

**Reference:** 15/00714/COU  
**Applicant:** Horizon Care & Education Group Ltd  
**Location:** 45 Jackson Road Bagworth Coalville  
**Proposal:** Change of use of dwelling (C3) to residential institution (C2)

**RECOMMENDATION:- Grant subject to conditions.**

**Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as objections have been received from the occupiers of five or more different addresses, the views of which are contrary to the officer recommendation.

The application was considered by Planning Committee on the 25 August 2015. During the meeting, concerns were raised about the impact upon occupiers of neighbouring properties. The application was deferred to allow for further discussions with the applicant.

A meeting was arranged with the applicant to discuss a number of issues surrounding inconsiderate parking, business meetings being held within the property, noise and disturbance caused by the residential home and other anti-social behaviour problems associated with the use.

After the meeting an action plan was produced by the applicant to seek to address the concerns raised by residents. Within the action plan, the applicant set out an approach for considerate staff car parking to seek to ensure that they park in a way that does not impact upon neighbouring properties. A maximum of four staff would be present on site at any one time and they would park their cars either to the rear (two spaces) or on the street to the front (two vehicles). The action plan sets out that no external meetings involving staff based at other care homes would take place at the premises. All external meetings would be arranged off site. In addition, the plan states that the back garden would no longer be used after 8pm by either young people or staff, to reduce the noise and disturbance in the locality.

**Application Proposal**

This is an application for a change of use of a dwelling to a residential institution at 45 Jackson Road, Bagworth. The application seeks permission to have up to 7 people within the property at any one time.

The children's care home already has an existing lawful use which was initially granted in 2013. The existing use enables the property to have no more than 3 children and no more than 3 carers within the property at any one time. This previous application was granted under a Certificate of Proposed Lawful Use as it was deemed that the use of the property by up to 6 people was not a material change of use from a house.

The applicant is applying for the property to be used by up to four children between the ages of 9 and 17 or four carers at any one time in the property. The home would be administered by non-resident care staff working in 48 hour shifts with up to three or four adult carers in attendance at the premises at any one time and changeovers during working hours (between 8:00am and 18:00pm).

The company Horizon Care & Education Group Limited operate the facility, with the objective of caring for young people who have been adversely affected by circumstances and are emotionally vulnerable and behaviourally challenging.

Previous Certificates of Lawful Use have been granted in 2013 and 2015 respectively, however it is considered that the additional member of staff or additional child proposed within the home constitutes a material change of use.

The application dwelling is a large, modern detached property with an open frontage to the street and a private rear garden located within a residential estate in Bagworth.

**Relevant Planning History:-**

|               |  |          |            |
|---------------|--|----------|------------|
| 15/00201/CLUP | Certificate of proposed use to change the property from a residential dwelling (Use Class C3) to a children's care home (Use Class C2) subject to:-<br>(i) there being no more than three children in residence at any one time<br>(ii) the age range of the children being between the ages of 9 years and 17 years<br>(iii) there being no more than three adult carers in attendance at the premises at any one time<br>(iv) that no room is used as an office and no business meetings of any kind take place at the premises. | Approved | 21/04/2015 |
| 13/01045/CLUP | Certificate of Proposed Use to change the property from a residential dwelling (Use Class C3) to a children's care home (Use Class C2)   | Approved | 12/02/2013 |



### Consultations:-

Neighbours have been consulted and 12 letters of objection have been received as summarised below:-

- a) The additional person at the property would result in an adverse effect on traffic, with a high number of vehicles being parked outside the property
- b) The company are undertaking poor parking practices by blocking footpaths
- c) The company is running regular business meetings from the property which is breaching the previous planning approval
- d) Noise from the children with screaming and shouting late into the evening.
- e) A number of anti-social behaviour issues are being reported
- f) The lack of consultation in regard to the previous applications.

Bagworth & Thornton Parish Council have objected to the planning application for the following reason:-

- a. The company are not adhering to their current planning restrictions
- b. There is not adequate space for additional vehicles to be parked in the area, also vehicles are parking inconsiderately
- c. A number of anti social behaviour issues have been reported to the Police.

