

# REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE

## 21st April 2022

REFERENCE: HW/REMPVAR/22/00040

OFFICER: Nicholas Fu

APPLICANT: Mr Jonathan Smith

LOCATION: 186A Old Road  
Harlow  
Essex  
CM17 0HQ

PROPOSAL: Application for variation of condition 3 of planning permission HW/PL/13/00485 for a change to the wording of the condition from "The children's home hereby permitted shall be occupied by no more than 5 children at any time, who shall be between the ages of 7 and 11 only" to "The children's home hereby permitted shall be occupied by no more than 4 children at any one time, who shall be between the ages of 7 and 15 only", to allow for and meet the need for children up to the age of 15 to occupy the home.

### LOCATION PLAN



REASON BROUGHT TO COMMITTEE: More than two representations have been received which are contrary to the officer recommendation

## Application Site and Surroundings

The application site is located to the northern side of Old Road, within the residential area of Old Harlow. 186A Old Road includes a detached property with a large front driveway and sizable rear garden.

## Details of the Proposal

Planning permission HW/PL/13/00485 was granted in 2014 to convert the detached dwellinghouse to a residential children's home. Condition 3 of the permission restricts the children's home to be occupied by no more than 5 children aged between 7 and 11 at any one time. The current application seeks to vary this condition to allow for a larger age group of between 7 and 15 years old, while reducing the number children at any one time from 5 to 4. The proposed condition would read as follow:

- 3 The children's home hereby permitted shall be occupied by no more than ~~5~~ 4 children at any one time, who shall be between the ages of 7 and ~~11~~ 15 only.  
**REASON:** To ensure the occupation of children's home is in accordance with the details as assessed by the Local Planning Authority and in the interests of the amenity of neighbouring properties and the wider locality.

## RELEVANT PLANNING HISTORY:

### Planning Applications

<u>App Number</u>	<u>Proposal</u>	<u>Status</u>	<u>Decision Date</u>
HW/PL/13/00485	Change of Use from C3 (Residential) to C2 (Children's Home)	Granted	14.02.2014
HW/ST/02/00311	Two-Storey Rear Extension (Dormer Extension in Chalet Bungalow)	Granted	05.09.2002

## CONSULTATIONS

### Internal and external Consultees

No Comment Received.

### Neighbours and Additional Publicity

Number of Letters Sent: 14

Total Number of Representations Received: 4

Date Site Notice Expired: 11 March 2022

Date Press Notice Expired:

### Summary of Representations Received

Four objections were received from local residents. Their objection reasons are outlined as follow:

- Parking: There are often an excessive number of staffs presented in the premises. The resulting overspill off-street parking on the busy Old Road and nearby residential road often causes conflicts with neighbouring residents
- Management and behaviour issues: The neighbours report that the staff cannot control the children, who are causing disturbance to the neighbouring residents, for

example breaking into or damaging the neighbour's properties, or . It is likely that children up to 15 years old would be leaving the premises unattended more often and causing more nuisances to neighbours, and it is questionable that the staff could manage older children. This also put the health and safety of the children at risk.

- Unsuitable location for the use: The application site is located within a residential area, and the use of the site as children's home is causing harm to the living condition of nearby residents. The nearby Oasis Hotel, with its high associated crime rate, is having a negative impact on the behaviour and development of the children in this application site, rendering it an unsuitable location for its use.
- Breach of existing planning permission: The neighbours report that there were instances of children above 11 years old at the property, which is a breach of the existing control. With the operator lacks ability to manage the children and the location not suitable for the use, the previous permission should also be revoked.

## **PLANNING POLICY**

### Harlow Local Development Plan 2020

Planning law requires that proposals should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan for the site consists of the Harlow District Council (HDC) Harlow Local Development Plan 2020 (HLDP), Essex County Council (ECC) Essex and Southend-on-Sea Waste Local Plan 2017 and ECC Essex Minerals Local Plan 2014.

