

**PLANNING
COMMITTEE**

12th September 2024

Planning Application 24/00631/FUL

Change of use from C3 (Dwellinghouse) to C2 (Residential Institution) following previous approval (20/00947/FUL)

Land At Battens Close, Redditch, Worcestershire, B98 7HY

**Applicant: Mr J. Bhogal
Ward: Greenlands and Lakeside**

(see additional papers for site plan)

The case officer of this application is Charlotte Wood, Planning Officer (DM), who can be contacted on Tel: 01527 64252 Ext 3412 Email: Charlotte.Wood@bromsgroveandredditch.gov.uk for more information.

Site Description

The application site is a long, rectangular piece of land, which is accessed off Battens Close. The proposal site comprises of a long driveway, which runs adjacent to a row of garages, and two recently constructed semi-detached properties which face north east and have parking areas to the front and garden areas to the rear. To the north of the site there are open playing fields belonging to St Bede's Catholic Middle School. Directly to the south of the site are the rear private gardens belonging to the properties along Southcrest Road.

The site lies to the south east of, and is in close proximity to Redditch Town centre. It is located within the urban area of Redditch indicated as white land on the proposals map and is primarily residential in character, comprising mainly of two storeys with dwellings set back from the highway behind parking and garden areas.

Proposal Description

Following consideration at planning committee, planning permission was granted in November 2020 (planning reference: 20/00947/FUL) for the construction of two dwellings on the application site. Prior to this, the site was predominantly undeveloped scrub land. The buildings have now been constructed; however, it has been confirmed that the properties have not yet been occupied.

The current application seeks the change of use of these properties from C3 dwellinghouses to C2 residential institutions to allow full-time care to be provided to children who require assistance for emotional and behavioural disorders (EBD). It has been clarified during the application process that a maximum of four children would live across the two properties and their ages would range from 7 to 17 years. Children would be split according to gender.

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Members should note that the proposal description, as submitted, referred to a change of use from C3 dwellinghouses to C2A secure residential institutions. An updated supporting statement was received on the 13th August which stated that the reference to “C2A secure residential institutions” was in error and the proposal description should have read “C2 residential institutions”. The updated statement also included new information with regards to how the care service would operate.

It has further been clarified that no external changes are proposed for the previously approved dwellings and that the internal floor plans would also remain as previously approved under planning reference 20/00947/FUL.

Relevant Policies :

Borough of Redditch Local Plan No. 4

Policy 1: Presumption in Favour of Sustainable Development

Policy 2: Settlement Hierarchy

Policy 20: Transport Requirements for New Development

Policy 39: Built Environment

Policy 40: High Quality Design and Safer Communities

Others

National Planning Policy Framework

National Planning Practice Guidance

Redditch High Quality Design SPD

Relevant Planning History

20/00947/FUL	Proposed two dwellings with associated parking and amenity facilities	Granted	12.11.2020
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Consultations

Worcestershire County Council Highways

No objection to the proposal following amendments to the proposed parking layout. The site lies in a sustainable location with an existing vehicular access with good visibility. The proposal complies with the Streetscape Design Guide in terms of parking provision.

Conditions have been recommended for the access, parking and turning facilities to be provided on site, for the first 5 metres of the access to be surfaced with a bound material, for cycle storage to be provided on site and for an employment travel plan to be provided.

Worcestershire Regulatory Services - Noise

No objection. The small-scale residential institution seeks to replicate domestic living. Whilst similar uses have given rise to isolated noise complaints, the degree of the impact depends on the degree of control and supervision exerted over residents by staff rather than the use being an inherently noisy activity requiring isolated locations.

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Cadent Gas Ltd

No objection. An informative is recommended to remind applicant of their legal responsibilities and to advise them to contact Cadent in prior to carrying out the works.

Public Consultation Response

35 neighbour letters were sent and a site notice was erected in order to publicise this application. Following amendments to the proposal description and receipt of an updated supporting statement, neighbour letters were re-sent, and a new site notice was erected.

