

The Arc
High Street
Clowne
Derbyshire
S43 4JY

Date: 19th November 2015

Dear Sir or Madam

You are hereby summoned to attend a Special meeting of the Planning Committee of Bolsover District Council to be held in Chamber Suites 1 and 2, The Arc, Clowne, on Friday 27th November 2015 at 1000 hours.

Register of Members' Interest - Members are reminded that a Member must within 28 days of becoming aware of any changes to their Disclosable Pecuniary Interests provide written notification to the Authority's Monitoring Officer.

You will find the contents of the agenda itemised on page 2.


Yours faithfully



Assistant Director of Governance and Monitoring Officer
To: Chairman and Members of the Planning Committee

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SPECIAL PLANNING COMMITTEE

AGENDA

Friday 27th November 2015 at 1000 hours in
Chamber Suites 1 and 2, The Arc, Clowne

Item No.		Page No.(s)
	PART 1 – OPEN ITEMS	
1.	<u>Apologies for Absence</u>	
2.	<u>Declarations of Interest</u>	
	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:	
	a) any business on the agenda	
	b) any urgent additional items to be considered	
	c) any matters arising out of those items	
	and if appropriate, withdraw from the meeting at the relevant time.	
3.	Applications to be determined under the Town & Country Planning Acts.	
	(i) 11/00596/FUL - Variation of condition 7 (number of residents) of planning permission at Whitton Lodge, Chesterfield Road, Hardstoft, Chesterfield.	3 to 12

PARISH Ault Hucknall

APPLICATION Variation of condition 7 (number of residents) of planning permission 11/00596/FUL
LOCATION Whitton Lodge Chesterfield Road Hardstoft Chesterfield
APPLICANT Mr & Mrs J Powell Whitton Lodge Chesterfield Road Hardstoft Chesterfield S45 8AE
APPLICATION NO. 15/00192/VAR
CASE OFFICER Mrs Kay Crago
DATE RECEIVED 27th April 2015

Delegated Application Referred to Committee by: Assistant Director of Planning
Reason: Community concerns about the impacts of the use.

Due to an oversight in the Planning Department letters notifying the Applicant and Neighbours advising that the application was being reported to the Planning Committee meeting on 11th November were not sent. Neighbours therefore have not had the benefit of addressing the Committee to make Councillors aware of their concerns.

In order to remedy that breach of normal practice the application is being reported to this Special Planning Committee to allow for the application to be re-considered.

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SITE

A large two storey property with single storey extension to the rear. Separate three bedroom annexe building used for residential purposes. The main building has 10 ensuite bedrooms and has been operating as a bed and breakfast/hotel for some time. Two vehicular and pedestrian accesses serve the property. Open countryside to the south. Residential properties immediately adjacent to the main building elements. Stables/ outbuildings to the north west. Walls and planting to all boundaries. Large garden associated with the main building and smaller area defined by screen fencing to the annexe building.

PROPOSAL

Planning permission was granted in July 2012 for the change of use to a care home for people with learning difficulties. Conditions were attached to the permission.

The application states that it is proposed to provide care to young mothers aged 18+ who are primarily new parents requiring support in the early weeks/months of caring for a newborn. The element of care is aimed primarily at caring for the needs of the mother which may include (but is not exclusive): pre and post natal depression; with elements of learning impairment or developmental considerations that require additional support to enable them to look after their children properly; estranged partners with no family support; those who have suffered child abuse and may as a consequence face issues with raising a child. A stay is expected to be on average 12 weeks. The facility will accommodate any combination which constitutes "the family" including partners and where necessary other siblings.

The level of care provided includes comprehensive assessment and care by the family's social worker and stand alone in-house care and assessment focussing on issues of life style which influence the ability to parent effectively, such as: basic parenting skills; budget and household management; relationship between parent and others; abuse of drugs, solvents and alcohol; ability to provide a safe environment.

6 bedrooms will be used for the mothers and baby. The 4 remaining bedrooms will be converted to an office, laundry room, staff overnight accommodation and a meeting room. Mr and Mrs Powell who reside in the annex will provide on-call support to staff and building

maintenance. Visiting staff will consist of a social worker; Consultant Psychologist; visits from midwives and doctors. Other visitors are discouraged to avoid distractions. Staffing levels will be in compliance with CQC and Ofsted rules.

The applicant's agent states:

that there will be little difference in terms of traffic generated. The building complies with HOU13 Residential Care Homes policy. Access improvements have been approved under the earlier permission.

Paragraph 7 of the NPPF requires decisions to take account of three strands: economic, social and environmental. The facility will provide a valuable service to the community.

