

DATE WRITTEN	4th November 2020
REPORT AUTHOR	Judith Jones
CASE OFFICER	Caroline Pulley
COMMITTEE	Planning and Regulatory
COMMITTEE DATE	18th November 2020

Application No.
P/20/0102

Date
20th July 2020

Determining Authority
MTCBC

Proposed Development

Location

Name & Address of Applicant/Agent

Change of use of property from a dwelling (Use Class C3) to a children's residential home (Use Class C2)

16 The Park
Treharris
CF46 5RH

Rise Care Ltd
c/o Mr Jon Hurley
Unit 9
Oak Tree Court
Cardiff Gate Business
Park
Cardiff



Councillor Gareth Richards has requested that this application be reported to Committee due to the concerns raised by residents in relation to the impact of the scheme on the character of the area, highway safety and residential amenity.

APPLICATION SITE

The application site comprises 16 The Park, which is two-storey, five bedroom, detached dwelling situated within the residential area of Treharris. The property is set back from the pavement by approximately 9m and is at a higher level to the road. Its front elevation is orientated to face south-west onto a gently sweeping driveway, which is accessed from The Park via a short section of private road. The south facing side elevation of the property faces onto The Park at an angle.

The property is bound by residential properties on both sides, albeit there is a narrow walkway separating the eastern boundary of the property from 17 The Park and a small triangular section of land situated between the western boundary and number 7 Twynygarreg. To the north, the property adjoins an open grassed verge area, beyond which is the access road serving numbers 9 to 35 (odd numbers) Twynygarreg. To the front of the site and on the opposite side of the road is a detached property called Ty Chwarel and a row of five houses (numbers 11 to 15 The Park).

PROPOSED DEVELOPMENT

Planning permission is sought for the change of use of the existing dwelling (C3 use) to a residential children's home (C2 use) that would provide care for up to four children/young people between the ages of 11 and 18 years old. The children/young people would all be on long term care orders and would be under the responsibility of their local authority. They would not have any complex physical or mental health needs. However, the applicant has advised that the children/young people would be from disadvantaged backgrounds and may have emotional and/or behavioural difficulties, anxiety or educational needs for which they would receive additional support from services such as family therapists.

The home would be staffed by a minimum of three residential care workers during the day, with two of these care workers carrying out sleep-in duties at night, ensuring a 24 hour care provision. The carers would operate a shift pattern, working two consecutive shifts, followed by four consecutive days off. Within this, they would complete two, 15 hour, shifts between 08:00 and 23:00 hours during the day, with sleep-in duties being carried out between 23:00 and 08:00 hours.

In total, the children/young people receiving care would be under the supervision of a team of 10 staff consisting of:

- A Registered Manager
- A Deputy Manager
- 2 Senior Residential Care Workers
- 6 Residential Care Workers

The residential care workers would be responsible for the day-to-day running of the home (i.e. cleaning, preparing meals, tidying the home, transporting and assisting children/young people to their place of education, creating reports for social workers, taking children/young people to various activity events). The Registered Manager would oversee the work of the team and would be responsible for creating staff rotas and liaising with social workers etc. The applicant has also confirmed that the Manager would operate an 'On Call' system for additional support if required.

The submitted plans indicate that the internal layout of the property would be very much akin to a residential dwelling. The ground floor would be laid out to provide a living room, dining room, kitchen and office. At first floor, there would be a staff bedroom, a communal bathroom and four other bedrooms for the residents (i.e. the children/young people). Each child/young person would have their own private bedroom with one bedroom being allocated for the staff members carrying out sleep-in duties during the night.

No changes are proposed to the external elevations of the property. However, the submitted drawings illustrate some minor changes being made to the layout of the front garden to provide four off road parking spaces and a turning area. These alterations include reducing the depth of the raised patio area, which projects forward of the main property, and carrying out some minor engineering works to facilitate a larger driveway/turning area within the front garden of the property.

