

DELEGATED REPORT

Application No:	P/23/0055
Site Address:	16 The Park Treharris CF46 5RH
Development:	Removal of condition 2 of planning permission P/20/0102 to allow the use to continue permanently
Case Officer:	Rebecca Owens
Site Visit:	6th March 2023
Application Expiry Date:	21st April 2023
Consultation reply date expired:	28th March 2023

APPLICATION SITE

The application site comprises 16 The Park, which is two-storey detached property situated within the residential area of Treharris. The property is set back from the pavement by approximately 9m and is at a higher level to the road. Its front elevation is orientated to face south-west onto a gently sweeping driveway, which is accessed from The Park via a short section of private road. The south facing side elevation of the property faces onto The Park at an angle.

The property is bound by residential properties on both sides, albeit there is a narrow walkway separating the eastern boundary of the property from 17 The Park and a small triangular section of land situated between the western boundary and number 7 Twynygarreg. To the north, the property adjoins an open grassed verge area, beyond which is the access road serving numbers 9 to 35 (odd numbers) Twynygarreg. To the front of the site and on the opposite side of the road is a detached property called Ty Chwarel and a row of five houses (numbers 11 to 15 The Park).

PROPOSED DEVELOPMENT

Permission is sought to remove of condition 2 of planning permission P/20/0102 to allow the use approved under this application to continue permanently. This application granted planning permission for the change of use of the property from a dwelling (C3 use) to a residential children's home (C2 use) that would provide care for up to four children/young people between the ages of 11 and 18 years old. Condition 2 of the planning permission states:

"The use, hereby permitted, shall cease on or before years 2 years of the date which it commenced. The date of commencement shall be submitted to the local planning authority in writing at least 2 weeks before the use commences."

Reason - Planning permission is granted for a temporary period only having regard to the particular circumstances of the application”.

PLANNING HISTORY

The planning history relating to the property is as follows:

- P/20/0209 Reconstruction of sections of retaining wall
Granted planning permission subject to conditions on 29 October 2020
- P/20/0102 Change of use of property from a dwelling (Use Class C3) to a children's residential home (Use Class C2)
Granted planning permission subject to conditions on 19 November 2020
- P/20/0072 Certificate of Lawfulness to use the dwelling (within C3 use class) as a children's care home
Refused planning permission on 30 April 2020 for the following reason:
- “Having regard to the evidence submitted in support of the application, the use of the dwelling to accommodate children with carers within Use Class C3 of the Town and Country Planning (Use Classes) (Amendment) (Wales) Order 2016 is not lawful”.*

CONSULTATION

- | | |
|--------------------------------------|-----------------------------------|
| Engineering and Traffic Group Leader | No objection |
| Environmental Health Manager | No objection |
| South Wales Police | No objection subject to condition |

PUBLICITY

In accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to the adjoining properties and three site notices were displayed within the vicinity of the site.

One letter of objection has been received following the publicity exercise. The concerns raised are as summarised as follows:

- Over the last few years there have been a number of altercations between local residents and the occupants of the property. These include assault, throwing of objects (e.g. stones, food, chairs) at people and vehicles. Consequently, the police have been called a number of times.
- The objector is concerned for the safety of their children and does not feel safe in their street and home.
- When approached, staff do not appear to have been aware of what has been taking place or where the children are and have indicated that they do not have the necessary training for the varied children that the property can accommodate.

POLICY CONTEXT

National Policy

Future Wales: The National Plan 2040 (February 2021)

Planning Policy Wales (PPW) Edition 10 (December 2018) sets out the land use policies of the Welsh Government. The most relevant sections are:

Sections 3.3 – 3.16 sets out the principles of good design in new development proposals, which should take into account its relationship to its surrounding context.

Section 3.11 points out that local authorities have a legal obligation to consider the need to prevent and reduce crime and disorder.

Section 4.1.51 states *'Parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objectives of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport.'*

Local Policy

Merthyr Tydfil County Borough Council Replacement Local Development Plan (LDP) 2016-2031:

Policy SW4 – Settlement boundaries

Policy SW11 – Sustainable design and Placemaking

Policy EnW1 – Nature Conservation and Ecosystem Resilience

Policy EnW2 – Internationally and Nationally Protected Sites and Species

Policy EnW3 – Regionally Important Geological Sites, Sites of Importance for Nature Conservation, Local Nature Reserves and Priority Habitats and Species

Policy EnW4 – Environmental Protection

Other guidance consulted

- Supplementary Planning Guidance (SPG) Note No. 5 – Nature and Development.
- The Use of Planning Conditions for Development Management Circular (WGC 016/2014), October 2014

Paragraph 5.27 advises *'Where an application is made for permanent permission for a use which may be 'potentially detrimental' to existing uses nearby, but there is insufficient evidence to enable the authority to be sure of its character or effect, it might be appropriate to grant a temporary permission in order to give the development a trial run, provided that such a permission would be reasonable having regard to the capital expenditure necessary to carry out the development. However, a temporary permission would not be justified merely because, for example, a building is to be made of wood rather than brick. Nor would a temporary permission be justified on the grounds that, although a particular use, such as a hostel or playgroup, would be acceptable in a certain location, the character of its management may change'.*