There will be no impact on the conservation area complying with local and national policy and the requirements of the LB and CA Act 1990.

The main change is the increase in numbers from 6 to (normally) 12 which mostly relates to babies; so the impact will be negligible.

This application seeks to vary condition number 7 which states:

"The number of residents living in the care facility shall not exceed 6 (excluding the member of staff resident in the annexe referred to in condition 5 above).

The reason for the condition was,

"To ensure that the level of activity at the site and using the vehicular access is not so great as to cause unacceptable impacts on highway safety and residential amenity in compliance with policies GEN1 and GEN2 of the Bolsover District Local Plan."

It is proposed that condition number 7 be varied as follows.

"The number of bedrooms associated with persons receiving care, shall be limited to 6, and for the avoidance of doubt this shall be limited to 6 mothers and their babies, together with any combination of persons which constitutes a family to the child, ie husbands, partners or siblings".

AMENDMENTS

Various emails with additional information submitted to clarify activity proposed (mainly links to web sites running similar facilities).

HISTORY (if relevant)

11/00596/FUL Change of use to care home for people with learning difficulties. Planning permission granted subject to conditions 26/07/2012

97/00455/FUL All weather surface for equestrian use approved 16/12/97

97/00483/FUL First floor extension to rear, internal alterations and conversion of garage to granny flat approved 25/02/1998

04/00661/FUL Extension to side and rear and conservatory to side to form an annexe approved 8/11/04

05/00018/FUL Erection of 12m high wind tower, refused 17/03/05. Appeal dismissed.

06/00516/FUL Demolition of existing annexe building and erection of new annexe building.

Approved 9/03/07

07/00400/FUL Retention of two storey extension to dwelling. Approved 12/09/07

CONSULTATIONS

DCC Highways: From the information provided the proposal could intensify the use of the access; the applicant should demonstrate that the improvements to the access can be achieved and further information about occupancy and vehicular movements. 16/6/15
Response to additional information: as the applicant is prepared to accept that the suggested condition to restrict the number of people on site and thus to an extent the vehicular movements; the Highway Authority are prepared to accept this, subject to the original improvements to the access to Chesterfield Road being completed prior to the care home use commencing. Subject to suitable conditions no objections. 9/11/15

Parish Council: The Parish Council are aware that there is considerable concern among local residents concerning the proposed variation in respect of this planning application and the Parish Council's view is that there may indeed be several planning issues which need to be addressed. It would seem that the proposal is likely to encourage a considerable increase in both vehicular and pedestrian traffic. This property is situated on an extremely fast stretch of road, with a speed limit of 50 mph. The footpath is limited and the property sits just below a junction. A fatal accident occurred here recently and the parish council have grave concerns over the safety of both vehicle and pedestrian traffic entering and exiting this site

With respect to the treatment of medical conditions at the property - have the district council sought any professional medical advice regarding the standard of facilities required to meet the needs of the proposed residents and will these standards be met? Has any consideration been given to the need for security measures and if so have these been addressed with the applicant? Has the view of the police been sought on the suitability of the premises for its proposed use? It is alleged that there has been previous development without the necessary permissions in place, that planning regulations have not been complied with and that development works which have taken place in the past may well not meet building regulations. Has the property been inspected to ensure that all work carried out previously has met the required standards and the property is indeed suitable to meet the variation proposed? 29/7/15

Conservation Officer: The variation to the approved planning permission does not involve any alterations to the building and therefore does not have an impact upon the character of the conservation area. No objections 15/5/15

PUBLICITY

Site notice posted and 14 neighbours were notified by letter.

12 letters of objection received from 9 residents. One letter of support received.

The supporter notes that the use supports people who are disadvantaged and that is most worthwhile and should be supported all the way.

Summary of grounds of objection:

Original application not implemented yet.

Original application stated no increase in numbers planned;

This is for a new use as it varies from the original application in so many ways.

No shops or places to visit and no chance of socialising with other new parents and no walks to take with the babies, no footway, busy road;