In response to publicising the application, 25 individuals have submitted letters of objection in relation to the proposal. Some individuals have submitted multiple representations. Further to this, a petition containing 35 names and signatures in objection to the proposal has also been received. The representations collectively raised the following concerns:

- Increased traffic
- Unsuitable access
- Insufficient parking
- Noise impacts
- Loss of privacy
- Risk of crime/safety/anti-social behaviour
- Future use of the properties
- Loss of houses for families which are needed in Redditch
- Wrong location for development type
- Lack of outdoor space for children

A number of other issues have been raised which are not material planning considerations and therefore have not been reported in this section.

Assessment of Proposal

Whether a Material Change of Use has Occurred

Development is defined in Section 55 of the Town and Country Planning Act 1990 as the carrying out of building, engineering, mining or other operation's in, on, over or under land; or the making of any **material** change in the use of any buildings or land.

Where activity results in a material change of use of a building to a use falling within a different use class, then planning permission will be required. Depending on the circumstances of each case, a children's care home will either fall into a C2 or C3 use classification.

- Class C2 of the Town and Country Planning (Use Classes) Order as amended refers to "use for the provision of residential accommodation and care to people in need of care".

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- Class C3(b) of the Town and Country Planning (Use Classes) Order as amended refers to “use as a dwelling house by not more than six residents living together as a single household, (including a household where care is provided for residents).”

As the current use class of the properties subject to the application is C3 (dwellinghouses), the starting point is to first establish, as a matter of fact and degree, whether the proposal would constitute a change of use from C3 to C2. If a children’s home was being run on the basis of children being looked after by a permanent occupant of the dwelling, there would be no change of use and therefore no requirement for planning permission. This is regardless of whether the individuals living together are related as family members. However, if care is provided on a shift pattern basis, it is likely that a change of use from C3 to C2 will occur.

Notwithstanding the above, it should further be noted that a change of use from C3 to C2 may not amount to a **material** change of use and therefore may still not amount to development which requires planning permission. If there is no material difference in activity to that which may be anticipated in the case of a dwellinghouse, and no greater level of disturbance or amenity impact, then no **material** change of use has occurred.

The issue of whether or not a **material** change of use has occurred will ultimately be a matter of fact and degree in each individual case. The key issues are the numbers of residents involved, whether or not staff work shift patterns or have a permanent residence at the site and the materiality in planning terms of any change of use.

With regards to the current proposal, it has been established that there would be two children in each house and there would be a maximum of two staff on duty at each property at any one time during the day and also during the night. Whilst there would be staff on duty 24 hours a day and 7 days a week, there would be no staff living at the property. Staff would therefore operate on a shift pattern basis, with day shifts taking place between 8am-8pm and night shifts operating between 8pm-8am. The duties of the support workers would be similar to those of parents living with a child. Such duties would include taking them to and from school as well as social activities and also making sure they attend appointments, such as doctors and dentist appointments. Meals will be prepared for the children, with the help of the children, depending on their age.

The supporting statement sets out that limited visitors would be expected at the property. Contact with family members would be by prior arrangement and social workers and other professionals will visit the children every 6 weeks to assess living conditions and their progression.

Having regard to the above, whilst two children residing at each property would be expected in a dwellinghouse of this size and the children’s attendance to school, social activities and health appointments would follow a typical pattern of movements in a household, the comings and goings arising from the proposed shift pattern and changeover of staff would have a material impact to character. Whilst shift patterns would be consistent and there would only be two shifts per day, changeover of staff would be a

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regular, daily occurrence and during periods of staff handovers, this could mean a total of 6 individuals would be present at each property at any one time. Therefore, as a matter of fact and degree and having regard to relevant appeal decisions which have considered this matter, officers regard that a **material** change of use from C3 to C2 would arise in this instance and therefore it is correct that planning permission is sought for this change.

