

**HIGH PEAK BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE**

Date 22nd July 2024

Application No:	HPK/2024/0147	
Location	95 St Johns Road, Buxton	
Proposal	Change of use from a dwelling house (C3) to a children's care home (C2)	
Applicant	Mr Chris Kennedy, Kedleston Group	
Agent	Alicia Privett Nexus Planning	
Parish/ward	Corbar Ward	Date registered 18 th April 2024
If you have a question about this report please contact: James Stannard, Tel. 01298 28400 extension 4298, james.stannard@highpeak.gov.uk		

1. SUMMARY OF RECOMMENDATION

Approve with Conditions

1. REASON FOR COMMITTEE DETERMINATION

1.1 This application has been brought before the Development Control Committee as it is locally contentious.

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 The application relates to No.95 St Johns Road, a two storey detached dwellinghouse (C3 Use) that lies within the built-up area boundary of Buxton.

2.2 The five bedroom dwellinghouse sits on the eastern side of the highway, with its principal elevation fronting St Johns Road and the rear fronting a large rear garden. The domestic curtilage includes an area of hard standing to the front which benefits from two separate access points to the public highway.

2.3 As shown by the Parking Layout submitted at the request of Officers, this area can accommodate a maximum of 3no. independent off-street parking spaces, including sufficient turning area to allow vehicles to exit the site on to the adopted classified road in a forward gear.

2.4 Whilst situated within the built-up area boundary of Buxton, the site lies approximately 1 mile from the Town Centre, and is not well served by public transport or public car parks, with the nearest bus stop showing a very limited and infrequent number of services.

3. DESCRIPTION OF THE PROPOSAL

- 3.1 The application seeks full planning permission to change the use of the existing dwellinghouse (C3 Use) to a Children's Care Home (C2 Use). As submitted, the supporting Statement states that a maximum of 5no. children will reside at the home at any one time, supported by 5no. staff that provide care for the children, in a similar manner to a family dwellinghouse, on a shift rota basis.
- 3.2 On reviewing the information submitted by the agent, Officers identified that crucial information required to assess the potential impact of the proposal were absent from the submission. Such information includes a Parking Layout, and a Weekly Staff Rota.
- 3.3 This information has subsequently been forthcoming from the applicant. The Weekly Staff Rota shows that the Care Home to support 5no. children at any one time would be supported by a team of staff which would involve up to 4no. staff being on site at any one time, with some instances where staff are due to arrive and depart the site at the same time.
- 3.4 The Parking Layout submitted by the applicant shows that a maximum of 3no. parking spaces which are independent of each other (i.e. allowing each vehicle to enter and exit the site without being blocked in by any other vehicle and exiting the site in a forward gear) can be accommodated on site at any one time.

4. RELEVANT PLANNING HISTORY

- 4.1 The site has been subject to the following planning history:

HPK/2014/0315	Demolition Of Existing Garage And Proposed Extension To Private Detached Dwelling (Refused 29/08/2014)
HPK/2014/0644	Proposed two storey side extension, rear conservatory & porch to front (Approved 24/02/2015)
NMA/2015/0024	Non material amendment to application HPK/2014/0644 change to roof tiles (Approved 20/11/2015)
HPK/2015/0489	Proposed additional vehicle entrance / exit with new dropped kerb and extended driveway (Approved 02/11/2015)

5. PLANNING POLICIES RELEVANT TO THE DECISION

High Peak Local Plan 2016

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- S2 Settlement Hierarchy
- EQ6 Design and Place Making
- EQ10 Pollution and Unstable Land
- CF5 Provision and Retention of Local Community Services and Facilities
- CF6 Accessibility and Transport

National Planning Policy Framework 2023

Achieving Sustainable Development	Chapter 2
Delivering a Sufficient Supply of Homes	Chapter 5
Promoting Healthy and Sustainable Communities	Chapter 8
Promoting Sustainable Transport	Chapter 9
Achieving Well Designed and Beautiful Places	Chapter 12
Conserving and Enhancing the Natural Environment	Chapter 15

6. CONSULTATIONS CARRIED OUT

Site notice	Expiry date for comments: 6 th June 2024
Neighbour letters	Expiry date for comments: 20 th May 2024
Press Notice	Expiry date for comments: N/A

Neighbours

6.1 7no. objections have been received in connection with this application. Grounds of objection are summarised as follows:

- Lack of parking and turning areas to accommodate required staff
- Impact on highway safety
- Impact on overall character of this residential area
- Noise and disturbance
- Overlooking and privacy
- Health and safety of children near to a busy main road

Town / Parish Comments

6.2 Not relevant

AES Waste

6.3 No comments at time of writing

Environmental Health

6.4 No objections

Derbyshire Childrens Services

- 6.5 We have no concerns and Kedleston already have a children's home (Dovedale House) in Buxton which is an outstanding home and we have found the company to be professional.