Road safety issues, recent death of a cyclist;
Number of visitor numbers unclear;
Walking from Whitton Lodge to the bus stop or in the area generally is hazardous,
Security issue if residents use the Evelyn Devonshire access for pedestrian access.
Should the application be granted this would infringe other conditions;
Level of occupancy combined with the variety of backgrounds of the occupants is likely to create conflict and increase risks to residents;
The changes in the application require a totally new planning application,
How will traffic approach Whitton Lodge?
Increase in traffic
Statement refers to support in parenting skills, this implies training which is not part of the application;
Numbers of residents proposed will not create a safe and tranquil setting for residents (as stated in the original application),
Increased noise and disturbance with residents changing every 12 weeks.
Use by pregnant women will increase likelihood of ambulances being needed with attendant disturbance to residents;
Development is more of an institution for young parents with wide ranging issues and less a home for adults with additional needs.
Only one element of class C2 was permitted. This appears to fall within Class C2a secure institution. The site would be a psychiatric hospital.
Residents would not be limited to those with learning difficulties.
Increase in numbers likely to fundamentally alter the character of the small community.
Risks to residents in the area associated with visitors seeking directions to the facility.
Role of Ofsted? Is training proposed?
No need in the community for such a facility.
Conservation Officer comments relate to the buildings and not the impact on residents.
Family has no expertise in this area;
Business is failing;
Drug storage;
Security;
Provide evidence of the experience of Mr and Mrs Powell;
No valid reason to cancel the conditions;
Agreed to support the applicants on basis that there would be no further development;
People using Evelyn Devonshire cottages access to access Whitton Lodge asking directions etc;
Assurance required that maintenance of property can continue;
It is immoral that normal village life is being threatened again by another proposal that once more does not consider the rights and considerations of its residents.
Proposal is a white elephant;
What traffic directions will be given to visitors etc;
Who will be the responsible person and what qualifications will they have?
Should Parish Councillor be able to comment on applications they are directly affected by?
Psychological issues;
The applicant had previously stated that there is no intention of increasing the number of residents beyond the 6 applied for. Demonstrates the applicant's maverick approach.
Consultant clinical psychologist or Consultant Psychiatrist;
Breach of human rights if mothers are not permitted to drive or will they be sectioned under

the Mental Health Act 1985?

POLICY

Bolsover District Local Plan (BDLP)

Policy HOU13 Residential Care Homes and Nursing Homes

GEN1 Minimum Requirements for Development

GEN2 Impact of the Development on the Environment

CON1 Development In Conservation Areas

National Planning Policy Framework

Decision should be a balance of economic, social and environmental issues. Where a proposal complies with policies of the development plan it should be approved unless material considerations indicate otherwise. Where the development plan is silent or absent on a proposal grant the permission unless the impacts significantly and demonstrably outweigh the benefits.

Paragraph 17: sets out 12 principles to be applied to planning including: high standard of design and amenity for existing and future occupants; take account of the different roles and character of areas; conserve heritage assets in a manner appropriate to their significance; take account of and support local strategies to improve health, social and cultural wellbeing for all.

Paragraph 131: In determining planning applications, local planning authorities should take account of:-

- The desirability of sustaining and enhancing the significance of heritage assets and putting them into viable uses consistent with their conservation
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- The desirability of new development making a positive contribution to local character and distinctiveness

Paragraph 132 - When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

Paragraph 134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Other

Planning (Listed Buildings and Conservation Areas) Act 1990 – section 72 requires that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.”

ASSESSMENT

Planning permission has already been granted for the use of the premises as a care home for people with learning difficulties. Conditions were attached; condition number 7 limited the number of residents living in the home to 6 residents.

The local planning authority can only consider the disputed condition that is the subject of the application – it is not a complete re-consideration of the application.

It is the potential change that the variation of this condition would entail that is the main consideration in this case.

The application seeks to allow more people to occupy the premises than allowed under the original permission. This is to allow mothers and their babies/children at the very least, with some potential occupation by the partner of the mother. It is proposed that the number of bedrooms used for referrals will remain at 6 but that in order to accommodate the mother, baby and possibly father or partner the number of occupiers the number needs to be increased to reflect the needs of the service to be provided. The exact number of residents staying at the property would therefore vary and could not easily be predicted. The agent states that the use of the bedrooms for more than a mother and baby would be infrequent. In order to provide some certainty over the number of people receiving care the agent has indicated that they would accept a condition limiting the number of adults receiving care at any one time to not more than 9.

In assessing this application to vary condition number 7, consideration needs to be given to the reason for the condition: the potential impact of the change on residential amenity and highway safety.

As the use proposed is primarily for mothers who need care and guidance to look after their baby, the care needs to be given in a “home” environment, so they can relate it to their own residential circumstances at the end of the referral period. Whilst there is likely to be more changes in who is living at the premises the use will be in the nature of family occupation. Whilst there is the potential for the mothers not to get on with each other that is no different to a family. It is difficult to show that the use will give rise to amenity impacts on neighbours significantly different to a residential use or the current commercial use.

