

## **SECTION A – MATTERS FOR DECISION**

### **Planning Applications Recommended For Approval**

<b><u>APPLICATION NO: P2022/0101</u></b>	
<b>PROPOSAL:</b>	Change of use from residential dwelling (Use Class C3) to children's care home (Use Class C2), including provision of car parking to rear
<b>LOCATION:</b>	161 Neath Road, Briton Ferry, Neath, SA11 2BX
<b>APPLICANT:</b>	Mr Atkins
<b>TYPE:</b>	Full
<b>WARD:</b>	Briton Ferry East

### **BACKGROUND INFORMATION**

Cllr Chris James requested on 25/02/2022 that this application be determined at Planning Committee for the following reason:

*“Grounds of Highway Safety. This is because I have received representations from neighbouring properties about Road Safety and Parking”.*

The ‘call-in’ Panel subsequently met and agreed on 09/03/2022 that the application should be determined at Planning Committee on the above grounds.

### **SITE AND CONTEXT**

The application site is located at 161 Neath Road, Briton Ferry.

The application site comprises a two-storey mid-terrace property currently used as a residential dwelling (Use Class C3).

The plot measures approximately 0.0153 hectares in area and is bounded by a residential dwelling to the north, Neath Road (A474) to the east, Dominos Pizza with residential flat above to the south, with an access lane and further dwellings to the west.

### **DESCRIPTION OF DEVELOPMENT**

This is a full planning application for the change of use of the property from residential dwelling (Use Class C3) to children's care home (Use Class C2), including provision of car parking to the rear yard.

Members should be aware that planning permission (ref. P2021/0637) has previously been granted on this property for the change of use from dwelling to a 5-bed HMO. However, the proposal under consideration as part of this application is now for the

change of use of the property into a 3-bedroom care home for children. The agent has indicated that there would be three children aged between 8 and 16 years old residing at the property, typically for a number of years, with 24-hour care provided by staff.

It should be noted that no external alterations are proposed to the property itself, as any works required to facilitate the conversion (such as the creation of en-suite bathrooms) would be internal only. To the rear of the property it should be noted that 2 new parking spaces would be created (accessed off the rear lane), together with a small recreation area and storage denoted for bins.

All plans / documents submitted in respect of this application can be viewed on the [Council's online register](#).

### NEGOTIATIONS

Not Applicable.

### PLANNING HISTORY

The application site has the following relevant planning history:

- P2021/0637 - Change of Use from Residential (Use Class C3) to a 5 bed House of Multiple Occupation (HMO)(Use Class C4). Approved 22/07/2021.

### CONSULTATIONS

**Briton Ferry Town Council:** Objection on the following grounds:

- i. Overdevelopment of the site.
- ii. Detrimental to the amenity of the area.
- iii. Primarily a residential area and this is an unsuitable development.
- iv. Lack of adequate parking for staff and visitors.
- v. Lack of adequate amenity or play area.
- vi. Lack of frontage poses risk to children in care.
- vii. Issue with similar establishment in Neath Port Talbot area.

**Head of Engineering & Transport (Highways):** No objection, subject to conditions.

**Environmental Health Section:** No objection.

**Natural Resources Wales:** No objection.

**Policy Crime Prevention:** No objection, subject to informatives.

### REPRESENTATIONS

The neighbouring properties were consulted on 16/02/2022, with a site notice also displayed on 16/02/2022.

In response, to date, 2 No. representations have been received. The objections are summarised as follows:

- Query regarding the ages of the children.
- Concerns regarding potential disruption in/around the area.
- Concerns that the proposal could affect property values.
- Concerns with potential noise and disturbance and impact upon sleep.
- Concerns regarding the safety of the children.

## REPORT

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

### National Planning Policy:

[Planning Policy Wales](#) (Edition 11) was revised and restructured in February 2021 to coincide with publication of, and take into account the policies, themes and approaches set out in, [Future Wales - the National Plan 2040](#) and to deliver the vision for Wales that is set out therein.

Future Wales now forms part of the Development Plan for all parts of Wales, comprising a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. All Development Management decisions, strategic and local development plans, planning appeals and all other work directed by the development plan need to accord with Future Wales.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015 and the Well-being of Future Generations (Wales) Act 2015.

PPW11 takes the seven *Well-being Goals* and the five *Ways of Working* as overarching themes and embodies a placemaking approach throughout, with the aim of delivering *Active and Social Places*, *Productive and Enterprising Places* and *Distinctive and Natural Places*. It also identifies the planning system as one of the main

tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan making and the decision making process.

PPW is supported by a series of more detailed [Technical Advice Notes](#) (TANs), of which the following are of relevance: -

- Technical Advice Note 12: Design

#### Local Planning Policies

The Development Plan for the area comprises the [Neath Port Talbot Local Development Plan](#) which was adopted in January 2016, and within which the following policies are of relevance:

#### Strategic Policies:

- [Policy SP7](#) [Housing Requirement](#)
- [Policy SP20](#) [Transport Network](#)

#### Topic Based Policies:

- [Policy SC1](#) [Settlement limits](#)
- [Policy TR2](#) [Design and Access of New Development](#)
- [Policy BE1](#) [Design](#)

#### *Supplementary Planning Guidance:*

The following SPG is of relevance to this application: -

- [Parking Standards](#) (October 2016)
- [Design](#) (July 2017)

#### Issues

Having regard to the above, the main issues to consider in this application relate to the principle of the development at this location, together with the impact on the visual amenity of the area, the amenities of neighbouring residents and highway safety.

