

**APPLICATION REPORT – FUL/353462/24**  
**Planning Committee 11<sup>th</sup> December 2024**

Registration Date: 23 September 2024  
Ward: Shaw

Application Reference: FUL/353462/24  
Type of Application: Full application

Proposal: Change of use from residential (Use class C3) to residential children's home (Use class C2)

Location: 3A Underwood Way, Shaw, Oldham, OL2 8LF

Case Officer: Abiola Labisi  
Applicant: Safe Children's Care Limited Safe Children's Care Limited  
Agent: Mr. Smith

## **1. INTRODUCTION**

- 1.1 The application has been referred to Planning Committee by the Assistant Director for Planning, Transport, and Housing Delivery given the significant public interest generated by the publicity given to the application.

## **2. RECOMMENDATION**

- 2.1 It is recommended that the application be approved subject to the conditions set out in this report and that the Assistant Director of Planning, Transport and Housing Delivery shall be authorised to issue the decision.

## **3. SITE DESCRIPTION**

- 3.1 The site comprises a large detached dwellinghouse close to the junction of Underwood Way with Hillside Avenue, Shaw. It is located within a mature residential area and the general area is undulating in topography.

## **4. THE PROPOSAL**

- 4.1 The application proposes the change of use of the property from a dwellinghouse (which falls within Use Class C3 of the Town and Country Planning Act 1990) to accommodate up to three children (aged 7 – 17) who are in the care system and require a stable home environment. The applicant considers the proposed use to fall within Use Class C2 (Residential Institution) and has made the application on this basis.
- 4.2 Other legislation and regulations must also be complied with to enable the use to proceed including the requirements of The Care Standards Act 2000 (Registration) (England) Regulations 2010, the Children's Homes (England) Regulations 2015, and the Children's Homes and Looked After Children (Miscellaneous Amendments)

(England) Regulations 2013. The applicant has explained that Ofsted are the responsible body for registering and monitoring care homes in accordance with these regulations. However, for the avoidance of doubt, this current application is made for planning permission under the provisions and requirements of the Town and Country Planning Act 1990.

- 4.3 No extensions are proposed to the property, which currently provides four bedrooms. The proposal involves utilising one of these bedrooms as a staff rest room (with overnight sleep-in shifts) and an existing study on the ground floor would be repurposed to provide a staff office to monitor the main entrance to the property. It is expected that three full-time members of staff would be present during the daytime and between one and three staff would be present at night. In addition, a Home Manager would attend the property occasionally, and there may be occasional visits from social workers and Ofsted inspectors.
- 4.4 Any therapy requirements for the children would generally take place off-site.

## 5. PLANNING HISTORY

- 5.1 There is no relevant planning history.

## 6. RELEVANT PLANNING POLICIES

- 6.1 The Places for Everyone (PfE) Plan and related documentation took effect and became part of the statutory development plan on 21 March 2024.
- 6.2 The PfE Plan must now be considered in the determination of planning applications, alongside Oldham's Joint Core Strategy and Development Management Development Plan Document (Joint DPD), adopted November 2011, in accordance with the National Planning Policy Framework (NPPF).
- 6.3 As such, the following policies are considered relevant to the determination of this application:
- Places for Everyone Policy JP-P1 (Sustainable Places);
  - Local Plan Development Management Policy 2 (Communities); and,
  - Local Plan Development Management Policy 9 (Local Environment).

## 7. CONSULTATIONS

Highways	No objections subject to imposition of a condition requiring cycle parking facilities to be provided.
Environmental Health	No objections
Community Safety Team	Raised no objection as they are not aware of any issue of concern in the area.

## **8. PUBLICITY AND THIRD-PARTY REPRESENTATIONS**

- 8.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015, and the Council's adopted Statement of Community Involvement, the application has been advertised by means of neighbour notification letters, as well as the display of a notice on the site.
- 8.2 In response, a total of 104 representations have been received to the application – one in support of the application and the rest raising the following (summarised) planning-related concerns about the proposals:
- Close to adjoining properties (addressed within para. 10.4)
  - Loss of privacy (addressed within para. 10.4)
  - Noise nuisances (addressed within paras. 10.3 and 10.10)
  - Out of keeping with the character of the area (addressed within paras. 9.7, 9.8, 10.2 and 10.10)
  - Anti-social behaviour including crime and vandalism would result (addressed within paras. 10.7 – 10.9)
  - Increase in traffic (addressed within paras. 11.2 – 11.4)
  - Inadequate parking facilities (addressed within paras. 11.2 – 11.4)
  - Conflict with local plan policies (addressed within paras. 9.5 – 9.9)
  - Inadequate public transport options (addressed with paras. 11.2 – 11.4)
  - Inadequate access (addressed within paras. 11.2 – 11.4)
  - Unsafe for pedestrians (addressed within paras. 11.2 – 11.4), and,
  - Places strain on existing facilities in the area (addressed within paras. 10.2 and 10.10)
- 8.3 Other issues raised by objectors have included matters which are not material planning considerations, for example the impact of the proposal on the value of existing properties in the area causing problems for those wishing to sell their properties. As these are not material planning considerations, they will not be addressed in this report.

