter, shall be submitted in writing to and approved in writing by the Local Planning Authority.

4b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with the Black Country Core Strategy Policy TRAN4.

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 three children 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 in accordance with saved UDP policy GP2.

7. Notwithstanding the information shown on submitted plans, the development hereby permitted shall not be carried out otherwise than to meet the following minimum-security measures and thereafter the security measures shall be retained for the lifetime of the development;

-All external doors to be PAS24; 2022

-All ground floor windows and over accessible roofs to be PAS24; 2022

-All ground floor windows and over accessible roofs including French doors and patio doors to have not less than one pane of 6.4mm laminated glass.

-Dusk until dawn lights (white light source) to be installed adjacent to each door including either side of garage doors

Reason: To ensure the safety and security of the development and its occupiers, given the isolated nature of the development in compliance with NPPF 12 and saved policy ENV32 of Walsall's Unitary Development Plan.

Notes for Applicant

1: Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse available as an alternative, other sustainable methods should also be explored. If these are found unsuitable satisfactory evidence will need to be submitted before a discharge to the public sewerage system is considered. No surface water to enter the foul or combined water systems by any means.

2: Food Safety

There is limited information concerning the kitchen facilities as part of the application. The provision of suitable food preparation facilities is crucial for maintaining good food hygiene. The kitchen must be designed and built to allow for easy cleaning organised/set out to permit hygienic food preparation which promotes, where necessary appropriate allergens control. Floors, walls, and surfaces in contact with food must be in good condition, smooth, hard-wearing, and washable. With an adequate number of suitable food prep/ utensil wash sink(s) and wash hand facilities. Toilet facilities must be available, and they should not lead directly into food areas.

3: West Midlands Fire Service

Approved Document B, Volume 2, Buildings other than Dwellings, 2019 edition incorporating 2020 and 2022 amendments – for use in England Requirement B5: Access and facilities for the fire service.

These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

Requirement

Limits on application Access and facilities for the fire service B5.

(1) The building shall be designed and constructed so as to provide reasonable facilities to assist fire fighters in the protection of life.

(2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.

Intention

Provisions covering access and facilities for the fire service are to safeguard the health and safety of people in and around the building. Their extent depends on the size and use of the building. Most firefighting is carried out within the building. In the Secretary of State's view, requirement B5 is met by achieving all of the following.

- a. External access enabling fire appliances to be used near the building.
- b. Access into and within the building for firefighting personnel to both:
 - i. search for and rescue people
 - ii. fight fire.
- c. Provision for internal fire facilities for firefighters to complete their tasks.
- d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required. Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult)

Section 15: Vehicle access

Buildings not fitted with fire mains

15.1 For small buildings (up to 2000m², with a top storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

- a. 15% of the perimeter.
- b. Within 45m of every point of the footprint of the building (see Diagram 15.1).

15.2 For all other buildings, provide vehicle access in accordance with Table 15.1.

15.3 Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m (e.g. a 150m elevation would need a minimum of two doors)

Buildings fitted with fire mains

15.4 For buildings fitted with dry fire mains, both of the following apply.

- a. Access should be provided for a pumping appliance to within 18m of each fire main inlet connection point. Inlets should be on the face of the building.
- b. The fire main inlet connection point should be visible from the parking position of the appliance, and satisfy paragraph 16.10.

15.5 For buildings fitted with wet fire mains, access for a pumping appliance should comply with both of the following.

- a. Within 18m, and within sight of, an entrance giving access to the fire main.
- b. Within sight of the inlet to replenish the suction tank for the fire main in an emergency.

15.6 Where fire mains are provided in buildings for which Sections 16 and 17 make no provision, vehicle access may be as described in paragraphs 15.4 and 15.5, rather than Table 15.1.

Design of access routes and hard-standings

15.7 Access routes and hard-standings should comply with the guidance in Table 15.2. Requirements can only apply to the site of the works. It may not be reasonable to upgrade the route across a site to a small building. The building control body, in consultation with the fire and rescue service, should consider options from doing no work to upgrading certain features, such as sharp bends.

15.8 Where access to an elevation is provided in accordance with Table 15.1, the following requirements should be met, depending on the building height.

- a. Buildings up to 11m, excluding small buildings (paragraph 15.1): pump appliance access should be provided adjacent to the building for the specified percentage of the total perimeter.
- b. Buildings over 11m: access routes should comply with the guidance in Diagram 15.2.

15.9 Where access is provided for high reach appliances in accordance with Table 15.1, overhead obstructions (such as cables and branches) should be avoided in the zone shown in Diagram 15.2.

15.10 Dead-end access routes longer than 20m require turning facilities, as in Diagram 15.3. Turning facilities should comply with the guidance in Table 15.2.

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 2, Table 15.2)

Dead Ends including cul-de sacs

Dead ends including cul-de sacs should be avoided but where not possible the following should be applied.

The main problem with dead ends and cul-de sacs is access in an emergency and the issue of obstructions such as parking. In these circumstances fire service personnel are committed to approach on foot carrying equipment to deal with the situation. 225 to 250 metres carrying equipment is considered a maximum for efficient fire-fighting operations.

Dead ends/cul-de sacs roadways should be a minimum of 5.5 metres in width.

Vehicle Access

Dead end/cul de sac access routes must not exceed 180 metres in length unless.

- a) an emergency vehicle access is provided which complies with item 3.8.2, or
- b) the carriageway width is increased to 7.3 metres and complies with the requirements of item 3.8.3. The provision of an emergency vehicle access is preferred to the alternative of increasing the carriage width to 7.3 metres.

3.8.2 Emergency Vehicle Access

- a) A suitable means of preventing the use by other vehicles must be provided at the time of construction.
- b) The height of 4.1 metres minimum, width 3.7 metres minimum and the construction of the access road are sufficient to allow the free passage of fire appliances.
- c) Neither end is obstructed by parked cars.
- d) The emergency vehicle access may incorporate a pedestrian route but must not be used by statutory undertakers to accommodate underground services or public sewers.

END OF OFFICERS REPORT