

**HIGH PEAK BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE**

Date 9th May 2022

Application No:	HPK/2021/0680	
Location	35 The front, Waterswallows Road, Fairfield, Buxton	
Proposal	Change of use from C3 single dwelling house to C2 for residential care home	
Applicant	Hill Gate Health Group	
Agent	JAAN Architects Ltd	
Parish/ward	Barms	Date registered 1 st December 2021
If you have a question about this report please contact: Owen Gore, Tel. Owen Gore owen.gore@highpeak.gov.uk Tel: 01538 395400 Ext: 4133		

1. SUMMARY OF RECOMMENDATION

Approve with Conditions

1. REASON FOR COMMITTEE DETERMINATION

- 1.1 This application has been brought before the Committee as it has been locally contentious.

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 2.1 The application property is a two storey, 5 bedroom, detached dwellinghouse within a residential area to the north east of Buxton. The property is constructed from stone with a slate roof.
- 2.2 The application property fronts onto Waterswallows Road. To the side (west) of the site is another detached property No.33 and to the east, immediately adjacent to the side elevation is the public highway Ashwood Road, beyond which is the 19th Hole Pub. To north beyond Waterswallows Road is land associated with High Peak Golf Course and to the south is the detached property Albion Cottage, No.1 Ashwood Road.
- 2.3 For the purpose of the Local Development Plan, the site lies within the built-up area boundary and the Fairfield Conservation Area.

3. DESCRIPTION OF THE PROPOSAL

- 3.1 The application seeks consent for the proposed change of use of the existing C3 single dwellinghouse to C2 for residential care home with a maximum of five children male / female between the ages of 8 - 17 years with the care needs such as learning difficulties, emotional behavioural difficulties and special educational support needs.
- 3.2 The applicant has state that the admission of the children will be subject to a matching process and only suitably matched children will be admitted to the home. The home will have full-time employed staff and a bank list of qualified, suitable temporary staff hired via an employment agency in the event of staff shortages. There will be different shift patterns to meet the needs of the children and young people with the home having 4 staff on shift during the day, made up of 1 x Registered Manager, 1 x Deputy Manager, 2 x Senior Residential Support Staff and 2 x Residential Support Workers, 1 staff on waking watch and 1 staff on a sleep-in shift at any given time.
- 3.3 The property has 2 bedrooms on the first floor and 3 bedrooms on the second floor, and in total the home will accommodate 5 children male/female. There is a bedroom for staff to rest on rotation during night shifts on 'sleep-in shift' on the ground floor.
- 3.4 No external works would be carried out to the property or within its curtilage. Internal rearrangement of space, which does not require planning permission, would involve some minor partitioning to provide a ground floor W/C taking space from the ground floor living space.
- 3.5 The application and supporting plans and documents can be found at: <http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=252031>

4. RELEVANT PLANNING HISTORY

- 4.1 None.

5. PLANNING LEGISLATION RELEVANT TO THE DECISION

High Peak Local Plan 2016

Policy S 1 Sustainable Development Principles
Policy S 1a Presumption in Favour of Sustainable Development
Policy S 7 Buxton Sub-area Strategy
Policy EQ 6 Design and Place Making
Policy EQ 7 Built and Historic Environment

Policy CF 5 Provision and Retention of Local Community Services and Facilities
Policy CF 6 Accessibility and Transport

National Planning Policy Framework 2021

Section 2 - Achieving sustainable development
Section 8 -Promoting healthy and safe communities
Section 12 -Achieving well-designed places
Section 16 -Conserving and enhancing the historic environment

Supplementary Planning Documents and Guidance

Residential Design SPD (2005)
High Peak Borough Council Design Guide SPD (2018)

Adopted Conservation Area Character Appraisals

Buxton area character appraisal (adopted April 2007)

6. CONSULTATIONS CARRIED OUT

Site notice	Expiry date for comments: 08/02/2022
Neighbour letters	Expiry date for comments: 07/01/2022
Press Notice	Expiry date for comments: 20/01/2022

