

Report of the Chief Executive

APPLICATION NUMBER:	21/00694/FUL
LOCATION:	5 Highbury Close Nuthall Nottinghamshire
PROPOSAL:	Change of use from C3 to C2 to accommodate up to two residents

This application has been called to Planning Committee by Councillor P J Owen.

1 Executive Summary

- 1.1 The application seeks planning permission for the change of use of 5 Highbury Close Nuthall from C3 (dwellinghouse) to C2 (residential care home). The use will see the provision of children in care accommodation setting for up to two children aged between 7-16 years-old and two staff regularly working and sleeping at the property and one additional member of staff during the day time (if required) on a 24-hour basis, 365 days per year.
- 1.2 The dwelling is currently used for supported accommodation and it is understood that there is one carer at a time on site for one 16-18-year-old, covering on a 24-hour basis. There are no external changes proposed to the dwelling, but the dwelling will have three bedrooms and an office on the first floor.
- 1.3 The two storey detached four-bedroom dwelling is within a cul de sac location and within an established residential development.
- 1.4 The main issues relate to whether the principal of the change of use is acceptable, if there would be any unacceptable impact on neighbour amenity and on highway safety.
- 1.5 The benefits of the proposal are the provision of targeted accommodation to benefit the younger children in care, to be cared for in a home setting and in compliance with policies contained within the development plan.
- 1.6 The Committee is asked to resolve that planning permission be granted subject to conditions outlined in the appendix.

APPENDIX

1 Details of the Application

- 1.1 The application seeks to change the use of a dwelling from C3 (dwellinghouse) to C2 (residential care home). The type of care will be the provision of children in care accommodation setting for up to two children aged between 7-16 year-old and two staff regularly working/sleeping at the property and one additional member of staff during the day time (as and when required) providing 24-hour cover, 365 days per year.
- 1.2 For clarification, the children will be carefully selected in consultation with the Local Authorities and would be between the ages of 7-16 years. The carers of the children will not be permanent residents, but would work on a shift pattern, with emphasis on creating a family environment by preparing and eating meals together, supporting the children to attend school/college and services around the area.
- 1.3 For clarification there will be a maximum of five people at the property, two children (residents), two members of staff and one registered manager. The agent has confirmed the shift pattern will be 8am – 10pm and 10pm – 8am.
- 1.4 The agent has amended the application forms/signed certificate B and served notice on the owner of the dwelling, this is to ensure the correct procedures are followed in line with Town and Country Planning (General Development Procedure) Order 1995 under Article 7.
- 1.5 During determination of the application a site notice was displayed within the cul de sac to ensure clarity and ensure the wider community were made aware of the application.

2 Site and surroundings

- 2.1 5 Highbury Close is set within a cul de sac location within an established residential development. The dwelling is a two storey four-bedroom dwelling with an enclosed rear garden and an attached double garage with off road parking to the principal elevation, for two vehicles.
- 2.2 The cul de sac consists of two storey detached dwellings with off road parking to the principal elevation and a small lawn area to the frontages.

3 Relevant Planning History

- 3.1 No relevant planning history post 1974 for this site.

4 Relevant Policies and Guidance

4.1 **Greater Nottingham Aligned Core Strategies Part 1 Local Plan 2014:**

- 4.1.1 The Council adopted the Core Strategy (CS) on 17 September 2014.

- Policy A: Presumption in Favour of Sustainable Development
- Policy 10: Design and Enhancing Local Identity

4.2 Part 2 Local Plan 2019:

- Policy 17: Place-making, design and amenity

4.3 National Planning Policy Framework (NPPF) 2021:

- Section 2 – Achieving Sustainable Development.
- Section 4 – Decision-making.
- Section 12 – Achieving well-designed places.

5 Consultations

5.1 Nuthall Parish Council – objects to the application. Significant increase in traffic in a quiet residential area, inappropriate business use and loss of amenity for residents.