PLANNING HISTORY

The planning history relating to the property is as follows:

- P/20/0209 - Reconstruction of sections of retaining wall
Approved – 29.10.2020
- P/20/0072 - Certificate of Lawfulness to use the dwelling (within C3 use class)
as a Children's care home – Refused.

CONSULTATION

- Engineering and Traffic Group Leader - No objection.
- Environmental Health Manager - No objection.
- South Wales Police - Raises an objection to the scheme.
Concern has been expressed that the proposed use may lead to additional demands being placed on the police, particularly if children go missing. The police have noted that they were impressed with the company's policies presented to them in a meeting and by the examples of the successes that they have had with their other care homes. However,

they raise the point that Rise Care (the company), may not always be in charge of the property. They are also concerned about the close proximity of the proposed care home to the existing care home at number 2 The Park and the risk of increased levels of anti-social behaviour in the street.

PUBLICITY

In accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, letters were sent to the adjoining properties and three site notices were displayed within the vicinity of the site.

At the time of writing this report, 20 letters of objection (some of which are from the same person/household) have been received to the publicity exercises carried out as part of this application. The concerns raised are as summarised as follows:

Anti-Social Behaviour and crime

- Residents are concerned that there are already two existing care homes within the area and by allowing another care home in such close proximity to the existing home at 2 The Park it is likely to add to the problem of anti-social behaviour and criminal damage. There is further concern that the approval of this application would lead to an over saturation of this kind of business within a residential street.
- There have been incidences of anti-social behaviour, damage to cars and property over the years as a result of the operation of the existing care home within the area. Residents are concerned that the proposed use of the premise would lead to properties in the area being damaged.
- Concern is raised that the proposal could lead to gang related incidents/county lines taking place, particularly with having two care homes in such close proximity to one another. It is also noted that the top of the street is a gathering place for young people.
- Residents note that there are vulnerable children living within the area who may be affected by the proposed use.
- A query has been raised as to whether a risk assessment should be carried out by the Police and the local authority. A resident alleges that national standards state children's homes should be located in safe areas.

Highway Safety

- Concern that the proposal would lead to a greater flow of traffic in the street and place an extra demand for on-street parking which is said to be limited at the moment.
- It is noted that The Park is a no through road and at the end of the street there is a lane which provides access to a farm and a walk through route to Treharris Park. Residents have pointed out that there is a huge footfall of

families who use this lane for access to the park and an increase of traffic would be a serious concern.

- It is noted that the turning area at the top of the street does not form part of the adopted highway and this area will not be able to withstand additional traffic/usage. Residents are concerned about the maintenance of this section of the road.
- It is noted that the brick boundary wall adjacent to the road is unsafe.
- Concern is raised that there is insufficient off-road parking to cater for the staff and the proposed parking layout set out by the developer is not achievable.
- Concern that swept path analysis drawings submitted with the application are not an accurate representation of actual traffic flows.

Amenities

- Noise levels from children being looked after at the property.
- Concern for the safety and wellbeing of local children in the area.
- The overlooking impact from windows within the side of the house, following the removal of the trees adjacent to the southern boundary.
- Impact of any security lighting that may be proposed.
- General noise and disturbance to existing residents as a result of increased activity within the street (i.e. increased traffic, footfall).
- Concern for the safety of the children residing at the application property given that there is a significant drop into a quarry in Treharris Park.
- The addition of a care home will have a detrimental impact on the street and the environment.
- The proposed change of use would have a negative impact on property values (this is not a material planning consideration).
- A foster carer in the street is concerned about the negative impact the home would have on the foster children residing at her property.
- Concern that the application property is not safe for the children (trees, broken fencing, drop to pavement level etc.).
- The proposal will change the character of a quiet street.

A letter has also been received from the local ward member Councillor Gareth Richards outlining the concerns raised by several local residents living in The Park, Treharris and the immediate area. A letter has also been received from Dawn Bowden (MS) highlighting that she has been contacted by many constituents with concerns about the care home.

POLICY CONTEXT

National Policy

Planning Policy Wales (PPW) Edition 10 (December 2018) sets out the land use policies of the Welsh Government. The most relevant sections are:

Sections 3.3 – 3.16 sets out the principles of good design in new development proposals, which should take into account its relationship to its surrounding context.