6.1 Four letters of objection have been received stating:

- This property is next to a public house, inappropriate to place a care home for young vulnerable children next to a licensed premises;
- No suitable outdoor facilities at the property for the number of residents proposed also it must be noted that the land opposite is not public land but leased by Buxton and High Golf Club;
- The property sits on a busy main road with no parking for site lack of parking in the area. No parking available on Ashwood Road which as restrictions imposed;
- Ashwood Road is a narrow lane that is only wide enough for a single vehicle. It is a through route to the housing estate behind and any parking on this road would cause a blockage;
- Application property windows (existing) look directly into neighbouring property windows, fear for privacy of occupants if there were to be potentially 17 year old children with special needs/issues etc able to look directly in;
- Fear for the safety of my family if we were to be living next to a care home where children with learning difficulties and more worryingly, emotional behavioural needs;

- Detrimental impact on the neighbourhood amenity, impacting ‘quality of life’;
- There are always issues with children of the ages proposed in care homes, fighting, swearing, drug use, running away, theft in the area, damage and vandalism to cars and property within the vicinity;
- Increase in noise levels throughout the day and evening with staff accessing the property and vehicles parking on the street outside;
- The value of all the properties near to the proposed care home will reduce and make it harder to sell homes;
- Inaccuracies in the management statement.

6.2 The following table shows the comments received from relevant statutory consultees in connection with the application.

Consultee	Comments
DCC Highways	<p>Existing property is a 5 bedroomed dwelling with no associated off-street parking - it is assumed parking takes place on Ashwood Road, in the absence of any roadside parking restrictions.</p> <p>Based on the information submitted to support the proposed C2 use, it is unlikely, in traffic generating or parking demand terms, to be significantly or materially different to that of a 5 bedroomed residential dwelling. On this basis it is unlikely the Highway Authority would be in a position to sustain an objection to the proposals on highway safety grounds or demonstrate that the highway impact would be severe (with reference to paragraph 111 of the National Planning Policy framework).</p> <p>However, the applicant should be encouraged, through operation of a travel plan, to ensure appropriate opportunities are promoted for staff to use sustainable transport modes to access the site, to reduce reliance on private motor vehicles (this could also include secure on site cycle parking if considered appropriate). Should this be acceptable in planning terms a travel plan, incorporating objectives, aims and targets could be secured through a condition appended to any consent issued’ (dated 29 December 2021)</p>
Environmental Health Officer	No observations to make.

7. OFFICER ASSESSMENT

- 7.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.
- 7.2 Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the High Peak Local Plan Policies Adopted April 2016.
- 7.3 Other material considerations include the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG). Paragraph 11 of the NPPF explains that at the heart of the Framework is the presumption in favour of sustainable development. For decision makers this means that when considering development proposals which accord with the development plan, they should be approved without delay, but where the development plan is absent, silent or relevant policies are out of date, grant planning permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

Principle of Development

- 7.4 Policy S 1 'Sustainable Development Principles' states that 'The Borough Council will expect that all new development makes a positive contribution towards the sustainability of communities and to protecting, and where possible enhancing, the environment; and mitigating the process of climate change, within the Plan Area. This will be achieved by: ...Meeting most development needs within or adjacent to existing communities; Providing for a mix of types and tenures of quality homes to meet the needs and aspirations of existing and future residents in sustainable locations; Seeking to secure developments provide a high standard of amenity for all existing and future occupants of land and buildings, ensuring communities have a healthy, safe and attractive living and working environment and the risks from potential hazards are minimised;...Maintaining and where possible enhancing accessibility to a good range of services and facilities, and ensuring existing infrastructure and services have the capacity to support development when required'.
- 7.5 Policy S 2 'Settlement Hierarchy' states that 'Development will be directed towards the most sustainable locations in accordance with the following settlement hierarchy...' listed at the top of the hierarchy is the Market Town of which Buxton.

