

**Application Recommended for Approve with
Conditions
COU/2022/0495**

Rosehill With Burnley Wood

Town and Country Planning Act 1990

Application to change the use of a dwelling (C3a) to a children's home for a maximum of four children, with two carers sleeping overnight, working on a rota basis (C2).

268 Todmorden Road Burnley Lancashire BB11 3EB

Background

The application has been brought to Development Control committee as objections has been received.

The site is a five bed detached property located off Todmorden Road, Burnley. The site is located within the defined settlement boundary and is also situated within the Burnley Wood Conservation Area. Surrounding uses are residential with a mixture of terraced, semi and detached properties. The property has direct access onto Todmorden Road with in curtilage parking for 3 cars. There are a number of mature and semi mature trees and shrubs in the front and rear gardens.



Photo 1: view from Todmorden Road



Photo 2: parking area to the front of the property



Photo 3: front garden area



Photo 4: rear elevation

Public Right Of way

Public Right of Way No. 112 runs to the south of the site. The application does not impact on the PROW.

Proposal

The application seeks consent for the change of use of the dwelling (C3) to a C2 (Residential Institution) use for the provision of residential accommodation and care for up to 4 children between the ages of 8-18. The applicant (Associated Wellbeing) has provided the following additional information about how the C2 use would operate on a daily basis:

Maximum amount of 4 children staying at any one time. The home seeks to replicate as closely as possible a normal family environment. During the day the children will attend school.

Staffing: 2 carers at the property at anyone time during the day and night on a rota system (6 members of staff in total)

Parking: 3 off street parking spaces can be accommodated within the site.

The applicant has confirmed that there are no physical alterations to the existing building.

Site history

CEA/2022/0371 - Application for Lawful Development Certificate re: use of a dwelling (C3a) as a children's home for a maximum of four children, with two carers sleeping overnight, working on a rota basis (C2). Refused, development not lawful and full planning permission required

APP/2003/0177 – Proposed double garage – approved with conditions

NOT/1999/0504 – Proposed works to trees within the Burnley Wood CA granted

Article 35 Statement

The Local Planning Authority has acted positively and proactively in determining this application, in accordance with paragraph 38 of the National Planning Policy Framework, by assessing the proposal against relevant planning policies and all material considerations, identifying matters of concern within the application as (originally submitted) and negotiating acceptable amendments to the proposal with the applicant in order to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development.

Relevant policies

Burnley's Local Plan (July 2018)

SP4 – Development strategy

SP5 – Development quality and sustainability

NE5 – Environmental protection

IC3 – Car parking standards

The National Planning Policy Framework 2021

Consultation Responses

Highways – no objection

The Highway Development Control Section of Lancashire County Council has no objections to the planning application and is of the opinion that the proposals at this location should have a negligible impact on highway safety and capacity within the immediate vicinity of the site. The existing access and parking arrangements are acceptable for a development of this size and nature.

Lancashire Fire and Rescue – comments to be noted at building regulation stage

Ward Councillors – no comments received

Publicity 15 letters of objection received summarised as follows:

- Access poor and on a dangerous bend in the road, traffic hot spot
- Issues with crime and anti social behaviour, fear for security of surrounding properties
- Not an appropriate change of use within the Conservation Area
- Opposite a children's nursery and not appropriate
- This is a residential property which will be run as a business
- Loss of privacy and overshadowing
- Noise and disturbance
- Incorrect red line
- Trees are on the site but not mentioned on the application form
- Potential non compliance with The Children's Home Regulations 2015

Principle of proposal

The site is an existing dwelling located within the development boundary of Burnley in which policy SP4 applies. The National Planning Policy Framework (NPPF) states that plans and decisions should apply a presumption in favour of sustainable development. The change of use of the property would be acceptable in principle, providing the proposal meets all relevant local and national planning policies.

The main issues in the consideration of this application are:

- Impact on character and appearance including the Burnley Wood Conservation Area

- Impact on residential amenity
- Highways

Impact on the character and appearance including the Conservation Area

Local Plan Policies SP5 and HE2, amongst other considerations, requires development to be of a high standard of design and to respect the character and appearance of their setting including the protection of the special character of conservation areas.