This is a large property that could house a large single family, or in its current use as a hotel could potentially have more than 12 guests. Whilst the care is likely to be for a maximum of 12 weeks for each referral they will be living in a home environment, so the impacts (amenity and highway) should not be greater. In order to give weight to amenity impacts it would be necessary to show that there will be a significant difference in activity. Whilst occupation of 6 rooms could involve two “parents” and a baby (so 12 adults and 6 babies) they are under supervision and assessment plans with the aim of educating them to acceptable behaviour in the care of the babies. In theory therefore management would have the right to exclude someone who was failing to comply with the assessment plan and so bring behaviour to

within “normal” expectations. As stated above the agent has accepted a condition limiting the number of adults in care at any one time reinforcing the view that the use will be within acceptable parameters.

The Solicitor has examined case law and the case made by the applicant and the concerns raised by residents about whether the use falls within care or training. The Solicitor is satisfied that it is within a care use (which should be taken in a wide sense of the word), which would be reinforced if the care was limited to referrals from Social Services and the NHS (including GPs). This would show a need for care rather than a self motivated desire to have more information (training).The applicants have agreed to such a limitation.

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission (which remains intact and un-amended). Therefore if permission is to be granted it should include all relevant conditions. In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission.

Other Matters

Listed Building: n/a

Conservation Area: within a conservation area; a residential type use would preserve the character and appearance of the Conservation area.

Crime and Disorder: no significant issues evident; the use is similar to a residential or hotel use and the risks associated are not significantly different.

Equalities: no issues have been raised.

Access for Disabled: no issues have been raised. Principally the responsibility of the registration authorities.

Trees (Preservation and Planting): no impacts.

SSSI Impacts: n/a

Biodiversity: no impacts

Human Rights: no issues have been raised. The normal planning balance applies.

Many of the concerns raised by residents and the Parish Council relate to matters that the registration authorities have responsibility for. For example: Control of medicines; whether the facilities are adequate; suitability of the location from an operational perspective.

Other matters, such as callers asking for directions, are in part a management issue, as that could occur with any use, including as a dwelling. There is nothing in the use proposed that would indicate any greater risk from users of the facility than any other residential use.

Conclusion:

The conclusion from the previous application remains pertinent and is reproduced here:

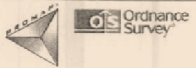
This is a finely balanced proposal which has resulted in strong local opposition. Based on the information supplied it is considered likely that the use could satisfactorily operate without having a significantly adverse impact upon the residential amenity of local residents, highway safety or the special character of the conservation area. However it cannot be fully predicted

how the use may legitimately operate over time or how well it may be managed and it is not possible to fully allay local residents' concerns. It is considered however that subject to conditions the proposal on balance is acceptable. It is considered that it is appropriate to include conditions limiting the use to care home or nursing home use, for there to be no respite or day care offered at the site, occupation of the annexe to be for Resident Manager or member of staff of the care home, scheme to be submitted showing highway safety improvements and restriction of the use of Evelyn Devonshire Cottages access to emergency and pedestrian access only. (As well as suggested conditions in the report above)

RECOMMENDATION: Approve subject to the following conditions given in précis form to be formulated in full by the Assistant Director of Planning:

1. Start within 3 years
- 2 Notwithstanding the provisions of the Town and Country Planning Use Classes Order the use of the site shall exclude use as a hospital, boarding school, residential college or training centre.
- 3 The use of the Evelyn Devonshire Cottages vehicular access route shall at all times be restricted at the site boundary to emergency or pedestrian use only in accordance with a scheme which shall have been agreed in writing with the LPA before the care home is brought into use.
4. No day care or respite care services shall take place or operate at the site.
- 5 The use of the annexe shall at all times be used for the resident manager of the care home or a member of staff principally employed at the site, and any dependents of such a person, and shall not be occupied independently of the care home.
- 6 Prior to the use commencing, a scheme showing access and driveway improvements to maximise visibility in the critical direction shall be submitted and approved in writing by the Local Planning Authority and the approved scheme shall be implemented. The scheme should show measures to improve visibility on exit at the junction of the access serving Whitton Lodge and the B6039 and passing bay(s) on the drive.
7. Only people in need of care referred by Social Services or the NHS (including GP's) shall be receiving care at the premises and the number of adults receiving care at the premises shall not exceed 9 at any one time of which not more than 6 shall be mothers or mothers to be, accompanied by a maximum of 3 partners/supporters in total.
8. Craft use ancillary and no retail sales from the premises

11/00596



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Whitton Lodge
 Chesterfield Road
 Hardstoft
 Nr Chesterfield
 Derbyshire

PLANNING DEPT	
22 NOV 2011	
FILE	INIT.
ATTN.	

land ownership