Section 3.11 points out that local authorities have a legal obligation to consider the need to prevent and reduce crime and disorder.

Section 4.1.51 states '*Parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objectives of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport.*'

The policies in PPW are supported by Technical Advice Notes (TANs). The most relevant TAN to this application are as follows:-

TAN 12 - Design advises that the Assembly Government is strongly committed to achieving the delivery of good design in the built and natural environment, which is fit for purpose and delivers environmental sustainability, economic development, and social inclusion at every scale throughout Wales.

Local Policy

Merthyr Tydfil County Borough Council Replacement Local Development Plan (LDP) 2016-2031:

Policy SW4 – Settlement boundaries

Policy SW11 – Sustainable design and Placemaking

Policy EnW1 – Nature Conservation and Ecosystem Resilience

Policy EnW2 – Internationally and Nationally Protected Sites and Species

Policy EnW3 – Regionally Important Geological Sites, Sites of Importance for Nature Conservation, Local Nature Reserves and Priority Habitats and Species

Policy EnW4 – Environmental Protection

Other guidance consulted

- Supplementary Planning Guidance (SPG) Note No. 5 – Nature and Development.
- The Use of Planning Conditions for Development Management Circular (WGC 016/2014), October 2014

Paragraph 5.27 advises '*Where an application is made for permanent permission for a use which may be 'potentially detrimental' to existing uses nearby, but there is insufficient evidence to enable the authority to be sure of its character or effect, it might be appropriate to grant a temporary permission in order to give the development a trial run, provided that such a permission would be reasonable having regard to the capital expenditure necessary to carry out the development. However, a temporary permission would not be justified merely because, for example, a building is to be made of wood rather than brick. Nor would a temporary permission be justified on the grounds that,*

although a particular use, such as a hostel or playgroup, would be acceptable in a certain location, the character of its management may change’.

PLANNING CONSIDERATIONS

The key considerations in the determination of this application relate to the principle of the proposed change of use and its impact on the character of the area. Its impact on highway safety and the amenity of local residents are also important considerations. These matters are discussed in detail below.

Principle of development

The application proposes a change of use of the property from a dwelling to a children’s care home falling within use class C2 (Residential Institutions). There are no policies relating specifically to the conversion of existing houses to residential care homes within the LDP. However, the property is located within the settlement boundary of Treharris where it has safe and convenient access to key services and community facilities. Moreover, a children’s care home is a type of residential use, which is appropriate in a residential area. As such, the principle of converting the property to a children’s care home is acceptable and is in accordance with the overall objectives of Policy SW4 of the LDP.

Impact on character and appearance of the area

In terms of the impact of the proposed use on the existing character and appearance of the locality, the property would retain its appearance as a large, detached domestic property with a garden area and drive/parking area. There are no changes being proposed to the external elevations of the property and the ground works proposed to the front garden would have a limited impact on the overall appearance of the property and the street. Notwithstanding the care provided, the proposed use of the property would also retain a residential purpose. Therefore, within an area largely dominated by housing, it would not harm the character of the area. It is acknowledged that residents have expressed concern that the change of use of this property may change the character of the street and lead to an oversaturation of children’s homes within the local area. However, two similar uses in relatively close proximity of each other, does not change the overall character of the area which is undoubtedly residential.

The proposal is to provide residential care for up to four children/young people who would occupy and live at the property on a long term basis. The children/young people and staff would prepare and eat meals together in the dining room and communal areas would be shared. The carers would also sleep in a bedroom. The staff would be responsible for the day-to-day running of the home (i.e. cleaning, preparing meals, assisting the children/young people and taking them to and from their place of education). Therefore, the general characteristics of the proposed use are similar to those of a large family home providing residential accommodation for up to 4 children/young people looked after by adults, although with an element of care and support. Based on these facts, it is considered that an established residential area, which is in a sustainable location, is an appropriate place for this use.