## **ASSESSMENT OF THE PROPOSAL**

### **9. PRINCIPLE**

- 9.1 Local Plan Policy 2 (Communities) explains that development should contribute towards sustainable communities and should not undermine community cohesion. It states that the council will support proposals for new and improved community facilities that meet an identified need. For the purposes of this policy a children's home is regarded as a 'community facility'.
- 9.2 Policy 2 requires that when considering applications for community facilities they should contribute towards community cohesion and regard should be given to the following objectives:
- a) people share a sense of belonging and a common identity;
  - b) people are strong in their own identities and respect others;
  - c) a more equal borough;
  - d) people relate to each other;

- e) people play their part; and,
- f) resilience to threats and conflict.

- 9.3 The applicant's supporting statement explains that the provision of residential childcare for children is largely delivered in the UK through homes of six or less children and that Ofsted (the regulator) identified in their report entitled 'Children's Social Care in England 2019' that the provision of homes has not kept pace with demand and that children's homes providing care for between 3-4 children were the most common form of children's home in England as of March 2019. Care homes for between 1-2 children are the third most common type of care home (behind homes for 5-6 children) and therefore provide a substantial contribution to the overall care home provision. This trend recognises the best practice objectives of residential care homes in replicating a 'normal' domestic household environment.
- 9.4 Paragraph 97 of the National Planning Policy Framework explains that planning policies and decisions should, amongst other things, ensure an integrated approach to considering the location of community facilities and services.
- 9.5 Having regard to the small-scale nature of the proposed use it is considered that the principle of the change of use is acceptable in this location. The property would operate largely in the same way as a traditional dwellinghouse, albeit with some additional comings and goings due to the need for staff to be present at the property. For the children who would reside in the property on a permanent basis (short-term), it would essentially create a home environment within an established residential area.
- 9.6 However, in a High Court judgement of *North Devon DC v FSS & Southern Childcare Ltd* [2003] it was concluded that children cannot form a single household, and that carers who provide 24-hour care, but are not themselves resident, cannot be regarded as part of the household. For this reason, the use could **not** fall within Use Class C3 as a "dwellinghouse".
- 9.7 However, notwithstanding this, in many cases such a proposed change of use from C3 to a C2 small Children's Home is not considered to require planning permission. This is because in that same High Court judgement, the Court agreed that the Planning Inspector was right to then go on to consider whether the proposal involved a **material** change of use for which planning permission would be required. In his opinion, the house and its curtilage would retain the look and character of neighbouring houses and a normal residential dwelling. The use and associated activity, including comings and goings of care workers, would be unlikely to cause a greater level of disturbance or amenity harm than could be expected by a C3 use. In his view, no material change of use would occur.
- 9.8 The above position appears to be echoed in a recent Ministerial Statement from Rachel Maclean (Minister of State for Department for Levelling up, Housing and Communities in March 2023) who stated:

*"Planning permission will not be required in all cases of development of children's homes, including for changes of use from dwelling houses in class C3 of the Town and Country Planning (Use Classes) Order 1987 where the children's home remains within class C3 or there is no material change of use to class C2. An application to the local planning authority can be made for a lawful development certificate to confirm whether, on the facts of the case, the specific use is or would be lawful. Where a certificate is issued, a planning application would not be required for the matters specified in the certificate."*

9.9 Having regard to the aforementioned Policy 2, the requirements of the NPPF, and having given weight to the potential fallback position that planning permission is unlikely to be required in this case for the same reasons, it is considered that the principle of the proposed development (change of use) is acceptable in this case.

## 10. RESIDENTIAL AMENITY

10.1 Local Plan Policy 9, amongst other things, requires that development should protect and improve local environmental quality and amenity by ensuring development:

- is not located in areas where it would be adversely affected by neighbouring land uses;
- does not have an unacceptable impact on the environment (including noise);
- does not cause significant harm to the amenity of the occupants and future occupants of the development;
- does not cause significant harm to the amenity of the occupants and future occupants of neighbouring properties through impacts on privacy, safety and security, noise, pollution, the visual appearance of an area, access to daylight or other nuisances.

10.2 Whilst the proposal is for a children's care home, the nature and scale of the proposal is akin to a residential use and as such, it is considered that the proposal would be compatible with existing neighbouring uses without causing any significant adverse impact on the residential character of the area. Notwithstanding the change of use, it is considered that the scale of the proposed development would not lead to any significant additional demand on existing facilities and amenities in the area. It should be noted that a dwellinghouse with no control on the number of occupants could generate a higher demand on local amenities than the proposed small-scale children's care home.

10.3 The scale of the proposal would also minimise any potential noise disturbance issue and, significantly, the Council's Environmental Health Officers have not raised any concerns relating to likely noise disturbances.

