

**PARISH** Old Bolsover Parish

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**APPLICATION** Change of use from residential dwelling (C3a) to a children's home (C2) for a maximum of three children.

**LOCATION** 18 Buckthorn Close Bolsover Chesterfield S44 6FX

**APPLICANT** Mrs Chantelle Stone 18 Buckthorn Close Bolsover Derbyshire S44 6FX  
United Kingdom

**APPLICATION NO.** 24/00184/FUL **FILE NO.** PP-12962037

**CASE OFFICER** Mrs Karen Wake

**DATE RECEIVED** 18th April 2024

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### **SUMMARY**

The application has been referred to committee by Cllr Jeffery due to concerns about insufficient parking spaces for the application leading to highway safety implications and an unsuitable location for new residents as the site is too far away from local services.

The application is for a change of use to a children's home for a maximum of 3 children. The application is recommended for approval.

### **Site Location Plan**



## **OFFICER REPORT ON APPLICATION NO. 24/00184/FUL**

### **SITE & SURROUNDINGS**

Number 18 Buckthorn Close is a detached two storey dwelling located within a residential cul de sac consisting of similar house types. The dwelling benefits from two off-road parking spaces on the site frontage and a flat landscaped rear garden which is enclosed by a screen fence. To the ground floor the dwelling benefits from an integral garage, living room, dining room, kitchen, utility, hallways and w.c. To the first floor there are five bedrooms and a bathroom. The site is accessed via a shared driveway.

### **PROPOSAL**

The application is for a material change of use from C3a (dwellinghouse) to C2 (children's care home) for a maximum of 3 children. No external changes are proposed to the dwelling.

### **AMENDMENTS**

Amended noise management plan submitted following the consultation response from the Environmental Health Officer

Amended parking layout submitted following the site of deeds plans showing shared areas for parking/turning.

### **EIA SCREENING OPINION**

The proposals that are the subject of this application are not EIA development.

### **HISTORY**

17/00234/FUL	Granted Conditionally	Residential Development comprising of a total of 212 homes comprising a mix of detached, semi-detached and terraced 2 & 2.5 storey houses with associated garaging, parking and infrastructure including the provision of public open spaces
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### **CONSULTATIONS**

#### **BDC Principal Environmental Health Officer**

There has been a recent increase in the number of applications for supported living in residential settings following a reminder issued by the Housing and Planning Minister last year, acknowledging a shortage of provision. The vast majority of the applications reviewed come from recently created companies seeking to fill demand. Although the nature of the supported living is not supplied, supported living usually includes individuals with a variety of disabilities and complex needs. As a district Environmental Health Officer, with experience of trying to resolve noise complaints arising from similar supported living premises whilst there may be similarities, their impacts are not the same as a typical home environment.

These are private facilities that care for people who often have a wide range of challenging behaviour and complex needs. This can result in significantly higher levels of noise and aggressive behaviour. The fact that staff at the homes are well trained to look after residents is not in doubt, however the primary focus of the service and the management systems that are in place are (a). To make money and, (b) To ensure the welfare needs of the residents are met.

The noise impacts of the business upon the wider community are not considered a priority for care providers or the placing authorities, and these impacts can be significant and very difficult to control retrospectively. Problems can arise for a variety of reasons, for example where the assessment of the care needs results in unsuitable placements, or changes in the circumstances of those being cared for which are not readily accounted for. Where problems arise Environmental Health departments have to try and resolve the issues that arise from residents who do not adjust well to a care home setting.

The impacts can be significant, and can as a worse-case include nightly anti-social behaviour and noise nuisance, on the property or outside, which care home staff are not able to prevent (Staff cannot prevent those being cared for leaving the property, at any time of day or night) I have experience of several cases where regular calls are made to the Police by concerned members of the public, however the power available to the Police do not result in sustainable improvement. Environmental Health teams can investigate and serve noise abatement notices under statutory powers available to them, however in practice, this is a protracted process that requires the engagement of various agencies. The outcomes are usually far from satisfactory. As a result, the introduction of such a care facility into residential location could introduce excessive noise, that will be incongruent with the local area, arising from: 1. Regular visits from residential care home staff, and other associated support workers. Some of this will be during antisocial hours, which will be largely dictated to by the needs of those being cared for. 2. Intermittent but potentially regular episodes of shouting, screaming and other anti-social behaviour, both on and off the property.