Principle of Development

The application site is located within the Greenlands and Lakeside ward, an urban area of Redditch, which is defined in Policy 2 of the Borough of Redditch Local Plan no. 4 (BoRLP4) as a sustainable location for development, offering the highest level of services.

The proposal would result in the loss of two C3 dwellinghouses but would provide care and a place of residence for up to 4 children across the two properties. Officers consider that care residences, in the same way as C3 dwellinghouses, should be in sustainable locations offering occupiers good access to local services such as schools. In this regard the principle of development is considered acceptable.

Character and Appearance

Policy 39 of the BoRLP4 states that development should contribute positively to the surrounding environment. Similarly, Policy 40 of the BoRLP4 expects development to be of a high quality design that reflects or complements local surroundings and materials.

The design and appearance of the proposed dwellings subject to the 2020 application was thoroughly considered at the time of this previous application. Regard was given to density, layout, design and materials of the properties. A site visit has confirmed that the properties have been constructed in accordance with the previously approved planning permission. Concerns have been raised that the buildings have been built with the intention of being a secure care facility. Local residents have raised concerns that the doors are high security doors and that the fencing and gates are also indicative of a secure facility. However, door types were not conditioned as part of the original permission and the fencing and gates that have been installed to the front of the properties would fall within the parameters of permitted development and therefore would not in themselves require planning permission. Whilst the fencing may not be typical of other local houses, the properties are positioned off a long access drive and are not visible within the public street scene.

Whether the applicant constructed the buildings with the intention that they may become care homes in the future is not a matter that should affect how the current application is considered. Importantly, the proposal has been built in accordance with the approved plans and a dwelling does not need to be occupied in order to gain status as a dwellinghouse.

Therefore, as considered previously, the development is acceptable in terms of character and appearance and would meet the requirements of policies 39 and 40 of BoRLP4.

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Residential Amenity

Paragraph 135(f) of the NPPF states that planning decisions should seek a high standard of amenity for existing and future occupants of land and buildings. Furthermore, the Borough of Redditch High Quality Design SPD provides guidance in relation to residential amenity.

The buildings subject to the change of use were previously assessed in terms of their separation distances to surrounding properties during consideration of the previous 2020 application. It was considered that the proposed dwellings did not result in any adverse loss of privacy, light or overbearing impact. It was also found that the proposals provided private amenity space in excess of the standards in the SPD for each dwellinghouse. As the properties have been built in accordance with the approved plans forming the 2020 application, these considerations still stand.

Further consideration, however, should be given to the impact of the proposed change of use of the building on residential amenity of surrounding properties. The impacts arising from the operation of the care service use and the associated comings and goings should be taken into account.

The changeover of staff would see the arrival of up to two cars for each property at around 8am and 8pm, and during these times there would also be up to two staff members for each property leaving the site. Other visitors are expected to be very infrequent and therefore not cause a significant impact. Whilst the access driveway to the properties lies adjacent to the rear of a number of houses on Southcrest Road, this is an existing access serving a row of garages and therefore vehicle movements along this access is a pre-existing occurrence. The parking and turning area for the southernmost property lies adjacent to the rear gardens of numbers 64-70 Southcrest Road, however is in excess of 12 metres from the rear elevation of these maisonettes. Whilst the number of car movements that would be generated are recognised as being higher for the proposed C2 use relative to the previously approved C3 use, these movements would still be relatively infrequent during the day and would not be at unsociable hours. The care homes and their gardens would lie behind the rear gardens of 72-86 Southcrest Road, however would be positioned 15 metres from the rear elevation of these properties. Given the scale of the proposed care service and the number of children occupying the properties it is not considered that this relationship would result in a detrimental impact to residential amenity that would warrant refusing planning permission.