- 7.6 Policy S 7 'Buxton Sub-area Strategy' states that 'The Council and its partners will seek to establish Buxton as England's leading spa town and consolidate its role as the principal service centre for the Peak District. This will be achieved by: ...4. Supporting enhancements to key community services, infrastructure and connectivity to allow to Buxton to consolidate its role as a self-contained service centre and support growth by: Supporting plans to provide new health care facilities in Buxton'.
- 7.7 Policy CF 5 'Provision and Retention of Local Community Services and Facilities' states that 'The Council will seek to maintain and improve the provision of local community services and facilities. This will be achieved by: ...Supporting proposals which protect, retain or enhance existing community facilities (including multi use and shared schemes) or provide new facilities. New facilities should preferably be located within defined built up areas where they are most accessible'.
- 7.8 The application seeks consent for the proposed change of use of the existing C3 single dwellinghouse to C2 for residential care home with a maximum of five children male / female between the ages of 8 - 17 years with the care needs such as learning difficulties, emotional behavioural difficulties and special educational support needs.
- 7.9 As an existing dwellinghouse, the scope of the relevant use class and the changes that are permitted are broad.
- 7.10 Class C3 'Dwelling-houses' allows for the 'Use as a dwellinghouse (whether or not as main residence) by: (a) a single person or single household; (b) a single household of not more than 6 residents where care is provided; or (c) a single household of not more than 6 residents where no care is (other than a use within class C4).
- 7.11 The proposed use is states as Class C2 'Residential institutions', which allows for residential accommodation and care to people in need of care, residential schools, colleges or training centres, hospitals, nursing homes.
- 7.12 In this case therefore, the 5 bed property could be used by a family of unrestricted number, but also it could be used, without planning permission, by up to six unrelated adults that receive care and live together as a household; or, with a change of use that is permitted by the General Permitted Development Order, as a house in multiple occupation by six unrelated individuals (Class C4).
- 7.13 However, where the residents would be children, the matter becomes more complicated because the court case (North Devon District Council v The First Secretary of State and Southern Childcare QBD 30.1.03 Collins J [2003] JPL 1191) has found that children, as a group of residents are not able to form a 'household', a necessity of being

included within the C3 use class. In the North Devon case there were carers on the property at all times, but they came and went. They were not residents of the house. They lived elsewhere. North Devon decided that carers who provided 24 hour care but were not resident could not be regarded as living together in a household.

- 7.14 This was also considered to be the case in the appeal (ref: - APP/C4235/X/10/2132351) which was dismissed. The appeal was submitted after the refusal to issue a certificate of lawful use or development for the proposed use of the premises as a dwellinghouse for not more than six persons living as a family unit. The proposed use was as a children's home with up to 4 resident children aged between 8 to 17 years and with 2 carers working on a shift basis being there at all times.
- 7.15 The above considerations under the court judgement formed the view of the inspector which was reinforced by the proposed manner of occupation of the appeal property. In this case the Council said the use as a children's home was materially different to use as a Class C3(a) residential use. They pointed to the fire alarm panel, health and safety notice, lockable office and other rooms, suggesting aspects more akin to institutional, rather than normal family home life. The formal organisation of the business tends to support that. The inspector found that even more pertinent, is the likely change in activity in the immediate vicinity of the property. Shift changes for carers are likely to see between 3 and 4 carers. There would be more comings and goings of cars and the people carriers referred to by the appellant than might be expected in a normal domestic household.
- 7.16 The inspector felt that residential use of the property by troubled children could bring more disturbance than would most family homes. All these factors, cumulatively, lead the inspector to conclude that a material change of use would occur as a result of running it as a children's home as set out by the appellant.
- 7.17 An appreciation of that context, provides a useful baseline and starting point when it comes to considering the potential impact of a development such as the one proposed. In considering if a change of use is required in this case is a matter of fact and degree to be addressed on a case by case basis.
- 7.18 In this case however, the applicant does not argue that the change would be lawful and not material, they concede that there would be development, and instead, for the avoidance of doubt, seeks express planning permission.
- 7.19 In line with the local plan policy, the council seeks to encourage community services and facilities that meet the needs of the community, delivering quality services for healthcare and steers this towards sustainable locations within market towns such as Buxton,

which is the largest settlement in the district. The local plan policy is to enhance its role as a service centre by improving the range of housing availability, and facilities for health and community.

- 7.20 The provision of a residential facility within an established area of housing to support those in the community who need care and may have particular vulnerabilities would align with and help deliver on those local plan strategy commitments. Moreover, the site is considered to be in an accessible location being within walking distance of local services and facilities.
- 7.21 The principle of development is therefore considered acceptable, subject to the considerations below.