### Policy:-

National Policy Guidance

National Planning Policy Framework (NPPF) 2012  
National Planning Practice Guidance (NPPG) 2014

Hinckley & Bosworth Local Plan 2001

Policy BE1: Design and Siting of Development  
Policy T5: Highway Design & Vehicle Parking Standards

Emerging Site Allocations & Development Management Policies Development Plan Document - Submission Document December 2014:-

Policy DM1: Presumption in Favour of Sustainable Development  
Policy DM17: Highway Design  
Policy DM18: Vehicle Parking Standards

**Appraisal:-**

The main considerations in respect of this application are:-

- Principle of Development
- Impact on the Character of the Area
- Impact on Neighbouring Residential Amenity
- Highway Safety
- Other Issues

Principle of Development

The application site is located within the settlement boundary of Bagworth as defined on the adopted Hinckley and Bosworth Local Plan proposals map.

Paragraph 6 of the National Planning Policy Framework (NPPF) states that the planning system should contribute to the achievement of sustainable development. There are three dimensions to sustainable development; economic, social and environmental.

The NPPF at Paragraph 14 provides a presumption in favour of sustainable development and Paragraphs 17 and 20 supports sustainable economic development to provide for the future business and community needs of an area. Paragraph 50 of the NPPF states that local planning authorities should aim to deliver a wide choice of homes to create a sustainable and mixed community. This would include providing homes for vulnerable young people and to make them feel part of the wider community.

The application proposes to expand the existing lawful use of the 6 bedroom detached property as a residential institution to allow for the possibility of 7 people residing within the property at any one time with either 4 carers and 3 children or 3 carers and 4 children. The addition of one person within the property above the existing lawful situation is not considered to result in a material conflict with national and local planning policies which encourage sustainable communities and sustainable development. The proposal is therefore considered to be acceptable in principle, subject to all other planning matters being satisfactorily addressed.

Impact on the Character of the Area

Policy BE1 (criteria a) of the Local Plan requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.

There are no external alterations proposed to the property, however as the application seeks to allow an additional person to reside within the residential institution this constitutes a material change of use and subsequently there could be an impact on the character of the area in this respect. The proposal would use the whole of the property. To the rear of the property is a garden space which is screened by a two metre high fence which will enable the children within the property to have access to open space. On balance it is not considered that the additional person residing within the property would result in harm to the overall character and appearance of the area.

As the change of use would not result in any physical alterations to the external fabric of the building, and would maintain the external appearance of the residential dwelling within this residential area it is not considered that the proposal would have an adverse impact upon the character of the area in accordance with Policy BE1 (criteria a) of the Local Plan.

#### Impact on Neighbouring Residential Amenity

Policy BE1 (criterion i) of the adopted Local Plan requires that development does not adversely affect the amenities of the occupiers of neighbouring properties. This is further supported by Paragraph 17 of the NPPF which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Objections have been received on grounds that the proposal would result in an adverse impact on the amenities of neighbouring properties from noise and disturbance generated from the general use of the premises, additional traffic movements and increased on-street parking.

The application is located within a residential area and is a large six bedroom detached property, with four car parking spaces available for the property. There is a suitably worded condition recommended which states that there should be no more than seven people residing in the dwelling at any one time and there should be no more than four carers within the dwelling at any one time. This condition is to protect the amenities of neighbouring residents and to ensure there is adequate off street parking available in accordance with Policy BE1 and T5 of the adopted Hinckley and Bosworth Local Plan 2001.

As the number of children within the property may be no more than four (with a maximum of three carers) then the impact in regard to noise and disturbance is likely to be minimal.

In respect of noise and disturbance associated with vehicle movements, whilst there may be comings and goings to the property during the change over of staff, as the site is within a built up area and adjacent to a highway, the associated disturbance is not considered to result in a material impact over and above the existing background noise.

Accordingly based on the above the proposal is not considered to have a significant detrimental impact on the amenity of neighbouring properties and in accordance with Policy BE1 (criterion i) of the Local Plan and the overarching principles of the NPPF.