10.4 As the proposal does not include any significant external alterations to the building, it is therefore considered that, notwithstanding its proximity to neighbouring properties, the proposal would not result in any additional overbearing or overshadowing impact that would exceed what currently exists. In the same vein, there would not be any additional overlooking impact or loss of privacy that would be significantly worse than the current situation.

### *Community Safety:*

10.5 In relation to community safety, Local Plan Policy 9 also requires that the Council will promote community safety by ensuring that development:

- i) Minimises opportunities for crime;
- ii) Reduces the fear of crime; and,
- iii) Provides for the safety and securing of all sections of the community.

10.6 Within this context, it is noted that a number of objectors have suggested that the proposed use would increase anti-social behaviour in the area including vandalism.

- 10.7 There are 30 small children's homes functioning in residential areas across the borough that operate largely without issue. Clearly, it is the way in which the property is managed which is important in this regard, but it is unjust to suggest or imply that a children's home will directly result in an increase in anti-social behaviour in the area. There would be just as much chance of anti-social behaviour being generated by the occupants of a C3 dwellinghouse (the existing use of the property in question). In fact, because a children's home is subject to Ofsted inspection, the operators are more likely to do all they can to resolve any issues of anti-social behaviour that do arise, compared to a private dwellinghouse where the perpetrators of any anti-social behaviour are the owners / tenants of the property or their family members.
- 10.8 The Council's Community Safety Team have been consulted on the application and they have advised that they are unaware of any particular community safety issue of concern in the area. Significantly, the Community Safety Team have further provided that the Neighbourhood Policing team have limited reports of criminality and there is nothing to suggest that vulnerable juveniles would be targeted or exposed to child-related criminal activities if housed in the area.
- 10.9 Having regard to the foregoing, it is considered that the proposal would be unlikely to lead to any unacceptable community safety issues.
- 10.10 Finally, to further ensure that the proposal does not lead to unacceptable impact on the character of the area, or on the residential amenity of the occupiers of neighbouring properties, relevant planning conditions restricting the use of the property to a children's care home only, and not for any other use within Use Class C2, should be attached to any grant of permission. In the same vein, conditions restricting the number of children to be accommodated within the facility as well as number of carers working on site should be attached.

## 11. HIGHWAY SAFETY

- 11.1 Local Plan Policy 9 requires, amongst other things, that development (which includes a change of use) does not harm the safety of road users.
- 11.2 The property has an existing driveway for several vehicles to park and there are no restrictions for on-street parking in the vicinity. Whilst it is recognised that there may be a small additional demand for parking due to the need for staff to be present, this additional demand would not itself result in a **severe** impact on the function of the highway network, which is the relevant test set out in paragraph 115 of the National Planning Policy Framework.
- 11.3 The Council's Principal Highway Engineer has been consulted on the application and considers that the proposed development is in a sustainable location with excellent links to public transport, opportunities for walking and cycling, and access to a wide range of amenities. They also consider that there will be no significant additional traffic generation or demand for parking to the detriment of highway safety.
- 11.4 As such, it is considered that the additional traffic or demand for parking would not result in materially harmful impacts on the existing highway network.

## **12. CONCLUSION AND RECOMMENDATION**

- 12.1 The proposal accords with the objectives of both the Local Plan and the NPPF and as such is recommended for approval, subject to the following conditions:

## **13. CONDITIONS:**

1. The development must be begun not later than the expiry of THREE years beginning with the date of this permission. REASON - To comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby approved shall be fully implemented in accordance with the Approved Details Schedule list on this decision notice. REASON - For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and specifications.
3. The use of the development hereby approved shall not commence until a scheme for the provision of secure cycle parking has been implemented in accordance with details which shall have previously been submitted to and approved in writing by the local planning authority. The approved facility shall remain available for users of the development thereafter. Reason – In order to promote sustainable means of travel having regard to Policies 5 and 9 of the Oldham Local Plan.
4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order, 1987, as amended, the property shall only be occupied as a Children's Care Home only and shall not be used for any other purpose, including any other Class C2 use without planning permission having been obtained from the Local Planning Authority. REASON - In order to protect the character of the area and the amenity of the occupiers of neighbouring property, in accordance with Policy 9 of the Oldham Local Plan.
5. There shall be no more than three children residing in the children's home hereby approved at any point in time. REASON - In the interest of the amenity of the occupiers and that of neighbours, as well as the character of the area, in accordance with Policy 9 of the Oldham Local Plan.
6. There shall be no more than three carers working on site at any point in time. REASON - In the interest of the amenity of the occupiers and that of neighbours, as well as the character of the area, in accordance with Policy 9 of the Oldham Local Plan.
7. The carers shall not use the property as their principal residence but rather only as their place of work. REASON - In the interest of amenity in accordance with Policy 9 of the Oldham Local Plan.

**SITE LOCATION PLAN (NOT TO SCALE):**