I am aware of the ministerial statement issued last year by the Minister of State Department for Levelling up, Housing and Communities that confirmed 'that the planning system should not be a barrier to providing homes to 2 the most vulnerable children in society'. The statement does not however state that the imposition of appropriate conditions is unreasonable. I recommend therefore that consideration is given to the granting of a 2 year temporary permission, so that the impacts of the proposals upon the community can be fully evaluated. I also recommend the following condition: 1. Prior to the development being brought into first use, a noise management plan must be submitted to the LPA and approved in writing. The management plan must be implemented in full thereafter.

A noise management plan has been submitted and is acceptable and a condition requiring its implementation in full is recommended.

**DCC Adult Social Care and Health**  
Response not received.

**DCC Childrens Services**

As a county, Derbyshire have fewer children's homes across the county than other authorities. Some children are placed at a distance and therefore any new provision from private organisations could be useful to increase supply in a more local area.

It is important to note that every residential home when it registered with Ofsted, would have to issue a 'statement of purpose' which outlines their key type of home and cohort of children they would want to place there. This should all become apparent with Ofsted and they would assess the suitability of the property against their desired statement of purpose.

Advise finding out the type of residential home it plans to be before making further comments/drawing further concerns. For example, it may focus on emotional and behavioural difficulties or may focus on learning and disabilities - the types of home and types of children placed there can vary a lot based on this. Ultimately, there is limited provision across the county.

### **DCC Highway Authority**

Considering scale of development, the proposal will not have an unacceptable impact on highway safety and there are no grounds for an objection. Recommends the car parking spaces are maintained for the life of the development.

### **Force Designing Out Crime Officer**

Safeguarding checks show that there are no concerns in the immediate area relating to child sexual exploitation, child criminal exploitation, nor any other significant crime related matters which would make the use proposed unacceptable. Resident objections and the reasons presented, are noted. On the subject of nuisance associated with children's homes sites, there is no inevitability, or even likelihood that this will occur, but there is a possibility. I understand policy guidance may dictate otherwise, but in reality there have been a small proportion of the growing number of small children's homes in the County which have unsettled community cohesion. This is usually seated in either the behaviour of some residents, the apparent lack of appropriate management, or a combination of the two where weak management practices have led to inappropriate placements and an apparent inability to tackle unacceptable behaviour. I understand though that these matters may not necessarily be seen as material in your deliberations.

### **Old Bolsover Town Council**

Asked for clarification if there is there a particular category of young person that this proposal would be aimed at and what, if any, measures are proposed to mitigate against any issues being caused for the other occupants on the estate and in particular those who are in the closest proximity to the property?

### **NEDC Supported Accommodation Team Review Team**

Confirms no comments to make. The accommodation is for under 17's so not eligible for housing benefit and not the SART remit.

*All consultation responses are available to view in full on the Council's website.*

### **PUBLICITY**

Site notice and neighbours notified. Letters of objection received from 11 residents and 2 councillors which raise the following issues:

- Children on the estate are well behaved but the children who arise at this house may change this.
- Do not want a happy quiet contented estate to be somewhere the police and emergency services are often called to.
- Could result in anti-social behaviour on the estate
- Existing anti-social behaviour may be a poor example to the children who are placed in care here to remove them from anti-social and harmful environments when they deserve a safe nurturing environment
- Feeling of unsafety
- Would result in trouble for residents, decisions are not made in the best interests of residents.
- The mixes of the ages and the genders of the children is concerning.
- Risks from the children's parents/family finding out where they are and causing difficulties and disturbance.
- Residential care is know to have poor outcomes for children and young people.
- Concerns for crime and anti-social behaviour, damage to property, challenging behaviour.
- These children will test boundaries with carers
- This facility doesn't create a family atmosphere as the children have carers rather than foster parents. There is documented evidence that foster homes are more successful than homes such as the one proposed.
- The 'Noise Management Plan' states that whilst the area itself often sits within the 20-35db range, then suggests noise anywhere in the 30db-70db range would be acceptable and reads as though it has not taken into account the character of the area.
- The property has only 2 spaces of their own. The parking was set out under the assumption that these properties would be for residential use only (as evidenced by the restrictive covenants agreed to upon purchase), and not for the proposed number of staff that will be both living in and attending the site in both shift and on-call patterns.
- The road itself has suffered from a number of disputes regarding parking, and the increased traffic may exacerbate this. These disputes have also extended to numerous complaints of near-misses involving children.
- The report cites a number of local amenities and facilities in a way which is inaccurate and suggests research has not been conducted beyond a web search. For example, the proposed local hospital in Shirebrook ("The Manor Hospital"), is in fact a care home for adults with complex emotional and learning difficulties and the riding school which is suggested as an enriching activity available to the residents has in fact been involved in multiple planning applications with a view to ceasing business as a riding school. The closest hospitals are in Chesterfield and Sutton in Ashfield.
- The Environmental Health Officer has raised a number of concerns, alongside the suggestion that a 2 year temporary permission is considered. Concern is expressed about how hard this may be to revoke should issues arise, and the moral and ethical implications of displacing children who by that point may have begun to feel that they have found themselves a part of a community.
- Concerns with traffic flow
- There will be six full time and two part time staff, so potentially eight vehicles coming and going on rotas with 24 hours care.
- Multi agency meetings will mean more vehicles. And the number of visitors cannot be quantified as it will depend on the needs of the residents. All these additional comings

and goings will result in noise, disturbance and loss of privacy for existing residents as well as parking problems.

- The small cul de sac cannot accommodate the number of cars. There are already problems resulting from insufficient parking and this proposal will make that worse
- Number of spaces stated is incorrect.
- Parking is already at a premium with minimal roadside parking.
- There are only two parking spaces on site. The shared driveway/turning area is not for parking it is for people to manoeuvre into and out from their parking areas on their own property, not for parking in.
- The applicant has incorrectly stated that the turning areas for the adjacent properties are parking spaces. At best this claim is disingenuous at worst it is a deliberate attempt to deceive the planning officers and committee.
- Concerns raised about the attitude of the applicant resulting in any issues going unresolved, with little options left to the residents' in order to resolve them amicably.
- Concerns raised about the possibility of safeguarding issues arising for any children who are bystanders to tension between residents and the representatives of the company who will manage this home.
- Disappointed that the Council is even open to considering such a proposal on such a newly established estate.
- Professionalism concerns of the manager, how the home will be run and responsibility for vulnerable children.
- Concerns for the needs and background of the children in the house.
- If behavioural issues arise will staff be able to deescalate.
- Devaluation of property.
- The change of use would be better suited to a house in the middle of a city or centre of Chesterfield.
- Some residents would not have moved here had they known such a change of use would happen.
- One resident has lived near such a home previously and experienced the trouble it caused
- The Council has a vested interest not to change the dwelling to a children's home on the basis of damaged property.
- There are a lot of new council properties on this estate. Surely the Council doesn't want to be causing issues for its new tenants.
- The care provider appears to have little experience.
- The field alongside the property in question has planning permission estimated for 200 houses. The garden will therefore be overlooked not private as set out in the planning documents
- Poor business history of the company, previous court cases relating to the company and inexperience of the company are concerning.
- Restrictive covenants suggest use as a children's home would be a breach of covenants which state businesses cannot be operated and frontage landscaping cannot be removed.
- There are no play facilities on the estate so children play in the road. Additional traffic will put these children at risk
- The lack of facilities means there is nothing to keep children occupied so they are more likely to cause anti-social behaviour.