The character of the area is urban in nature with a wide range in type and style of residential properties. The application site is 5 bedroom detached property which could have a large family with all its associated day- day activities. As there are no physical alterations to the exterior of the building, there will be no physical impact on the character of the dwelling or the surrounding.

As the site is located in the Burnley Wood Conservation Area, special regard is to be paid to sections 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which confers upon the local planning authority a duty to *“have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area.”* Preservation in this context means protecting the character and appearance (significance) from harm as opposed to keeping it utterly unchanged.

The proposed change of use is not significant, and it is not considered that the proposals will be harmful to the conservation area and will be in accordance the requirements of Local Plan Policy HE2, the NPPF and the duty assigned by the LBCA Act.

Impact on residential amenity

Amongst other things, Policy SP5 requires proposals to ensure that there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users and occupiers of the development.

The nearest residential property to the site is No. 19 Redgate Close which sits at a much lower level to the site, approximately 7m to the south. As there are no windows on the gable elevation of No. 268 and there are no proposed alterations, it not considered there to be any direct overlooking and loss of privacy. Approximately 18m to the south is No. 270 Todmorden Road. This property sits at a higher level and is angled away from the main road, overlooking the southern gable of the application site. There are a range of trees and shrubs to the southern boundary, and it is considered that the separation distance is sufficient as to not cause any issues of overlooking. To the west is a 169 – 181 Todmorden Rd, a traditional stone built terrace row. The separation distance of 27m and the presence of mature trees, creates a suitable buffer and it is not considered there to be any impact in terms of overlooking.

In terms of the level of activity at the site and potential noise and disturbance, there will be no more than a maximum of 4 children occupying the site with no more than 2 staff at any one time. Whilst this may appear to be an intensification of the site, it is considered that there is little difference between the proposed and the general activity of a family living in a 5 bedroom home. The additional information the agent has supplied in terms of the day-day operation of the site would suggest that the children will be out at school during the day which is not dissimilar to that of a normal family home. It is anticipated that there will be visits

from professionals and visitors, but this would be no different from visitors who would visit a family home.

It is considered that the development will be in accordance with policy SP5 of Burnley's Local Plan. It is considered necessary and appropriate to condition the number of children to be cared for at the site to be no more than 4.

Access and parking

The site is considered to be in a sustainable location and the site puts forward adequate in curtilage parking. LCC Highways have made comments on the application and have not made any objections.

A condition for the provision of an electric vehicle charging point is considered appropriate for the application.

It is considered that the development complies with policy IC3 of Burnley's Local Plan.

Other issues

Whilst all issues raised are noted within the determination of a planning application, there can only be weight attached to those 'material considerations' that relate to land use planning. Issues on any perceived behavioural matters and the types of children uses the property are not recognised as material considerations. These are controlled by other bodies, such as Ofsted, the police, and other bodies of the Council, such as the anti-social behaviour and housing team and the planning system should not duplicate these powers.

Comments received on highways issues and the location of the property on a '*bad bend*' are noted, however there is an existing access from Todmorden Road and LCC highways have assessed the application and do not consider there to be any detrimental impact to highway safety.

Conclusions

The site is an existing large detached family dwelling and it is not considered that the proposed use caring for up to 4 children will not be any different from that of a large family dwelling. There are no physical alterations to the building and the proposed change of use would not have a detrimental impact on the character and amenity of the surrounding area and the application is recommended for approval with the following conditions:

Recommendation:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: Required to be imposed pursuant to 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 permitted shall be constructed in complete accordance with the specifications in the application and approved plans; location plan, existing floor

plans, block plan received 15/8/22 unless otherwise agreed in writing by the local planning authority.

Reason: To avoid doubt and to ensure an acceptable development as indicated on the submitted drawings.

3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) the approved use shall operate for up to four children only and not for any other use falling within Class C2.

Reason: To ensure the satisfactory implementation of the proposal and in order that any changes within the same use class can be reviewed in terms of the need for car parking and potential impacts on neighbouring properties, in accordance with Policies IC3 and SP5 of Burnley's Local Plan (July 2018).

4. The development hereby permitted shall not be occupied until an electric vehicle charging point has been installed to serve the development and shall thereafter be maintained

Reason: To support sustainable transport objectives and to contribute to a reduction in harmful vehicle emissions.