Derbyshire Constabulary

- 6.6 No comments received at time of writing

Derbyshire County Council Highways

- 6.7 It is considered that the proposed change of use from residential accommodation to a Children's Care Home on the scale proposed will not have an unacceptable impact on the highway network that would warrant an objection. On this basis, there are no highway authority objections to the application.
- 6.8 There are no changes proposed to the existing access and on site parking provision, However, you may wish to condition that the existing parking provision is conditioned to ensure that this facility remains available for future users of the premises.

7. POLICY AND PLANNING BALANCE

Planning Policies

- 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.

- 7.4 Local Plan policy S1a establishes a presumption in favour of sustainable development as contained at paragraph 11 of the NPPF.

Principle of Development

- 7.5 The application seeks full planning permission for the change of use of the existing dwellinghouse (C3 Use) to a Children's Care Home (C2 Use). The site lies within the built-up area boundary of Buxton, identified as one of the Larger Market Towns under the settlement hierarchy under Local Plan (LP) Policy S2, containing the vast majority of services, facilities, amenities, educational institutions and employment opportunities, and are the focus for housing and economic growth.
- 7.6 LP Policy CF5 refers specifically to the provision and retention of local community services and facilities, and seeks to maintain and improve the provision of such services, achieved (amongst other things) by supporting proposals which protect, retain or enhance existing facilities (which include care homes). Such facilities should be located within defined built-up areas where they are most accessible.
- 7.7 Paragraph 60 of the NPPF states the importance of 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.
- 7.8 Paragraph 97 of the NPPF states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should (amongst other things) should take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community.
- 7.9 Having regard to the above, the principle of the proposed use is acceptable subject to a detailed assessment of all relevant associated planning issues.

Amenity

- 7.10 LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings and protects the amenity of the area, which includes residential amenity of neighbouring properties. Aspects of residential amenity include impacts such as a loss of sunlight, overshadowing and overbearing impacts, loss of outlook, and loss of privacy.
- 7.11 LP Policy EQ10 seeks to ensure that people and the environment are protected from adverse impacts relating to issues including air pollution, noise, light pollution or any other nuisance or harm to

- amenity, by securing appropriate mitigation by way of planning conditions and obligations.
- 7.12 The High Peak Residential Design Guide SPD requires extensions to preserve the residential amenity of neighbouring properties, having regard amongst other things to the relationship between existing and proposed development, the positioning of windows, and the change in land levels.
- 7.13 Paragraph 135 of the NPPF states that planning should create places with a high standard of amenity for existing and future users.
- 7.14 Paragraph 191 of the NPPF states that policies and decisions should ensure that that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. In doing so, they should amongst other things 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.
- 7.15 The application seeks the change of use of an existing residential dwellinghouse to a Children’s Care Home for up to 5no. children residing at the home at any one time, supported by a team of staff that would provide care to the children in a similar manner to a parent (e.g. cooking meals, cleaning, facilitating social and leisure trips, taking children to school etc.).
- 7.16 Objections have been received from local residents that raise concerns in relation to the potential impact of the proposed use on their amenity, specifically with regards to noise, disturbance, overlooking and privacy. Concerns have also been raised with regards to the health and safety of children near to a busy main road.
- 7.17 With regards to overlooking and loss of privacy, no new windows or any other physical extensions or alterations are proposed, and therefore the home would maintain a similar relationship to properties as the existing dwellinghouse. Given that the home would function in a similar manner to a dwellinghouse with regards to the use of communal and ancillary areas including the rear garden, no impacts with regards to overlooking or loss of privacy will occur.
- 7.18 Turning to matters of the health and safety of children, and proximity to a busy main road, it is not considered that this matter holds weight given that the context (i.e. children minded by adults) would not be materially different to that associated with a family dwellinghouse.
- 7.19 Lastly with regards to potential impacts arising from noise, disturbance and anti-social behaviour, the Kedleston Group are a well established care home provider that have the full support and endorsement from Derbyshire County Council Children’s Services. They have strict

policies and procedures in place to ensure that the appropriate type and level of care is provided on site, and that any isolated incidents are controlled and mitigated. It is understood that any such residential home requires a registration process through Ofsted. This process includes staff assessments to ensure that staff are appropriately experienced and trained. Ofsted would be required to carry out inspections of the home. This regulatory process, outside of the planning system, is in place to ensure that such sites operate effectively.