Design, Character and Appearance

- 7.22 Policy EQ 6 'Design and Place Making' states that 'All development should be well designed and of a high quality that responds positively to both its environment and the challenge of climate change, whilst also contributing to local distinctiveness and sense of place'. This policy continues 'Requiring development to be well designed to respect the character, identity and context of High Peak's townscapes and landscapes' and 'Requiring that development contributes positively to an area's character, history and identity in terms of scale, height, density, layout, appearance, materials, and the relationship to adjacent buildings and landscape features'.
- 7.23 Policy EQ 7 'Built and Historic Environment', states that 'The Council will conserve heritage assets in a manner appropriate to their significance. This will take into account the desirability of sustaining and enhancing their significance and will ensure that development proposals contribute positively to the character of the built and historic environment in accordance with sub area strategies S5, S6 and S7. Particular protection will be given to designated and non-designated heritage assets and their settings including: ...Conservation Areas'. It continues 'This will be achieved by: ...Requiring development proposals in Conservation Areas to demonstrate how the proposal has taken account of the distinctive character and setting of individual Conservation Areas including open spaces and natural features and how this has been reflected in the layout, design, form, scale, mass, use of traditional materials and detailing, in accordance with Character Appraisals where available'.
- 7.24 Policy EQ7 also states that 'This will be achieved by: ...Preventing the loss of buildings and features which make a positive contribution to the character or heritage of an area through preservation or appropriate reuse and sensitive development, including enabling development, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or other relevant provisions of the NPPF apply.

7.25 The site lies within the Fairfield conservation area. The application does not propose any external alterations and the dwelling would not be enlarged. There would be no changes to the size or appearance of the property. Consequently, the proposal is not considered to have any harmful impact on the character and appearance of the property or the surrounding area. The development would continue to sustain the importance of the conservation area. The development is therefore considered to be in accordance with Policies S1, EQ6, and EQ 7, of the High Peak Local Plan, the guidance contained within the Residential Design SPD, High Peak Design Guide, and Sections 12 and 16 of the National Planning Policy Framework.

Public and Residential Amenity

7.26 Policy EQ 6 'Design and Place Making' requires that '...development achieves a satisfactory relationship to adjacent development and does not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity.

7.27 The application seeks consent for the proposed change of use of the existing C3 single dwellinghouse to C2 for residential care home with a maximum of five children male / female between the ages of 8 - 17 years with the care needs such as learning difficulties, emotional behavioural difficulties and special educational support needs.

7.28 The applicant has state that the admission of the children will be subject to a matching process and only suitably matched children will be admitted to the home. The home will have full-time employed staff and a bank list of qualified, suitable temporary staff hired via an employment agency in the event of staff shortages. There will be different shift patterns to meet the needs of the children and young people with the home having 4 staff on shift during the day, made up of 1 x Registered Manager, 1 x Deputy Manager, 2 x Senior Residential Support Staff and 2 x Residential Support Workers, 1 staff on waking watch and 1 staff on a sleep-in shift at any given time.

7.29 The property has 2 bedrooms on the first floor and 3 bedrooms on the second floor, and in total the home will accommodate 5 children male/female. There is a bedroom for staff to rest on rotation during night shifts on 'sleep-in shift' on the ground floor.

7.30 In terms of immediate impacts to neighbours, no external works would be carried out to the property or within its curtilage. Fundamentally, the concerns raised regarding overlooking would not increase potential for overlooking as no alterations are proposed to the dwelling. In this case the only bedrooms that feature a window overlooking the immediate neighbouring properties are bedroom 1 on the first floor and bedroom 5

on the second floor; both these windows are existing and the situation of the resident occupying the room is considered not to be material.