- The application information suggests Bolsover and bus stops are in walking distance. The nearest bus stop is a 20min walk and Bolsover is a 30min walk. There is also nothing for children of this age to do in Bolsover hence the existing anti-social behaviour problems on the estate resulting in the need for an increased police presence.
- Discussions about the proposal which have taken place in Facebook are a safeguarding concern and put the children at risk.
- There are a number of inaccuracies in the application supporting documents.
- The behaviour described by the Environmental Health Officer would be upsetting and disturbing for adjacent residents who would have no escape from the noise given the close proximity of properties on this part of the estate.
- The location plan is inaccurate because it includes the shared driveway which is partially owned by adjacent residents. Title deeds have been provided to show land ownership.
- The site ownership includes the hedgerow around the site.
- The Highway Authority comments are based on inaccurate information provided in the application as there are only two parking spaces not three.
- A two year temporary consent will not overcome the potential problems and is not a solution.
- Due to the distance of the estate from facilities, children will need to be driven everywhere by car.
- Parking guidance published by Melton Borough Council recognises that care homes require more parking than an equivalent sized dwelling and states care homes will only be granted planning permission where adequate parking to support the need of that home can be demonstrated. It also recognises that the frequency of vehicle movements often at unsociable hours can be disruptive in a residential setting and can impact on residential amenity.
- Much weight seems to be placed upon the statement made by the Minister of State for Levelling Up, Housing and Communities in May 2023. That is an expression of view of the Government of the day and is one factor to be considered in deciding on such an application - it does not mean that the wider interests of the local community should take second place.

## **POLICY**

### Local Plan for Bolsover District (“the adopted Local Plan”)

Planning law requires that applications for planning permission be determined in accordance with policies in the adopted Local Plan unless material considerations indicate otherwise. In this case, the most relevant Local Plan policies include:

- SS1 – Sustainable Development
- SS3 – Spatial Strategy and Distribution of Development
- LC3 – Type and Mix of Housing
- SC1 – Development within the Development Envelope
- SC3 – High Quality Development
- SC9 – Biodiversity and Geodiversity
- ITCR11 – Parking Provision

### National Planning Policy Framework (“the Framework”)

The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. The Framework is therefore a material consideration in the determination of this application and policies in the Framework most relevant to this application include:

- Chapter 2: - Achieving sustainable development.
- Paragraphs 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 96 - 107: Promoting healthy and safe communities.
- Paragraphs 108 - 117: Promoting sustainable transport.
- Paragraphs 123 - 127: Making effective use of land.
- Paragraph 191: Ground conditions and pollution.

### Supplementary Planning Documents

Successful Places: A Guide to Sustainable Housing Layout and Design, Adopted 2013:

The purpose of the Successful Places guide is to promote and achieve high quality residential development within the district by providing practical advice to all those involved in the design, planning and development of housing schemes. The guide is applicable to all new proposals for residential development, including mixed-use schemes that include an element of housing.

Local Parking Standards:

This document relates to Policy ITCR11 of the Local Plan by advising how the parking standards contained in appendix 8.2 of the local plan should be designed and implemented with development proposals. This SPD does not revise the standards contained in the Local Plan but does provide suggested new standards for parking matters not set out in the Local Plan, such as cycle parking. The design supersedes the parking design section included within the existing Successful Places SPD (2013).

Biodiversity Net Gain Design Note:

In light of the requirement for mandatory 10% biodiversity net gain, the Council has prepared a planning advice note to provide advice on the background to the introduction of mandatory 10% Biodiversity Net Gain, how this statutory provision relates to policy SC9: Biodiversity and Geodiversity in the Local Plan for Bolsover District, and how we will expect those preparing applications to approach this new legal requirement.

## **ASSESSMENT**

### **Key issues**

It is considered that the key issues in the determination of this application are:

- The principle of the development
- The impact on the character and appearance of the area
- The impact on residential amenity
- Whether the development would be provided with adequate parking and a safe and suitable access

These issues are addressed in turn in the following sections of this report.



## **The Principle of Development**

To achieve sustainable development Policy SS3 of the Local Plan sets out a spatial strategy for the distribution of development in accordance with a Settlement Hierarchy Study which has assessed the sustainability of the district's settlements and ranked them accordingly. Firstly, development is directed to the main towns of Bolsover & Shirebrook followed by the emerging towns of South Normanton and Clowne. These settlements are regarded as the most sustainable.

The site falls within the Bolsover East Ward and within the Parish of Old Bolsover. The site is located within the defined development envelope of Bolsover where the principle of development is acceptable as defined under Policy SC1, subject to all material planning considerations. This is a small-scale development in planning terms which involves the change of use of an existing dwelling to a children's home within the development envelope of one of the district's main towns and as such the proposal meets the requirements of Policy SS3 of the Local Plan by distributing the proposed use to within the main towns and/or larger villages. The site is located close to Bolsover Secondary School and is within a reasonable walking distance of the town centre where a wide range of services and facilities can be found.