Parking and Highway Safety

The supporting information provided with this application indicates that there would normally be a maximum of three carers on the premise during the day with two carrying out sleep in duties at night. Shift changes would take place every two days. Based on the information provided by the applicant, it is anticipated that at handover time there could be up to a maximum of five members of staff present at the property. During this period, there may be an additional demand for parking. Whilst this is acknowledged, the applicant has advised that the staff handover takes place over a short period (approximately 30 minutes). As such, it is not considered that this would cause an unacceptable pressure on on-street parking. Furthermore, the application property is located in a sustainable location in close proximity to the local bus station in Treharris, which would enable staff to utilise modes of transport other than the car.

In addition to the above, the supporting statement advises that visits to the home would not be frequent, due to the nature of safeguarding residents in a care setting. The applicant has explained that the majority of family and professional contact takes place away from the home. The only regular visitors anticipated are social workers, who would visit the child/young person approximately once every six weeks. Taking this into account, it is not considered that the demands for parking created by this use would be significantly different from the level of parking generated by a large family house of 4 or 5 bedrooms. As such, the use of the property as a small children's care home is unlikely to affect the demand for on-street parking significantly more than if it was a dwelling.

Access to the property would be gained, via the existing driveway, from the highway serving The Park. No new access into the site is proposed and while highway and pedestrian safety concerns have been raised by local residents, there is no clear evidence to show that the proposal would result in a significant increase in vehicular traffic over and above what would be experienced from a family household. It should also be noted that the Engineering and Traffic Group has not raised any objections to the scheme. As such, it is not considered that the level of vehicular movements to and from the property would be to an extent which would be detrimental to highway or pedestrian safety. The proposal therefore accords with Policy SW11 of the LDP.

Residential Amenity

As highlighted above, the proposed use has many of the characteristics of a large family home. However, based on the information submitted with the application, local residents are concerned that anti-social behaviour and criminal damage would increase as a result of the activities/behaviour of those children/young people residing at the property. Objections have also been raised in terms of increased noise and disturbance. Furthermore, both residents and the Police are concerned about the potential adverse interactions between the children/young people living at the proposed site and those at an existing care facility at 2 The Park (approximately 100m to the south-east) which could exacerbate such problems.

Planning Policy Wales (PPW) is clear that crime prevention and fear of crime are social considerations which should be given appropriate weight when making planning decisions. In this case, there is no evidence and it is impossible to predict whether the

children/young people who may reside at property would involve themselves in anti-social behaviour, crime or any activities that would harm the amenities of neighbouring residents. Nevertheless, the concerns of residents, some based on their experiences as a result of residents at the existing care facility (2 The Park) are fully appreciated and acknowledged. Based on this lack of evidence and advice in paragraph 5.27 of Circular WGC 016/2014: The Use of Planning Conditions for Development Management, it is considered a temporary permission for two years is appropriate. This would allow sufficient time for the use to become established and for the impact upon local residents to be assessed. It should also be noted that the care home would have to be registered with the Care Inspectorate for Wales (CIW) and comply with all the necessary legislative requirements.

The intensity of the use of the property would differ to some degree from that of a normal household as the level of care and support provided by staff is likely to lead to some additional comings and goings compared to its existing use as a dwelling. However, the care home would be of a relatively small scale, occupying a maximum of 4 children/young people. This is unlikely to result in significantly more movements/activities in excess of those which could reasonably be expected in a residential area. The application property is a large dwelling benefiting from five bedrooms and as such could be occupied by a large family without the need for planning permission. As such, it is not considered the proposal would lead to noise levels being generated over and above what would be generated by the running of a large family home.

Other matters

One of the objectors has raised concern that a number of trees at the property have recently been felled and there is now potential for overlooking from the windows in the side of the property. Members should be aware that consent was not required for the felling of the trees (as they were not protected by a Tree Preservation Order). Also, there are no additional windows proposed at the property and the change of use to a care home would not result in any significant changes to the internal layout of the property or the arrangement of windows and doors. Therefore, there would be no difference in terms of overlooking as a result of the proposed care home.