The part of the Development Plan applicable to the proposal is the HDLP. The HDLP is prepared in the context of the National Planning Policy Framework (NPPF) – see 'Planning Standards' below. It is important to note that this is a very recently adopted and therefore 'up to date' plan in terms of NPPF Para.12.

Policies of most relevance to the proposal are:

- PL1 - Design Principles for Development
- PL2 - Amenity Principles for Development
- IN2 - Impact of Development on the Highways Network including Access and Servicing
- IN3 - Parking Standards

Several forms of 'planning standard' are relevant to the application. These standards complement Development Plan policies.

### National Planning Policy Framework (NPPF)

The Development Plan is prepared taking account of the National Planning Policy Framework (NPPF) (as extant at the time - the NPPF is regularly updated; currently in its 2021 version) and the associated Planning Practice Guidance (PPG) (first published in March 2014 but also regularly updated with the NPPF).

Harlow and Gilston Garden Town (HGGT) is a designated 'Garden Community' under the Government's Garden Communities Programme.

NPPF Para.72 provides the national policy context for Harlow and Gilston Garden Town (HGGT) as a location for *larger scale (housing) development*. Of particular note is the emphasis on; *existing or planned investment in infrastructure, the areas economic potential and the scope for net environmental gains..... plus; clear expectations for the quality of development and how this can be maintained (such as by following garden city principles)*.

The HGGT (Local Authorities) Partnership has published a series of documents that set the standards expected for developments in the Garden Town and are therefore relevant to this application.

### HGGT Guidance

The HGGT Vision elaborates on the HGGT's interpretation of *garden city principles* and sets expectations for high quality development to accord with the principles.

The HGGT Design Guide requires consideration of design quality in a *garden city principles* sense and draws attention to specific local issues.

The HGGT Transport Strategy (Draft) explains the transport infrastructure investment and travel behaviour change (encouragement of bus, walking and cycling) being planned.

### **Supplementary Planning Documents (SPD) /Other Guidance**

The following local planning guidance is relevant to this application:

HDC Design Guide SPD (2011)

Design Guide Addendum SPD (adopted December 2021).

ECC Essex Parking Standards Design and Good Practice (2009)

ECC Development Management Policies (2020 - living document with regular updates).

### **Summary of Main Issues**

Planning permission HW/PL/13/00485 was granted for the change of use of the application property from a dwellinghouse to a children's home. Operation of the application property as a children's home has been carried out since permission was granted in 2014.

The principle of development is therefore established, and the lawful use of the application property is a children's home as far as planning control is concerned. The current application is to vary Condition 3 of the original permission relating to the age group and numbers of the children allowed. The key consideration for this application is therefore any material changes on the different age group and number of children allowed in the property, and the resulting impacts on other material considerations given in the assessment of the original permission.

Issues such as principle of development, location and legality of the children's home use are outside the scope of the current application.

The proposal would reduce the number of children allowed within the premises at any one time from 5 to 4. This would reduce the size and scale of the operation of this children's home. It is therefore considered that the proposal would not result in any additional harm or detract from the existing character and setting of the locality.

The application also proposed to widen the age group allowed in the premises up to 15 years old. The applicant explained that this is to cater the shortage of care places for the relevant age group. It should be noted that the use of the application site as a Children's home has

been established, and the Children's Home (England) Regulations 2015 and Care Standards Act 2000 defined children a people who are aged under 18. It is considered that the proposed change in age group would not result in a material change of use of the site. The main differences would be on how older children would affect other aspect of the development. There are neighbour representations on the behaviour of children's and the operator's ability in managing older children. As stated in the Committee Report of HW/PL/13/00485:

*"Planning cannot seek to control the behaviour of children or any other local resident and it cannot be assumed that the all children living in care will be poorly behaved."*

Given the nature of the current application, it is considered that the weight given in the assessment of the original permission is still valid and the proposed changes would not pose any material changes to this matter. It is therefore not considered reasonable to refuse older children's right to residing in this Children's Home through the planning system.