Recent Government advice emphasises the provision set out in Paragraph 60 of the framework which states to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.

Paragraph 63 of the framework states within the context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing; families with children; older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers; people who rent their homes and people wishing to commission or build their own homes.

In her statement dated 23/05/2023 the Housing and Planning Minister set out the Government's commitment to support for the development of accommodation for looked after children, and its delivery through the planning system. She went on to state that the planning system should not be a barrier to providing homes for the most vulnerable children in society in right places with access to schools and community support. The statement was used to remind Local Planning Authority's that "as set out in paragraph 62 of the National Planning Policy Framework, Local Planning Authority's 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 consider whether it is appropriate to include accommodation for children in need of social services care as part of that assessment".

She went on to say that "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.” The recent consultation on changes to the National Planning Policy Framework include proposals to change para. 63 to include a specific reference to Social Rent and “looked after children” as among those for whom needs should be assessed and reflected in planning policies.

The County Council’s Childrens’ Services department has confirmed that there is a limited provision of children’s homes within the County, compared to other Authority’s and that, as a result, children have needed to be displaced at a distance. Provision from private organisations is confirmed by Childrens Services to be useful in increasing supply in a more local area.

Policy LC3 of the Local Plan for Bolsover District states that the council will support the provision of housing for older people and specialist housing provision across all tenures including extra care schemes in appropriate locations, close to services and facilities. Policy LC3 is therefore supportive of the proposed use.

In planning terms, whilst it is appreciated that the proposal is materially a different use to C3a, and is a business C2 use, the nature of the business is such that the building would remain in residential use within a residential area. There are no planning policies which restrict, in principle, such care homes from being provided within existing residential areas, subject to all material planning considerations. Nor is there any planning mechanism to locate care facilities away from existing residents who might be opposed to them or to control the number of care homes in one area. Each planning application is required to be considered on its own merits.

The principle of development is therefore acceptable in principle subject to assessment of relevant local and national planning policy and consideration of any relevant material planning considerations.

#### The impact on the character and appearance of the conservation area

The development utilises an existing dwelling within the development envelope. The development does not propose any external alterations to the building apart from potentially providing one additional parking space on the site frontage. The development is therefore not considered to be harmful to the character and appearance of this residential estate.

#### Residential Amenity

##### Impact on residential amenity for existing residents

The property is a detached, two storey dwelling with a rear garden positioned at the end of a small cul-de-sac. The rear garden is enclosed by the existing fence and hedge. There are dwellings to the front of the site and there is a further dwelling immediately to the north of the site. This means that although the property is detached, it is very close to neighbouring properties.

The proposal does not include any external alterations to the building and as such no new windows are being introduced. The proposed use is therefore not considered to result in any additional overlooking of adjacent dwellings over and above the existing use of the property

as a dwelling and as such the proposal is not considered to result in a loss of privacy for adjacent residents.

The proposed use of the site is to home children. These children could need homing for many reasons and may suffer from learning difficulties, emotional difficulties and/or behavioural issues and these issues cannot be specified at this stage as the children would be allocated to the home by the placing authority based on the provision available and the suitability for the child. If planning permission was to be granted for the change of use of the property, the children living there now or in the future could not be controlled by planning condition. As such the use of the property as a children's home needs to be considered in general terms, rather than trying to focus on the specific problems suffered by the potential future occupiers as this would be controlled by Ofsted.

As a worst case scenario, the home could be occupied by three children, all of whom could have extremely challenging behavioural issues, if the placing authority deemed that this was an appropriate placement of these children. If this was the case, there is potential for noise and disturbance from the property on a regular basis and potential for aggressive or anti-social behaviour. This would potentially be detrimental to the amenity of local residents and the Environmental Health Officer has expressed concern about this based on his experience from dealing with these situations.