Some of the residents have raised concern over the safety of an existing retaining wall located along the southern boundary of the site. This matter falls outside the remit of this planning application. However, Members should note that the issue is being dealt with by the Council's Building Control Section and planning permission has recently been granted to allow sections of the wall (which are deemed to be unsafe) to be rebuilt.

A number of residents have raised concern that the proposal would lead to gang related incidents/county lines crime taking place. There is also concern that the residents of the property would have a negative and harmful impact on existing children living in the area. There is no reasonable evidence to suggest that this would be the case.

The concern that the private turning area at the top end of The Park would not be able to withstand additional usage has been acknowledged. However, this is not

considered to be a reason to justify the refusal of planning permission, particularly as the proposal would utilise the existing access at the property.

The safety of the children residing at the care home would be a matter for the management of the company and the relevant child care services.

Finally, the impact of the proposal on house prices is not a material planning condition.

Conclusion

As highlighted above, there is no obvious evidence to indicate that the proposal would materially harm the amenity of residents living in the area or result in additional crime/anti-social behaviour. The proposal is also unlikely to result in a significant increase in vehicular traffic to and from the application property over and above what would be experienced from a large five bedroom family home. Therefore, after careful consideration and taking the fears of neighbouring residents into account, a temporary two year planning permission is considered appropriate to allow the impact of the proposed use to be fully assessed.

The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (“the WBFG Act”) has been taken into consideration when determining this application. In reaching the following recommendation, the ways of working set out at section 5 of the WBFG Act have been considered and thus the proposal is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Accordingly the following recommendation is made:

RECOMMENDATION: BE APPROVED subject to the following CONDITIONS

1. The development shall begin not later than five years from the date of this decision.

Reason - To comply with Section 91 of the Town and Country Planning Act 1990.

2. The use, hereby permitted, shall cease on or before years 2 years of the date which it commenced. The date of commencement shall be submitted to the local planning authority in writing at least 2 weeks before the use commences.

Reason - Planning permission is granted for a temporary period only having regard to the particular circumstances of the application.

3. The development shall be carried out in accordance with the following approved plans and documents:

Proposed floor plan received on 19.05.2020

Section AA received on 13.10.2020

Site Plan Proposed Drawing no. 2787(C)L(0)11 Revision B received on 13.10.2020

Drawing no. T20.156-ATR-DR-SPA1 received on 13.10.2020

Drawing no. T20.156-ATR-DR-SPA2 received on 13.10.2020

Reason -To ensure compliance with the approved plans and clearly define the scope of the permission.

4. The premises shall be used as a children's residential care home for a maximum of four children and for no other purpose including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes Order) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.

Reason - To enable the Local Planning Authority to retain effective control over the use of the premises in the interests of highway safety and residential amenity in accordance with Policy SW11 of the Merthyr Tydfil County Borough Replacement Local Development Plan.

5. The parking spaces and turning area shown on drawing 2787(c)L(0)11 Revision B shall be provided prior to the development being brought into beneficial use. Thereafter, the parking spaces shall be retained in perpetuity for the purposes of parking only.

Reason - In the interests of highway safety in accordance with Policy SW11 of the Merthyr Tydfil County Borough Replacement Local Development Plan.

6. **No development shall take place** until details, including structural calculations and facing materials, of any retaining wall which exceeds 1 metre in height have been submitted to and approved in writing by the Local Planning Authority. The walls shall be completed in accordance with the approved details before the development hereby approved is brought into beneficial use.

Reason - In the interest of safety and visual amenity in accordance with Policy SW11 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan .

INFORMATIVES

1. All bats and their roosts are protected against disturbance under UK and European legislation. If works are planned on a building/tree in which bats

are found to be roosting, Natural Resources Wales (NRW) must be contacted. They must be given reasonable time to advise as to whether the works should be carried out and, if so, the method to be used.

If work has already commenced and bats are found, or if any evidence that bats are using the site as a roost is found, work should cease and NRW should be contacted immediately.