- 7.31 Regarding the potential residents, it is understood that the development would not provide an educational, medical or secured institution and that the residents would not be criminal offenders, educated on site or in need of any specific medical care. The property would not be a secure facility and there is no proposal to secure the boundary with fences, walls or gates.
- 7.32 It is clear that much of the public objection results from a perception and fear over the potential for crime and anti-social behaviour to affect the living conditions of nearby residents. The NPPF states “Planning policies and decisions should ensure that developments create places that are safe ... and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.....Designing out crime and designing in community safety should be central to the planning and delivery of new development”.
- 7.33 While class C2 is a broad use class that could cover a range of different institutional uses and impacts, a use limited to that of a care home for children would be of a low risk to neighbour amenity. Furthermore, it is possible to limit any permission to the use proposed and to exclude any other use that might be permitted under the C2 use class.
- 7.34 Fundamentally, the applicant has stated that they have over five years’ experience working in the semi-independent and residential childcare sector. The home will operate within a legal framework directed primarily by the Children Act 1989, the Care Standards Act 2000, and the Children’s Homes Regulations 2015. The applicant sets out that “We promote and work towards the principles of the UN Convention on the Rights of the Child and the UN Declaration of Human Rights. They have indicated the need to work with all local authorities and local safeguarding children’s boards to ensure the effective protection of children and young people.” The staffing structure will contain 2 qualified social workers who will support the registered manager of the home.
- 7.35 With the limited number of residents and the broad age range, strict safeguarding protocols will be required to address the needs of the residents to avoid detriment to neighbours depending upon - suitable numbers of experienced professional staff, appropriate risk assessments and care plans, well-conceived rule setting, and effective staff policy and operating procedures.
- 7.36 The property would remain as a 5 bedroom dwellinghouse in a type of residential use that is compatible with the residential area, and in many respects the character and impact of the land use would be similar to that of any other large open market dwellinghouse. Considering that

within the C3 use class the property could be used by a family of unrestricted number or six unrelated adults living as a household. When children stay in the house they would be under the supervision of their adult carers, interacting with them in a way similar to that of a parent or guardian, attending school during the daytime and partaking in after school activities

- 7.37 The comings and goings associated with the premises will not be dissimilar to those associated with a dwellinghouse, and the use of the premises for such purposes should not materially detract from the amenity of neighbouring residential occupiers to any unreasonable degree.
- 7.38 The proposal is therefore considered unlikely to have a significant, harmful impact on the amenity of the neighbouring properties. The development is therefore considered to be in accordance with Policies S1, and EQ6, the guidance contained within the Residential Design SPD, High Peak Design Guide, and Section 12 of the National Planning Policy Framework.

Highway Safety, Parking and Access

- 7.39 Policy EQ 6 'Design and Place Making' requires that '...developments are easy to move through and around, incorporating well integrated car parking, pedestrian routes and, where appropriate, cycle routes and facilities'. Policy CF 6 'Accessibility and Transport' states that development should not 'lead to an increase in on street parking to the detriment of the free and safe flow of traffic'.
- 7.40 The property would not provide any medical, nursing or education function. It would not, during the normal use of the property be visited by doctors, nurses, or other medical or educational support. However, clearly the development would be dependent on certain traffic movements - the onsite staff arriving and leaving, with turnover at the beginning or end of the shift; transport to take the children to and from school or any social or recreational visit; visits from family or friends; and various deliveries.
- 7.41 Some of the objection expresses concern about the impact that traffic movements along the drive will have on the living conditions of these residents. However, it is important to consider pre-existing arrangements and those uses that might be already lawful. It is understood that there is no allocated parking onsite or otherwise. By comparison, the existing lawful use of the 5 bed dwelling has a potential to already generate considerable traffic movements - a family household of different generations could have adult children, all making visits by car to places of work or education. Any household will have shopping deliveries, visits from contractors and family and friends. Moreover, if used as a house of multiple occupation or household of

six, where care could be provided, each individual is likely to have their own visitors and there could be care staff making multiple daily visits. The proposed, use therefore would not generate any more traffic than any of those uses that are already permitted and lawful.

- 7.42 Considering the scale of the proposal, it is considered that overall, the development should not be the cause of any discernible impact on the road network or safety of the highway, beyond that which is posed by any other vehicle that must negotiate the highway to access and service the existing dwellings within this established residential area. Therefore, the proposal is considered to comply with local plan policy CF6 in this regard.

Other Considerations

- 7.43 Some of the objectors have raised concern about their house prices and the potential impact to the ability to sell their properties in the future. However, these not material considerations in the planning balance. House prices can be affected by a variety of reasons outside the control of the planning system, and this would not be a factor that would outweigh compliance with the development plan. The inaccuracy in the management statement refers to an incorrect address.