With regards to noise and nuisance matters, Worcestershire Regulatory Services (WRS) have been consulted and have raised no objections. Whilst they have highlighted that similar uses have given rise to isolated noise complaints which are beyond that expected from a dwellinghouse, they note that this is dependent on the degree of control and supervision over residents by staff rather than the proposed use being inherently noisy. Given that the management of the individuals is an operational issue and that the care service will be regulated by other controls, such as Ofsted, it is not a reason to refuse planning permission. Furthermore, the characteristics and behaviours of the individuals living at the properties cannot be assumed. WRS have also highlighted that the proposed

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use in this instance is of a small scale. A planning condition could be attached to the permission to restrict the number of children in each property to be no more than two.

Several of the neighbour responses raise concerns with safety. The NPPF seeks to ensure that development is inclusive, and the fear of crime does not undermine quality of life, community cohesion and resilience. The courts have held that the fear of crime can be a material consideration. The children occupying the care homes would be between 7 and 17 years of age and would be cared for 24 hours of day by responsible adults. Several neighbour responses note that this area is of an older generation and is also next to a school. There is no evidence to suggest that the children's care home would be in conflict with an older adult population. Furthermore, it has been indicated that the children residing at the care homes may attend mainstream school and therefore could be in contact with these school children irrespective of the proposed development.

Based on the above considerations it is concluded that there are no reasons to refuse the application on residential amenity grounds.

Highways

The Highways Officer has notes that the site is located within a sustainable location within close proximity to amenities and public transport. The site lies off an unclassified road and the existing access has good visibility. Whilst the Highways Officer initially raised concerns that the proposal would provide an under provision of car parking, an amended site plan was received, indicating an additional vehicular parking space within boundaries of the application site. The revised site plan provides a total of 5 car parking spaces between the two properties. As 4 members of staff would be on shift at any one time, the proposed number of spaces are deemed acceptable and in compliance with the Streetscape Design Guide, which seeks one car parking space per member of staff. Whilst there could be additional vehicles present on site during times of staff handover and visitors, staff handovers would only be for a brief period of time and the number of visitors are expected to be infrequent. Within the context of the residential area, the number of additional vehicles would not be significant or beyond that which would be reasonably expected for a C3 dwellinghouse use. The Highways Officer has also requested a condition for an Employment Travel Plan to be submitted in the event that planning permission is granted. This would look at promoting sustainable transport modes which could help reduce the number of vehicles going to and from the site.

The Highways Officer has recommended further conditions in relation to the access, car parking and turning facilities and has also requested that cycle storage is provided. As the proposed site plan shows a suitable location in the garden areas for a cycle, these details can be referred to within a planning condition.

Overall, parking provision and the movement of vehicles and pedestrians in association with the proposed change of use is considered acceptable. In addition there would be no conflict with paragraph 115 of the NPPF which 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.

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Public Consultation Responses

Letters of objection have been received from 25 individuals and a petition with 35 signatures has also been received. A summary of the issues raised that have not already been covered in the report and an officer response to these issues are provided below, however regard has been had to the full contents of all submissions whilst drafting this report and forming the recommendation.

Concern raised	Response
The application would allow the properties to be used as a prison on a young offender's centre	If the proposed use was materially different that the current proposal then a new planning application would be required.
Risk of crime/safety/anti-social behaviour. Will the Council be responsible for any property damage or theft arising?	There is no evidence to suggest that the proposed use would increase risk of crime, safety and anti-social behaviour. Children would be supervised at the home throughout the day and night. Any crime issues, including damage and theft, are police matters and the Council would not intervene.
Poor access	The Highways Officer has deemed the existing access to be acceptable, however has asked for a condition for the first 5 metres of the access to be finished in a bound material.
Increase in traffic and overspill parking along Southcrest Road. Visitors may block the parking to the rear of the properties along Southcrest Road.	The increased number of traffic movements arising from the change of use in the context of the surrounding residential area would not be significant and has not been raised as a concern by the Highways Officer. Although parking provision was initially raised by the Highways Officer and amended plans have been received indicating further onsite parking to prevent the potential of displaced parking on the public highway. The blocking of neighbours parking spaces is a civil matter rather than a planning matter and could arise in any event regardless of the current planning application.
The company who would operate the service are not local and have no interest in the wellbeing of local residents.	Details of where the company are based are not a material planning consideration.
Properties that back onto the access are open and vulnerable to home invasion.	The access is pre-existing and has served garages for a number of years. It is not considered that these properties would be at further risk as a result of the proposal.