- 7.21 The proposals have also been subject to consultation with the Designing out Crime Officer at Derbyshire Police who has not made any comment.
- 7.22 There is nothing to suggest that children in care will have extreme behavioural problems or cause excessive noise and disturbance. Similarly, some children living in a Class C3 family home environment may have behavioural difficulties or generate excessive noise from music etc. Each child is an individual with their own specific needs. As such, it is considered that the proposed use would not be materially different to a family residing at the existing dwellinghouse and as such, whilst such concerns are acknowledged, they do not amount to a sustainable reasons to refuse planning permission.
- 7.22 In light of the above analysis, it is considered that the proposed use would not result in any harm to the amenity of neighbouring properties or the general public in accordance with LP Policies EQ6, EQ10, the Residential Design Guide SPD, and relevant paragraphs under Chapters 12 and 15 of the NPPF.

Highway Safety

- 7.23 LP Policy CF6 seeks to ensure that development can be safely accessed in a sustainable manner and that all new development is located where it can be satisfactorily accommodated within the existing highway network and provides suitable off-street parking provision in accordance with guidelines set out under Appendix 1 of the Local Plan.
- 7.24 Paragraph 114 of the NPPF states that in assessing applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users.
- 7.25 Paragraph 115 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.26 The application relates to a dwellinghouse that benefits from a relatively modest sized driveway that benefits from two access points to the public highway – a classified A road. Whilst the site is located

1km from the Town Centre, and benefits from only a limited bus service, it is nevertheless within walking distance of the town centre, which includes a number of public car parks and better served public transport hubs including the railway station.

- 7.27 Legitimate concerns which are shared by Officers have been raised by local residents with regards to the potential impacts on highway safety, primarily due to an insufficient level of parking and turning areas within the curtilage to accommodate staff working at the home.
- 7.28 The application was lacking in details of how the home would operate and function. Officers requested that a Parking Layout be submitted that shows how the site will accommodate independent parking spaces which was duly received (Ref: 485-11C).
- 7.29 The Parking Layout shows that a maximum of 3no. independent spaces can be accommodated within the curtilage of the dwellinghouse at any one time (i.e. without blocking each other in, and ensuring that vehicles can turn and exit the site in a forward gear). Officers also requested the submission of a Weekly Staff Rota, in order to demonstrate the time at which vehicle movements entering and exiting the site will be made.
- 7.30 Analysis of the Staff Rota shows that there will be 4 x vehicles on site at any one time throughout the day. In addition, it is not clear what time the member of staff that sleeps in overnight (indicated by 'Sleep'), will depart the site when they are not working the next day (e.g. RCW sleeps in on Tuesday and depart the site Wednesday).
- 7.31 Depending on what time this member of staff departs the site, this could involve 5 x vehicles being on site at any one time. Furthermore, issues are likely to occur at staff 'changeover' (e.g. on Monday, the Deputy Leader finishes at 3pm, with an RCW starting at 3pm). In all likelihood, the Deputy will still be on site when the new member of staff (RCW) arrives, creating further issues. The above does not account for any visitors (e.g. OFSTEAD, parents of children).
- 7.32 In light of the above, Officers have throughout the process had concerns regarding the intensification of the site, and the lack of off-street parking provision, and thus sought clarification from the Highways Authority in relation to their comments and lack of objection, based on further information submitted by the applicant.
- 7.33 Despite Officers continuing to have concerns regarding the intensification of the site, the obvious lack of off-street parking provision to serve the proposed use, and the potential increase in on-street parking in proximity to the site, the Highways Authority have confirmed via informal discussions that their comments stand, and that the lack of off-street parking on site, and any resultant increase in on-street

parking does not result in an unacceptable impact to highway safety and thus there is no conflict with paragraphs 114 and 115 of the NPPF.