However, if the residents of the home cause noise and disturbance for adjacent residents this could be investigated and controlled by an abatement notice. The Environmental Health Officer advises this is a protracted process, but they do have the statutory powers to control this issue. In addition, if residents are showing aggressive or anti-social behaviour, this is a matter to be controlled by the police, not by planning legislation. Furthermore, such disturbances at the home would be an indication that the placement is not suitable and may not be in the best interest of the child. This would be a matter for the placing / local authority (responsible for children's services) to resolve.

Policy SC11 of the Local Plan for Bolsover District states that development likely to cause a loss of residential amenity as a result of, amongst other things, noise, must be supported by a relevant assessment. In addition, paragraph 191 of the NPPF states that planning decisions should mitigate and reduce to a minimum, potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

In this case a noise assessment has not been submitted with the application. However, the existing property can continue to be used as a five-bedroom dwelling without the need for planning permission. There is nothing to say that the occupiers of the dwelling would not have children with challenging behaviours or wouldn't foster children with challenging behaviours and this would not require any planning permission at all. On this basis, it could be argued that the use of the property as a children's home may not be materially different from its occupation as a dwelling in this respect and as such this is not considered to be a reason to justify refusal of the proposal. However, the probability of this happening is unlikely, and it is the Environmental Health Officer's advice that whilst the two uses are similar, they are not the same and it is therefore considered reasonable and necessary to condition the implementation of the noise management plan (as amended) which has been submitted as part of the application process. This noise management plan has addressed how the potential

for noise issues arising from the site are to be managed should the application be approved, and the environmental health officer has confirmed it has addressed the issues he has raised.

As set out above, the use of the property as a children's home could increase the potential for anti-social/aggressive behaviour in the area. Policy SC3 of the Local Plan for Bolsover District requires development to take account of the need to reduce the opportunities for crime and the fear of crime, disorder and anti-social behaviour, and promote safe living environments. In addition, paragraph 96 of the NPPF states planning decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which, amongst other things, are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. Whilst this policy is aimed primarily at larger, new built development, it is clear that these issues are considered to be material planning issues which need to be taken into account.

The details of the children who are potentially occupying the property are not known, nor is their reason for being in care and as such the challenges presented by these children is unknown because this is a matter for the placing authority who allocate children to suitable homes. Even if the details of the children were known, the children occupying the property could change at any time without any need for planning permission. There is therefore no evidence that the use of this property will result in an increase in crime or anti-social behaviour and whilst there is potential for this to happen in some cases there are also many cases where small scale children's homes operate successfully in residential areas with children settling into community life. In addition, there is always the possibility for the property to be occupied as a dwelling by residents who may bring crime and/or anti-social behaviour to the area and again this cannot be controlled by planning legislation. For this reason, the proposal is not considered to represent a use which would result in an unsafe living environment for existing residents.

The Environmental Health Officer has suggested a temporary consent be issued to allow the full extent of the impact of the proposed use to be assessed. However, as set out above, given that the residents of the home can change should the placing authority deem fit and this cannot be controlled by planning condition, a temporary consent would not address the concern raised. The success of the home's residents to integrate into the community will, to a large extent, depend on the children living there at the time and the management of the home itself and both of these matters are controlled by the placing authority and Ofsted as the regulator of children's homes. In addition, the home is intended to provide a stable home for children to stay for the time they are in care. A temporary consent would therefore potentially jeopardise the ability of the home to do this.

The issue of the impact of the home in terms of noise and disturbance for residents is not restricted to noise and disturbance from residents of the home. It could also be as result from the comings and goings associated with the use of the property as a children's home in terms of staff, visitors etc.

Information has been submitted with the application which details how the home will operate in terms of staff, visitors etc. Further information on these matters has also been requested and provided by the applicant, including details of child evaluation steps, a locality risk assessment and a statement of purpose which is to be submitted to Ofsted. There are a number of discrepancies in these documents about the details of the staffing arrangements,

how staff will access the site, how the children would be taken to activities, visitor numbers to the property etc. This makes the assessment of the impact of these comings and goings very difficult. However, these discrepancies are likely to be as a result of the fact that exact figures cannot be produced because this will partly be dependent on the needs and requirements of the residents and their families at the time of occupation and the staff who are employed at any one and each of these things can vary.