5.2 Four properties either adjoining or opposite the site were consulted and a site notice was displayed. A total of 43 objections have been received and one objection letter is from a Planning Consultant representing all the residents of Highbury Close and Stanmore Close. The objections can be summarised as follows:

- Concerns with regards to the accuracy and level of detail provided in the application;
- The application does not reflect the reality of what has been taking place at the property;
- Concerns regarding amenity of local residents in respect of safety, security, access and parking
- Procedurally certificate A has been signed on the application forms and as Berry Gifford doesn't own the house certificate B should be signed;
- Planning Practice Guidance states that the application is not valid unless the relevant certificate has been completed;
- Lack of transparency in the application form, Berry Gifford website states they support older individuals than the application;
- Lack of information;
- This should be a retrospective application as the dwelling has been used for 9 months for older children/teens/adults;
- Antisocial behaviour; noise issues
- Vermin infestation due to the bins not being taken out;
- Security and safety;
- Undermine quality of life and community cohesion which is contrary to para 130 of the NPPF;
- Access and amenity issues;
- Ofsted report submitted for a different home run by Berry Gifford Ltd
- Set a precedent for other houses close by to be used as C2 uses;
- Question the skill set, ability and legal parameter for controlling the residents;

- The applicant has shown disregard for due process;
- Running a business is not allowed in deeds;
- Loss of house value;
- Lack of notification, site notice/neighbour notification
- Has the house been altered to accommodate this use;
- Lack of maintenance of the property.

5.3 The application form has been amended and notice served on the owner of 5 Highbury Close. A re consultation has taken place and further objections were received raising no new grounds of objection to those recorded above.

6 Assessment

6.1 The main issues for consideration are the principle of change of use and whether the proposal would have an impact on neighbour amenity or on highway safety.

6.2 **Principle**

6.2.1 The proposed use of the building is modest in size (that is, number of occupants / users) and retains the residential nature of a dwelling. As such, subject to the matters below, is considered to be acceptable in principle.

6.3 **Amenity**

6.3.1 Policy 17 of the Part 2 Local Plan states that for all new development, permission will be granted for development which integrates into its surroundings, provides sufficient, well- integrated parking, and safe and convenient access and ensures satisfactory degree of amenity for occupiers of new development and neighbouring properties.

6.3.2 Policy 10 of the Local Plan Part 1 states that new development should create an attractive, safe, inclusive and healthy environment.

6.3.3 Paragraph 130 of the NPPF states that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. It continues to state creating places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

6.3.4 The application does not propose any external changes to the dwelling but to change the use from C3 to C2 and on this basis there would not be any issue with loss of light and overlooking.

6.3.5 It is clear from the amount of representations received there are significant concerns regarding the potential for loss of amenity, safety and crime.

6.3.6 Concerns have been raised about the coming and goings of staff and the potential for noise and disturbance to the neighbours and wider cul de sac. The

change of staffing during the 24-hour period would be that similar to C3 use and is considered to have no more of an impact than a traditional C3 dwelling.

6.3.7 Safety and security concerns have also been raised in the letters of objection. The type of development is small scale, being a maximum of two children and three staff members on a 24-hour rota, the dwelling will have the appearance of a traditional house with a secure enclosed rear garden to ensure a safe environment for the children.

6.3.8 In regard to the use, the nature of the use as a residential care home for up to two children aged between 7 to 16 years would not significantly differ compared to the current use as a dwelling, where it may be expected for a family including children of this age to reside and as such it is considered that there would not be any significant impact in terms of increase in noise and disturbance sufficient to warrant a refusal for the occupiers of neighbouring dwellings or to the wider area.

6.4 Access/Highway Safety

6.4.1 The dwelling has two attached garages with off road parking for two cars. The change of use from a dwelling to a residential care home for two children would not generate any additional demand for parking over and above the current use as a dwelling. As such it is considered that the proposed use would not result in a detriment to highway safety or result in inconvenience to local residents in terms of parking.

6.5 Other Matters

6.5.1 The point raised about the application form being incorrect due to the incorrect certificate being signed has been addressed. The agent has served Notice on the owner of the dwelling and amended the application forms accordingly.