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Surrounding properties put up with a lot of disruption whilst the properties were being built.	A level of disruption is disrupted with all development and is not a reason to refuse planning permission. Noise and nuisance issues can be reported to Worcestershire Regulatory Services for investigation.
Houses for families are needed in Redditch. This would be a more suitable use.	The proposal would only result in the loss of two C3 dwellinghouses. Care homes would also provide a home for children. There is no evidence to suggest that care homes are not needed in Redditch.
Who would manage the homes? Have social services, Ofsted or the department of education been consulted to see if the site is suitable?	Whilst the home would be subject to Ofsted regulations and inspections, this falls outside of the planning process.
There is a lack of information in relation to the proposal. e.g. when will the units be active	Officers consider that there is adequate information to make a determination on the planning application. Whilst the planning system cannot control exactly when the proposal would be implemented, the planning permission would need to be implemented within 3 years of the date of permission.
There is a lack of safeguarding for other children in the area. There is likely to be contact between children in care facility and children who attend the school. Schools should be informed so that they can inform parents.	Comments have been received from St Bedes School and therefore the school is aware of the application. Interactions between particular children cannot be controlled by the planning system. Children in the care home may attend mainstream school and therefore could be in contact with children who attend the school irrespective of the planning application. Children would be under constant supervision of a responsible adult whilst living in the care home.
It is the wrong location for the development in a busy, residential area.	Officers consider the location of the development to be acceptable as considered in the 'principle of development' section of the report.
Increased noise levels	Worcestershire Regulatory Services have not objection on noise grounds This matter has been considered in further detail in the report above.
Loss of privacy	The buildings subject to the change of use were previously assessed in terms of their separation distances to surrounding properties during consideration of the previous 2020 application. It was considered that the proposed dwellings did not result in any adverse loss of privacy. This assessment remains the same regardless of the individuals that would occupy the buildings. Furthermore it is noted that the front of the buildings is accessed off a long

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	<p>driveway and fencing and gates have been installed to the front of the site.</p>
<p>Lack of outdoor space for children</p>	<p>As considered in the report above, the garden areas exceed the required standards set out in the Council's High Quality Design SPD for dwellings. Given the scale of the proposed C2 use, this would also be adequate and provide an adequate provision of amenity space for the future occupiers of the property.</p>
<p>Conditions have not been complied with from the previous application.</p>	<p>Most conditions on the original planning application that required information to be submitted and discharged have been discharged. The only exception to this is the contaminated land condition which required a tiered risk assessment, details of remediation and a validation report to demonstrate the effectiveness of the remediation carried out. Whilst the risk assessment and remediation details have been approved, the implementation and validation of this remediation had not been completed and therefore the condition has only been partly discharged.</p> <p>This matter however relates to the original application and should not affect the consideration of the current change of use application.</p>
<p>Proximity of site to water and contaminated land.</p>	<p>These matters were considered in the original 2020 application when permission for two dwellinghouses were granted on site.</p> <p>With regards to flooding, the Drainage Officer confirmed that the application site falls within flood zone 1 and is not at significant risk for flooding. A planning condition for a surface water drainage scheme, however, was attached to the original permission and this condition has now been discharged.</p> <p>With regards to contaminated land Worcestershire Regulatory Services originally indicated that there is potential for the site to have land contamination issues and recommended a condition for a tiered risk assessment to be undertaken at the site. As discussed above, a risk assessment was undertaken and suitable remediation measures were agreed. Once a validation report has been submitted and approved, contaminated land issues at the site will be fully addressed.</p>