- 7.34 As such, whilst there are concerns regarding the intensification of the site, the lack of sufficient off-street parking and turning areas within the site and inevitable awkward manoeuvrability onto the (classified A road) public highway, the lack of objection from the Highways Authority means that any reason for refusal on grounds of highway safety are unlikely to be sustained at appeal.
- 7.35 Thus in conclusion, it is considered that in the absence of any objection from the Highways Authority, it cannot be evidenced that the application is in conflict with Paragraphs 114 and 115 of the NPPF or LP Policy CF6 and thus the Council have no sustainable grounds to refuse the application in relation to matters of highway safety.

Other Matters

Nutrient Neutrality

- 7.36 The site lies within the catchment of the River Wye which forms the Peak District Dales Special Area of Conservation (SAC). The Council has been notified that action must be taken to address exceedances of phosphorus in the River. As such, the Council cannot grant consent for development unless it can rule out “likely significant effects” on the SAC. A Habitats Regulations Assessment (HRA) will be required when the plan or project creates a source of water pollution or has an impact on water quality and when it is within the catchment of the SAC. Initially, a screening assessment will be required to consider if “likely significant effects” (alone or in-combination) on the SAC can be ruled out. If not, this will be followed by an “Appropriate Assessment” where the impact of the plan or project is considered in detail.
- 7.37 The proposal is not directly connected with or necessary for the conservation management of a European site. Given that the proposed use does not result in the introduction of any additional bedrooms, and does not introduce any new physical development, the proposal will not increase overnight stays or surface water run-off from the site. Therefore it will not risk having a significant negative effect on the SAC either on its own or in combination with other proposals and therefore it is not necessary to carry out an Appropriate Assessment.

Planning balance & Conclusion

- 7.38 LP Policy S1a reflects the presumption in favour of sustainable development contained within the National Planning Policy Framework.
- 7.39 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date development

plan without delay; or, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission, unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

7.40 The application seeks full planning permission for the proposed change of use of an existing dwellinghouse (C3 Use) to a Children's Care Home, providing social care for up to 5no. children at any one time supported by a team of staff. The site lies within the built-up area boundary of Buxton and is not constrained by any sensitive statutory designations.

7.41 As set out above, the proposed use would support the aims and objectives of Local Plan Policy CF5 and relevant paragraphs relating to the delivery of housing and promoting healthy and sustainable communities contained within the NPPF. The principle of development is therefore supported.

7.42 No objection has been received from Derbyshire County Council Children's Services, Environmental Health, and Derbyshire Constabulary, Whilst concerns of residents are noted 'potential' behavioural difficulties of individual children and any associated noise or disturbance are not material planning considerations, as these could be experienced in respect of the existing use as a C3 dwellinghouse and the impact would not be materially different. As such, for the reasons set out within this report, it is judged that the proposed use would not result in any harm to public or residential amenity, in accordance with LP Policies EQ6 and EQ10, and relevant paragraphs contained under Chapter 15 of the NPPF.

7.43 Turning to matters of parking provision and highway safety, it is clear that the proposed change of use would be materially different in terms of highway impact and traffic generation to that of a dwellinghouse, which explains why full planning permission has been sought.

7.44 The Highways Authority responded with a brief response confirming that the proposed use and associated parking and movements do not result in any harm to highway safety. In light of comments from neighbouring residents and a Ward Councillor, Officers have challenged this position, particularly in light of evidence being submitted in the form of a Parking Layout and Weekly Staff Rota which makes clear that there is insufficient space to facilitate the minimum level of parking provision to support the operations of the Care Home.

7.45 However, informal discussions with the Highways Authority have confirmed that their position remains unchanged. As such, it the case that whilst Officers continue to have concerns regarding the intensification of the site and potential impacts on highway safety, and potential for an increase in on street parking to occur, the absence of any objection from the Highways Authority means that there are no sustainable grounds to refuse the application on grounds of highway safety, having regard to Paragraphs 114 and 115 of the NPPF or policy CF6 of the Local Plan .

7.46 As such, there is no conflict with all Local Development Plan policies and relevant paragraphs contained under the NPPF, and the application is thus considered to amount to a sustainable form of development. In line with LP Policy S1a and paragraph 11 of the NPPF the application is recommended for approval subject to appropriate conditions.

8. RECOMMENDATIONS

A. APPROVE subject to conditions as follows;

1. *Time Condition 3 years*
2. *Approved Plans*
3. *Home shall at all times be permanently occupied by a maximum of 5no. Children for the lifetime of the development*

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/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of 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 187 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.