6.5.2 The issue of vermin has been raised and the applicant has provided a certificate from an approved business to check for evidence, of which there was none at the time of the inspection. It should be noted this is not a material consideration in determination of the application and other legislation covers this.

6.5.3 The running of a business from the address is not allowed, as specified on the deeds for the dwellings was raised as an objection, again this is not a material planning consideration and the objectors should seek advice regarding this matter, under other legislation.

6.5.4 The lack of maintenance and the potential to have a detrimental impact on house values are again not a material planning consideration in determination of the application.

6.5.5 The issue of the current use and applying retrospectively has been raised by objectors. It should be noted the Local Planning Authority cannot penalise applicants/agent for applying retrospectively. Notwithstanding this, the current use is for older children and would not require formal planning permission to use the C3 dwelling for older children/teenagers, being permitted development, in the same use class. The only reason formal planning permission has been applied

for is due to the ages of children being classed as minors (that is, cannot legally be able to look after themselves).

- 6.5.6 The points raised about the Ofsted report for other Berry Gifford and the ability to control the service users are not a material consideration in determination of the application.
- 6.5.7 The point raised about setting a precedent for other dwellings to be used as C2 use has been raised by several objectors. As with all applications submitted to the Local Planning Authority, each site is assessed on their own merits and determined on this basis and the granting of planning permission for this proposal would not, therefore, be considered to set a precedent.

7 Planning Balance

- 7.1 The benefits of the proposal are that the care home would enable more targeted service provision in a home setting for the benefit of children aged between 7–16 years old and should the use no longer be required the dwelling could revert back to the C3 use without recourse to major alterations.
- 7.2 The negative impacts are the increase in coming and goings to the dwelling, however it is considered that these are not significantly over the above that which would be which would be experienced if the dwelling was in C3 use and are not considered sufficient to outweigh the positives.
- 7.3 On balance, it is considered that, for the reasons above, the negative impacts would not outweigh the benefits of the proposed development and that planning permission should be granted.

8 Conclusion

- 8.1 Grant planning permission subject to conditions. The proposal is in accordance with the aims of Policies A and 10 of the Broxtowe Aligned Core Strategy (2014) and Policies 17 of the Broxtowe Part 2 Local Plan (2019).

<u>Recommendation</u>	
The Committee is asked to RESOLVE that planning permission be granted subject to the following conditions.	
1.	The development hereby permitted shall be commenced before the expiration of three years beginning with the date of this permission. <i>Reason: To comply with S91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.</i>
2.	The development hereby permitted shall be carried out in accordance with proposed floor plan received 16 August 2021 and application form received 1 October 2021.

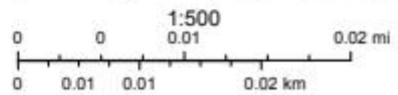
	<i>Reason: For the avoidance of doubt.</i>
	NOTES TO APPLICANT
1.	The Council has acted positively and proactively in the determination of this application by working to determine it within the agreed determination timescale.