For example, some children would have more family visitors than others, children will have different needs in terms of care and assessment, for example the need for medical attention or psychologist/health and well-being support. Most carers and managers are likely to travel to work individually by car but on occasion may travel by bus, taxi or car share. Children may be taken to appointments in the carers' cars or by taxi or bus or may walk. The precise details of the number and timings of these movements therefore cannot be quantified or qualified and are likely to vary on a regular basis. The impact of any noise and disturbance from such comings and goings would also therefore vary.

It is considered likely that the comings and goings from the property as a result of its use as a care home could be greater than if the property was a single dwelling. However, if the dwelling was occupied by a family with grown up children/dependant relatives/foster children/occupiers working shift patterns etc this would require no planning permission at all. Such a family would also result in numerous comings and goings and would also have visits from friends/relatives/carers/support workers etc. Such that the comings and goings would also be difficult to quantify. On this basis it is considered that the proposed use would not result in such an increase in comings and goings from the site over and above what could be reasonable expected in a residential area that it would result in noise and disturbance to residents of adjacent dwelling of a level that would cause harm to their residential amenity.

#### Residential amenity for future residents

The home is proposed to accommodate up to three children aged 8-17 years old. There is a primary school and a secondary school in Bolsover. The dwelling on site has an enclosed private garden which is considered to provide adequate open space to meet the need of its occupiers. Concern has been expressed by residents that the estate has nowhere for children to play and that Bolsover has inadequate facilities for young people which is damaging to their mental health and well-being and will result in them resorting to anti-social behaviour as there is nothing to keep them occupied. However, many residents have raised and are raising families on this new estate because they feel it is a safe and healthy environment in which to raise children. In addition, DCC Children's services have confirmed that Ofsted will consider the location, amongst other things, when considering the appropriateness of the home. On this basis, the site is considered to be capable of providing an adequate standard of amenity for its future residents.

#### Access/parking/highways issues

As set out earlier in the report, in terms of staff change over patterns, visitors to the home, vehicular movements to and from the home etc is not wholly quantifiable or predictable and will be dependent upon the needs to individual children in occupation at any one time.

The site is capable of accommodating two cars on the site frontage on existing parking spaces and one in the existing garage such that there are three existing parking spaces on site. The applicant has confirmed that the garage will not be used for anything other than

parking and is not required for storage or any other use in connection with the proposed use of the site. These spaces could be required to be provided and maintained by condition. These parking spaces could accommodate the managers car and the cars of the two care workers on shift. This would result in the cars of 2 carers parking on the road during the hand over period and any visitors to the site would also need to park on the road.

This is not an ideal situation, particularly given the narrowness of the cul-de-sac and the density of the development. However, the existing dwelling could feasibly be occupied by two parents with three grown up children who all drive, resulting in the need for three cars to park on-street on a regular basis, not counting any visitors that dwelling may attract. For this reason, subject to a condition requiring no more than three children with two carers plus one manager based on site, the proposal is not considered to have a materially greater impact on street parking or highway safety than its occupation as a dwelling. On this basis the proposal is not considered to be harmful to highway safety and is considered to comply with the requirements of Policy SC3 of the Local Plan for Bolsover District and paragraph 115 of the NPPF in this respect.

#### Biodiversity

The proposal falls below the threshold of needing to provide the mandatory 10% net gain for biodiversity because it doesn't impact on a priority habitat and impacts on less than 25 square metres (5m by 5m) of on-site habitat and less than 5 metres of on-site linear habitats such as hedgerows.

The proposal does not result in external alterations to the building and as such does not result in a net loss for biodiversity in accordance with Policy SC9 of the Local Plan for Bolsover District.

#### Issues raised by residents

Most of the issues raised by residents are covered in the above assessment.

The issue of the background of the applicant/company and the ability of the company and carers to manage the home have not been considered as these are matters covered by Ofsted.

The issue of covenants on the property and the estate as a whole have not been considered as these are private matters for the parties concerned and are not material planning issues which can be taken into account.

The issue of safety for children and animals in respect of the proximity of the site to fields and unlit roads has not been taken into account as this is not considered to be any different whether the children living on site were in care or in a family environment.