PLANNING CONSIDERATIONS

The principle of the use and matters relating to parking and highway safety were considered as part of the original planning application. These issues are still considered acceptable and it is noted that off-street parking is available within the application site and unrestricted parking is available on-street. However, during consideration of the original planning application it was apparent that local residents were concerned that anti-social

behaviour and criminal damage would increase as a result of the activities/behaviour of those children/young people residing at the property and noise and disturbance. Furthermore, both residents and the Police were concerned about the potential adverse interactions between the children/young people living at the proposed site and those at an existing care facility at 2 The Park (approximately 100m to the south-east) which could exacerbate such problems. At the time of determining the original application, it was not possible to predict whether the children/young people who may reside at property would involve themselves in anti-social behaviour, crime or any activities that would harm the amenities of neighbouring residents. As such it was considered that a temporary permission for two years should be issued to allow sufficient time for the use to become established and for the impact upon local residents to be assessed. The use has now been operating since 25th February 2021 and the Planning Division (Enforcement Section) has received twenty-one separate complaints relating to the property during this time. Of these, twelve make reference to antisocial behaviour outlining issues such as noise and disturbance (from shouting, screaming and swearing etc), visits from police (also causing noise and disturbance particularly late night visits), verbal abuse, damage to property, assault, throwing of stones, tissues and food into the street, at cars and over fences. Each of these complaints was forwarded to the Managing Director of Rise Care, where they were investigated.

Despite the complaints outlined above, it is noted that no complaints have been made to the planning division in the last six months and only one letter of objection was received following the publicity exercise. This reiterates the above noting that there have been incidents since the opening of the care home which include altercations between local residents and the occupants of the property, assault, and throwing of objects (e.g. stones, food, chairs) at people and vehicles, with the police being called a number of times. This objector also expresses concern for the safety of their children and also feeling unsafe in their home and the street. However, no other objections were received. Furthermore, South Wales Police have been consulted on the application and have not objected to the removal of condition 2 and thus the continued use of the property as a children's residential home. However, they have requested a condition be attached to any permission which would require a management plan to be agreed which would include the following:

- Staff must be suitably qualified to work with children and young persons who have additional emotional needs and must be suitably vetted.
- There are no less than two staff on duty between 0700hrs and 0800hrs to prepare children for school, or between 1430hrs and 2230hrs.
- There are no less than 3 staff on duty at weekends and during school holidays and normally no less than 2 waking staff at night, to provide support to the children.
- Vehicles are to be legally parked, where they cause no obstruction to other road users or residents.
- **As per "Regulation 28 of The Children's Homes (Wales) Regulations 2002" -** Information should be kept for all children on a "Child Information Form" which would include the most up to date photograph of the child. This is available from the Children's Services Department of the Local Authority and must be kept up to date and information amended to reflect any changes. This Form (CIF) must be readily available for Police to receive should a child be reported missing, whether that is by telephone or by officers visiting the premises. These plans should be kept on site as they will also include details of any medical arrangements for a child. Data Protection legislation will apply to any documentation of this confidential nature.

Whilst the purpose of such a management plan is fully appreciated, the requested matters to be included within it are governed by other legislation and, as such, it is not necessary to impose such a condition as part of any approval of this application. In this respect it is

noted that that the care home would continue to be registered and monitored by the Care Inspectorate for Wales (CIW) and therefore comply with all their necessary legislative requirements. In this respect, it is noted that whilst the objector has indicated that they do not have the necessary training for the varied children that the property can accommodate, this would also be matter for CIW.

Finally, it noted that there have not been any noise complaints to the Environmental Health Department and as such the Environmental Health Manager has not raised any objection to the removal of the condition.

Conclusion

Whilst it is acknowledged that there have been some incidents of anti-social behaviour experienced by local residents, only one letter of objection was received following the publicity exercise. In addition, no objection has been received from South Wales Police or indeed the Environmental Health Manager. As such, it would not appear that the use has resulted in in levels of anti-social behaviour, crime or disruption that would warrant the refusal of the application. There has also not been a significant change in the character and appearance of the area. As such, the removal of condition 2 allowing the continued use of the property as a children's residential home is found to be acceptable.

The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act") has been taken into consideration when determining this application. In reaching the following recommendation, the ways of working set out at section 5 of the WBFG Act have been considered and thus the proposal is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

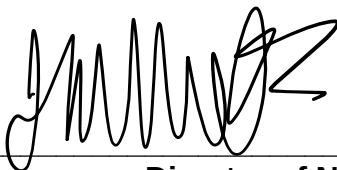
Accordingly, the following recommendation is made:

RECOMMENDATION: BE APPROVED subject to the following condition:

1. The premises shall be used as a children's residential care home for a maximum of four children and for no other purpose including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes Order) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.

Reason - To enable the Local Planning Authority to retain effective control over the use of the premises in the interests of highway safety and residential amenity in accordance with Policy SW11 of the Merthyr Tydfil County Borough Replacement Local Development Plan.

RECOMMENDATION ENDORSED



Director of Neighbourhood Services

DATE:

2/5/23