Furthermore, it is also noted that a new operator, CF Support Services Ltd, will be taking over the operation of this Children's Home later this year upon receiving Ofsted registration. The applicant states that their children's homes in other locations received a "Good" Ofsted rating or above. The applicant also provided reference letters from Hertfordshire County Council and Suffolk County Council, where some of their other Children's Homes operate, to support their application and operation standard. The Children's Services Managers from both Councils have positive feedbacks on the operation and management of CF Support Services, with comments including "strong management ethos", "excellent staff training and supervision" and "expertly run". This provides a indication on the applicant's operation and management standards.

The reduced number of children staying in the property would not necessarily result in any reduction in traffic and parking needs, while the proposed changes in age group is unlikely to have any material impact in this regard. The applicant confirmed that the number of staff being present at one time would also be reduced from 4 to 3. Moreover, the application property has a large front driveway which could park more than 5 cars. It should be noted that there is no changes to the adopted Parking Standard (i.e. the Essex Parking Standards SPD) since the grant of the original permission. It is therefore considered that the proposal would not result in any additional harm to the parking and highway safety satiation of the application site, particularly given that the current proposal would reduce the size and scale of operation of this children's home. Although there are neighbour representation stating that on-street parking sometimes existed, it is considered in this instance that the proposal would continue to comply with Policies IN2 and IN3 of the Harlow Local Development Plan and the Essex Parking Standards SPD, and therefore refusal on parking ground is not justified.

Given that the original permission has no condition on restricting the number of staff and workers being present at any one time, no relevant change is therefore recommended, although Members are welcome to propose additional condition in this regard if felt necessary and appropriate. Notwithstanding this, Members are reminded that Paragraph 56 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum. Any additional conditions imposed should meet the *6 tests of planning condition* as mentioned in the PPG and *Circular 11/95: Use of conditions in planning permission*.

## **Equalities**

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

For the purposes of this obligation the term “protected characteristic” includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The above duties require an authority to demonstrate that any decision it makes is reached “in a fair, transparent and accountable way, considering the needs and the rights of different members of the community and the duty applies to a local planning authority when determining a planning application. Officers consider that the application does not give rise to any concerns in respect of the above.

In relation to this application, protected characteristic (age) have been identified by virtue of the nature of the Children’s Home. Nevertheless, the officer has taken this in full into the consideration of this application.

## **CONCLUSIONS:**

The proposed variation to condition 3 is considered acceptable. Suitable variations to other condition is also recommended to reflect the states of the development and changes in other legislations and Local Development Plan policies.

## **RECOMMENDATION:**

That Committee resolve to **GRANT PLANNING PERMISSION** subject to the following conditions:

- 1 The property/site shall only be used as a children's homes and for no other purpose, including any use otherwise permitted within Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (including any Order revoking or re-enacting that Order, with or without modification), or such uses ordinarily incidental to the use hereby permitted.  
**REASON: To enable the Local Planning Authority to retain adequate control over such uses in the interests of the amenity of nearby neighbouring properties and the wider locality.**
  
- 3 The children's home hereby permitted shall be occupied by no more than 4 children at any one time, who shall be between the ages of 7 and 15 only.  
**REASON: To ensure the occupation of the children's home is in accordance with the details as assessed by the Local Planning Authority and in the interests of the amenity of neighbouring properties and the wider locality.**

- 3 The existing annexe building located within the rear garden, as shown on approved drawing no. SMORHE/2013/02 of application reference HW/PL/13/00485, shall not at any time be used for sleeping accommodation, incidental to the host dwelling or otherwise.

**REASON: To enable the Local Planning Authority to retain adequate control over the use of the annexe, in the interests of the amenities of the occupiers of nearby residential properties.**

Plan Reference	Version No.	Plan Type	Date Received
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**INFORMATIVE CLAUSES**