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 Site



Photographs



Principal elevation



Rear elevation

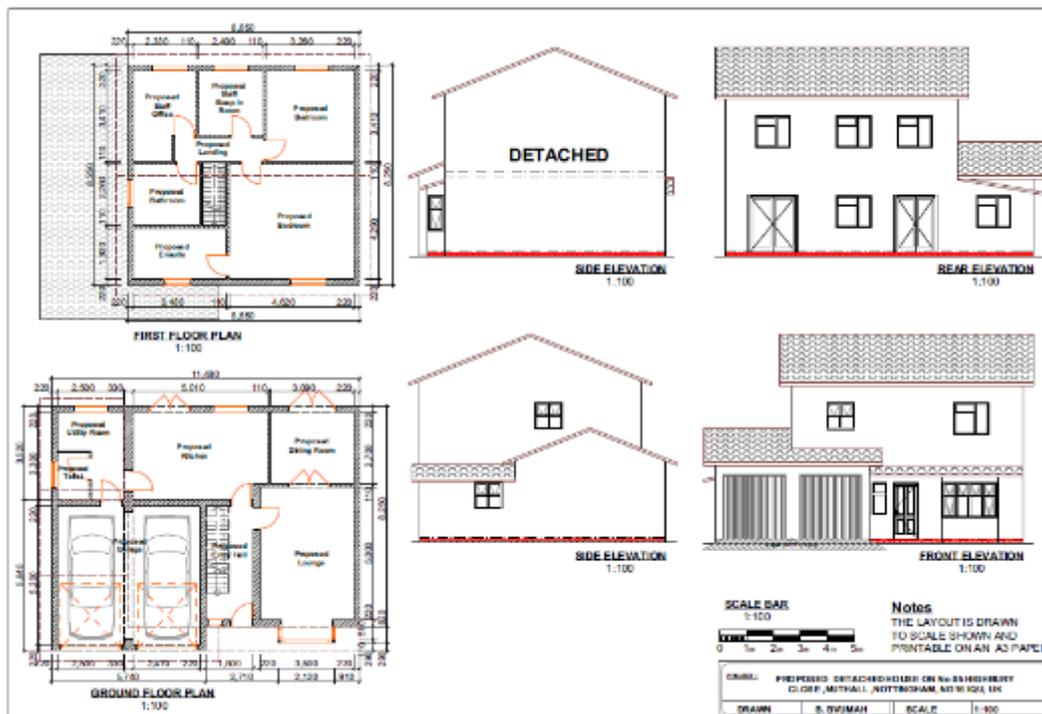


Dwellings to the rear

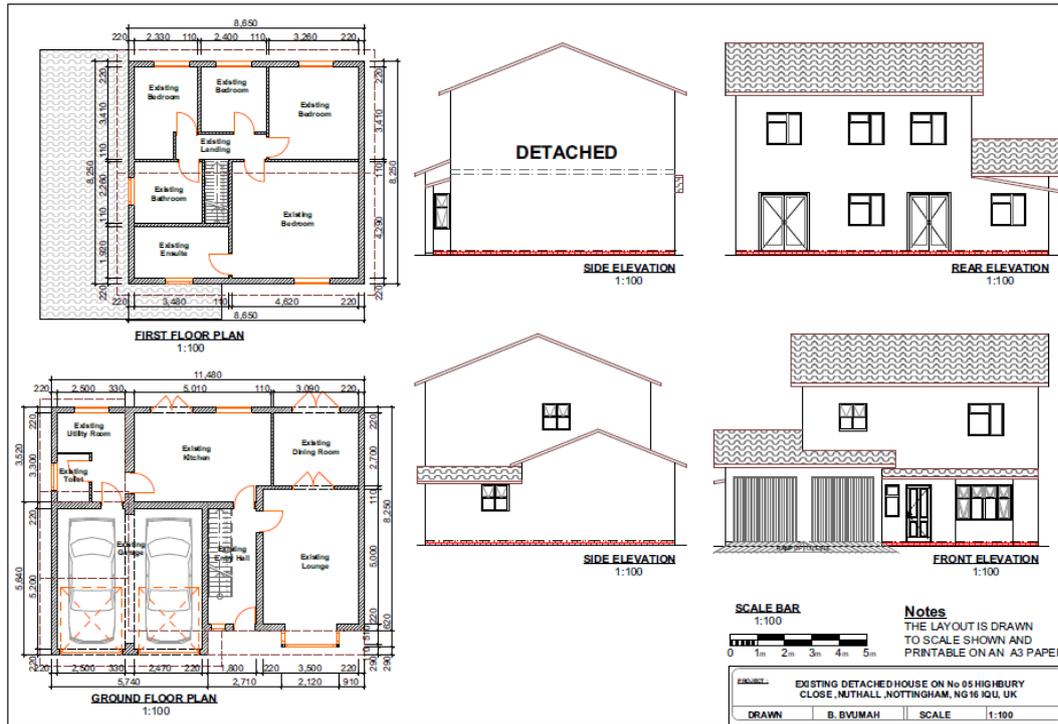


Site notice displayed

Plans (not to scale)



Proposed plans – internal layout changed only



Existing layout of four-bedroom dwelling