The issue of whether foster care or children's homes are a more effective environment for children has not been considered as this is not a material planning issue which can be taken into account.

The issue of discrepancies in the application form and reports mean that the application should be refused and the expression of concern that the application is even being

considered by the council has not been considered as it is not possible to do that. The application was accompanied by the documents necessary to make it valid and as such the application has to be considered by the council on its individual merits. The council cannot merely refuse to consider an application.

The fact that there are council owned properties on the estate and therefore the council should have a vested interest in refusing the application has not been considered as this is not a material planning issue which can be taken into account. The application has to be considered on its individual merits and the ownership of nearby dwellings cannot be taken into account.

The issue of the adjacent field potentially being developed for housing has not been considered because if dwellings are approved adjacent to the site in the future they would need to meet the Council's guidance in terms of distances between windows and gardens etc and as such would not result in an unacceptable level of privacy for the existing property.

Melton Borough Council's supplementary planning guidance has not been taken into account because it is not relevant to this Authority. Only the supplementary planning guidance adopted by this council can be considered when determining the application, in addition to national planning policies and guidance and the policies in the Development Plan.

### **CONCLUSION / PLANNING BALANCE**

There is an identified need for the provision of care homes for children within the county. The site is on an allocated housing site identified in the Local Plan and as such is considered to be a sustainable location for residential development. Children's Services have confirmed that the suitability of the location is a matter for Ofsted to assess, having regard to the operator's Statement of Purpose, and the placing authority will place children according to their needs and in accordance with their care plan. The proposed development is therefore considered to help contribute towards this need.

There is potential for the proposal to result in noise and disturbance for adjacent residents but, subject to an appropriate noise management plan being put in place, this impact is not considered to be materially greater than could occur from the continued use of the site as a dwelling.

The potential for anti-social behaviour and the fear of crime as a result of the development is acknowledged but equally the home may provide much needed accommodation for children who would benefit and thrive within a community, and it is a matter for the placing authority to ensure that children are housed in an appropriate location to suit their needs and where they can be part of a community.

The proposal will result in some on street parking but this is not considered to be significantly greater than if the property remains a dwelling and as such the proposal is not considered to be detrimental to highway safety and there are no objections to the proposal from the Highway Authority provided three parking spaces are maintained on site and this can be required by condition.

### **RECOMMENDATION**

**The current application be APPROVED subject to the following conditions:**

1. The development must be begun before the expiration of three years from the date of this permission.
2. The noise management plan submitted to the Local Planning Authority via email on the 12<sup>th</sup> September 2024 must be implemented in full, concurrent with the first occupation of the site and must continue to be implemented in accordance with the approved scheme thereafter.
3. Before the development hereby approved is first implemented, the three parking spaces shown on amended parking plan received by the Local Planning Authority via email dated 17<sup>th</sup> September 2024 (including one space in the garage be available for parking on site in accordance with that plan and must be maintained available for parking at all times thereafter.
4. Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that order with or without modification) the premises must be used only as a children's care home for up to 3 children and for no other purpose (including any other use falling within Class C2 of the Order).
5. There must be no more than three members of staff on shift at the premises at any time unless otherwise agreed in writing by the Local Planning Authority

Notes

1. The three members of staff on shift must include the manager and carers on site.

**Statement of Decision Process**

Officers have worked positively and pro-actively with the applicant to address issues raised during the consideration of the application. The proposal has been considered against the policies and guidelines adopted by the Council and the decision has been taken in accordance with the guidelines of the Framework.

**Equalities Statement**

Section 149 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 eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (i.e., "the Public Sector Equality Duty").

In this case, there is no evidence to suggest that the development proposals would have any direct or indirect negative impacts on any person with a protected characteristic or any group of people with a shared protected characteristic.

**Human Rights Statement**

The specific Articles of the European Commission on Human Rights ('the ECHR') relevant to planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).



It is considered that assessing the effects that a proposal will have on individuals and weighing these against the wider public interest in determining whether development should be allowed to proceed is an inherent part of the decision-making process. In carrying out this 'balancing exercise' in the above report, officers are satisfied that the potential for these proposals to affect any individual's (or any group of individuals') human rights has been addressed proportionately and in accordance with the requirements of the ECHR.