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Proposed staffing levels are too low.	This is not a planning consideration and would be controlled by other regulations.
Effect on property value/house insurance	This is not a material planning consideration.
The application needs a local community crime, disorder and nuisance impact assessment on local communities.	Given the scale and nature of the proposal, this is not considered reasonable or necessary. This assessment has not been sought in the case of similar applications for care homes of this scale in residential areas.
False and misleading information has been provided. For instance in the planning statement it is stated that there would be two members of staff at night whereas on an email received by the planning officer it states that there would be one member of staff at night.	Clarification has been sought and an amended supporting statement was received which supersedes previous statements. In terms of staffing there would be up to a maximum of two staff members present at each property during the day and night. There is no evidence of the submission including deliberately false or misleading information.

A petition containing 35 signatures was also submitted from third parties. This raised the following issues:

- Security
- Privacy
- Safety
- Poor location
- Property devaluation
- Noise levels
- Extra traffic and parking around d Battens Close and Southcrest Road.

All of these points raised have already been addressed above.

Conclusion

Having regard to the sustainable, residential location of the site, the proposed change of use of the two properties subject to this application from dwellinghouses (Use Class C3) to children's homes (Use Class C2) for up to 2 children in each, is considered acceptable in principle.

There are no outstanding objections from consultees, and it is concluded that there are no issues of highway safety or severe road network impacts that would warrant refusal. Whilst there would likely be an intensification of activity at site due to the change of use,

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not considered to be so significantly adverse as to cause unacceptable noise or amenity impacts to neighbouring residents.

Taking all matters into account, including all third party representations that have been received, it is considered that the change of use is acceptable subject to conditions.

RECOMMENDATION:

That having regard to the development plan and to all other material considerations, planning permission be GRANTED subject to the following conditions:

Conditions:

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of the grant of this permission.

Reason: In accordance with the requirements of Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby approved shall be carried out in accordance with the following plans and drawings:

Location Plan at scale 1:1250 - drawing no 24-2035/L
Proposed Site Plan - drawing no. 19-1794/101A Rev A
Proposed Floor Plan Layouts - drawing no. 19-1794/202
Proposed Floor Plans & Elevations - drawing no. 19-1794/02d

Reason: To provide certainty to the extent of the development hereby approved in the interests of proper planning.

- 3) The two properties subject to this application shall only be used as a residential care home for children, with a maximum of 2 children in each residence at any one time and shall be used for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: to provide certainty of the proposed development and limit the scale of the use in order to protect the amenity of neighbours.

- 4) The Development hereby approved shall not be occupied until the first 5 metres of the access into the development, measured from the edge of the carriageway, has been surfaced in a bound material.

Reason: In the interests of highway safety.

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- 5) The Development hereby approved shall not be occupied until an area has been laid out within the curtilage of the dwelling for the parking of 5 cars at a gradient not exceeding 1 in 8. This area shall thereafter be retained for the purpose of parking a vehicle only.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

- 6) The Development hereby approved shall not be occupied or be brought into use until the access, parking and turning facilities have been provided as shown on Plan 19-1794/101A Rev A.

Reason: To ensure conformity with submitted details.

- 7) The Development hereby permitted shall not be first occupied until sheltered, safe, secure and accessible cycle parking for 2 cycles have been provided at each residence, as shown on Proposed Site Plan drawing no. Plan 19-1794/101A Rev A. The cycle parking shall thereafter be kept available for the parking of bicycles only.

Reason: To encourage sustainable modes of transport

- 8) The Development hereby approved shall not be brought into use until the applicant has submitted a Travel Plan using Modeshift STARS Business. They must meet green level accreditation before occupation and bronze level accreditation within 12 months of occupation.

Reason: To reduce vehicle movements and promote sustainable access

Procedural matters

This application is being reported to the Planning Committee because the number of objections received exceeds that which can be considered by officer's.