Consideration has been given to the action plan that has been submitted by the applicant since the planning application was deferred from Planning Committee in August 2015. This helpfully sets out how the applicant recognises the potential impacts on adjoining local residents and shows a commitment to address these concerns by limiting the use of the rear garden, preventing external meetings and controlling car parking arrangements. In terms of the weight that should be attached to this action plan, officers are concerned that the

provisions would be difficult to monitor and enforce and therefore it is not proposed that this is secured by planning condition.

Aside from the limitations of enforcing the action plan, the Council is recommending approval subject to conditions as mentioned below. The conditions that are recommended is to ensure that no external meetings are taking place at the property, this is further controlled by an additional condition that no more than four members of staff should be present in the premises. This would ensure that the residential amenity of neighbouring properties is protected in accordance with Policy BE1 (criterion i) of the adopted Local Plan.

### Highway Safety

Neighbour concerns have been raised that the parking provision proposed is not adequate, and that the current staff are parking inconsiderately. The application site provides off-road parking for four vehicles with the use of a garage to the rear of the property. It is not possible to restrict the amount of parking within the highway; however the increased levels of parking are only likely to be brief during the turnover of staff and cause minimal impact to local residents. At certain periods of time there may be more cars within the vicinity where there is a change over of staff; however this will only be for very brief period of time.

Neighbours have raised concerns in regard to inconsiderate parking by the staff members. Whilst this is not this is not a material planning consideration these concerns have been carefully noted. On balance, it is considered that the proposed additional person would not result in any demonstrable or significant impacts in terms of highway safety and as such the proposal is considered to be in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

### Other Issues

It has been raised by neighbours that they were only made aware of this use following the granting of two certificates of lawful proposed use applications. The use of the dwelling for the care of six children was established to be lawful through the grant of the certificates of lawful use. Neighbours are not consulted on these applications as it is a legal determination based on fact and degree.

It has been raised that the property is still continuing to have meetings and using a room within the house as an office which is contravening the conditions stated in the recent Certificate of Proposed Lawful Use decision. These conditions were not imposed by the local planning authority and were set by the applicant when they initially applied. To limit it further it would be reasonable to ensure that no meetings shall take place at the property and the owners and operators should keep a log of people that are currently within the premises at any one time which would be available for inspection at the request of the Council. The condition would ensure that the residential amenity of the neighbouring properties is protected in accordance with Policy BE1 of the adopted Local Plan.

Other concerns have been raised claiming an increase in the amount of anti social behaviour and discussions have taken place with the Council's Endeavour Team to explore this issue further.

### Conclusion

The application is for the change of use of the property to a residential institution which would result in the increase of one additional person within the property. The application site is situated within a sustainable location within the settlement boundary Bagworth, in a predominately residential area. By virtue of the specific nature and level of the proposal, it is

not considered that the development would result in any harm to the residential amenity of surrounding dwellings, neither by way of noise and disturbance associated with vehicle movements or the children cared for, nor would the proposal result in any severe harm in terms of highway safety. Therefore the proposal is considered acceptable in accordance with Policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan, Policy 8 of the Core Strategy and the overarching principles of the NPPF and therefore recommended for approval subject to conditions.

Consideration has been given to the action plan submitted by the applicant since the Committee resolution; the level of local concern; and the fall back lawful position of the use operating in accordance with the Certificate of Lawful Use. On balance, subject to conditions to control the number of people present on site and to prevent external meetings, a refusal would be difficult to sustain.

**RECOMMENDATION**:- Grant subject to conditions.

**Summary of Reasons for Recommendation and Relevant Development Plan Policies :**

In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

**Conditions:-**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Block Plan (Scale 1:500), Site Location Plan (Scale 1:1250), Floor Layout Plan received on the 25 June 2015 by the Local Planning Authority.
- 3 The premises should have no more three people being cared for and no more than four members of staff on the site at any one time.
- 4 No external meetings involving or relating to people who are not cared for at the premises shall be held within the dwelling.

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To protect the amenities of neighbouring residents and to ensure adequate off street parking is provided in accordance with Policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan 2001.
- 4 To protect the amenities of neighbouring residents in accordance with Policy BE1 of the adopted Hinckley and Bosworth Local Plan 2001.

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by

law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.

- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site [www.planningportal.gov.uk](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

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