Planning Balance and Conclusions

- 7.44 The change of use would result in only limited changes to the character of the land use and would bring some community benefit by providing facility and support for some of the area's most vulnerable residents. There would be no adverse impacts to the character and appearance of the area, highway safety or the amenity of residents. The development would continue to sustain the heritage asset. There would be no conflict with the relevant policies contained in the High Peak Local Plan and the NPPF. As such the application is recommended for approval.

8. RECOMMENDATIONS

A. Approve subject to Conditions

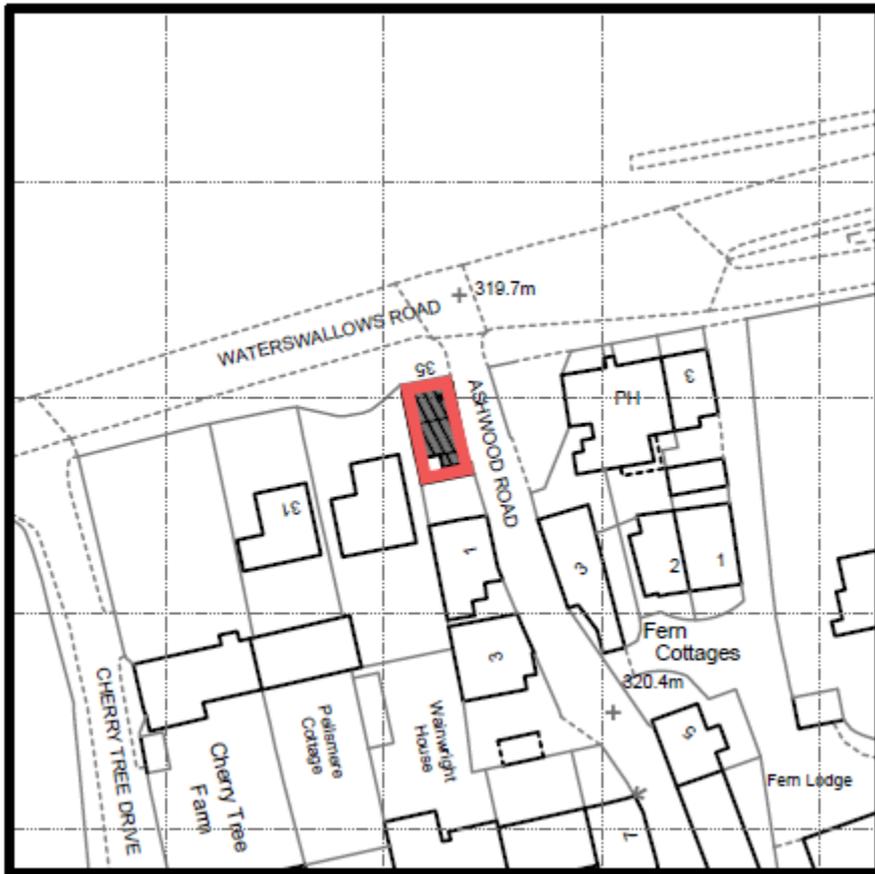
1. Development to commence within 3 years.
2. Approved Plans
3. When the property ceases to be used for the permitted purpose described above it shall be made available for reuse and a return to its former use as a single dwellinghouse (Class C3). The use may return to that former dwellinghouse use without the need for a further express grant of planning permission.

4. This permission is to only use the property for the purposes of providing full time residential care for no more than five residents (aged 8-17yrs), who would occupy the property as their sole or main residence, and their care and supervision is provided full time by care staff on a shift rotation; and for no other purpose, including any other purpose in Class C2 of the Use Classes Order.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development as specified in Part 1 Class(es) A, AA, B, C, D and E or Part 20 shall be carried out without express planning permission first being obtained from the Local Planning Authority.

B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informative/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Operations Manager – Development Services has delegated authority to do so in consultation with the Chairman of the Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. In accordance with Paragraph 38 of the NPPF the Case Officer has sought solutions where possible to secure a development that improves the economic, social and environmental conditions of the area.

Site plan



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