#### Principle of Development

As the application site is located within the settlement limits defined by Policy SC1 of the adopted Neath Port Talbot Local Development Plan (LDP), the principle of the change of use at this location is generally acceptable, provided there are no overriding highway, amenity or environmental objections.

#### Material Change of Use

Section 55 of the 1990 Act states that 'development' includes *'the making of any material change in the use of any buildings or other land'*. Accordingly, a consideration under this application is if the proposed use does fall under C2, rather than C3, whether or not this amounts to a 'material' change of use of the property which requires the benefit of planning permission.

In this regard, it is emphasised that the above conclusion does not automatically mean that planning permission is required. Indeed, the North Devon case (*North Devon District Council v First Secretary of State* [2004]) makes clear that the fact that there is a change from a C3 use to a C2 use does not mean that the change requires planning permission. It must be considered whether the change is a *material* one. *"It will only be material if, as a matter of fact and degree in the circumstances of an individual case, the change of use was material."*

Whether the proposal constitutes a material change of use is a matter of fact and degree and depends upon the particular circumstances in each case. Established case law provides that it is necessary to look at whether the change gives rise to planning considerations, which can include the effects of the change on local amenity.

In this respect, a review of information on-line has revealed that a change of use from Class C3 to C2 will not generally be considered material if it doesn't change the actual daily use and character of the property. This is a matter of fact and degree in each case, with considerations including noise levels, increased pressure on parking caused by visits from carers, and whether additional security measures, such as alarms, are installed at the property. The number of resident children/young people is also relevant too - six children living together is likely to be considered higher impact than the average family home, whereas two to three *might* not be.

As such, it is possible to conclude that no material change of use has occurred if there is no material difference in activity to that which may be anticipated in the case of a conventional residential use. So, if the premises has the look and character of a conventional residential dwelling, and the use gives rise to no greater level of disturbance or amenity effects than could be generated by a C3 use, then it can be argued that no material change of use has occurred. Again, a key issue relates to the numbers of residents involved, whether or not staff work shift patterns or have a permanent residence at the site.

Notwithstanding the above, it should be noted that the applicant has chosen to submit a planning application for the change of use from C3 to C2 and they have confirmed that only the children would be resident – the staff would rotate and live elsewhere. In light of this, and the scale of the property, it is therefore confirmed that the proposal would constitute a 'material' change of use that requires the benefit of planning permission in this instance.

Impact on Visual Amenity

It is noted that the no external alterations are proposed to the property itself, with the formation of a parking and recreation area to the rear (plus bin storage) being the only visible changes. In light of this, it is therefore considered that the property would retain a residential appearance, and the overall proposal would not have a detrimental impact upon the character and appearance of the surrounding area or street-scene, and would therefore comply with Policies BE1 of the LDP.

#### Impact on Residential Amenity

In respect of potential overlooking, it is noted no new windows are proposed. Whilst there are a number of existing side-facing windows on the property as these already serve habitable rooms, it is considered that the proposed change of use would not create any additional or unacceptable overlooking over and above that currently experienced.

Turing to potential overbearing and overshadowing, it should be noted that no extensions or alterations are proposed to the property itself. As such, the proposal would not create any unacceptable issues in these regards.

In respect of potential noise and disturbance, Members should note that whilst the current lawful use of the property is still a residential dwelling (Use Class C3), there is extant planning permission (ref: P2021/0637) to change the use of the property into an HMO (Use Class C4) - which will be a material consideration in the determination of this application. The submitted details have been assessed by the Environmental Health Officer. They advise that the proposed C2 use is less intensive in terms of residents at the property, compared to the previously approved C4 use, and they have had discussions with the applicant to confirm that the premises will be operated as a true care facility and not as a HMO by 'stealth', which can happen for Care Homes for residents over 16 years old. On this basis the Environmental Health Officer, therefore, has no objections to this application.

In light of the above, it is considered that there are no justifiable grounds to refuse planning permission on residential amenity grounds, having particular regard to the fact that if any issues arise in the future from noise and disturbance, these can be addressed by the Environmental Health Section under their statutory nuisance powers.

#### Parking and Access Requirements and Impact on Highway Safety

It is noted that the existing property is located off Neath Road (A474) which is the main route through Briton Ferry into Neath. It is also noted that it is very busy and there is limited on-street parking availability and parking restrictions on Neath Road which the site fronts onto. However, it is also noted that there are no parking restrictions on Grandison Street, which is to the south side of the site. The existing residential property would have a parking requirement, as detailed in the Parking Standards SPG,

for 1 space per bedroom up to a maximum of three spaces. At present there is a gravel area to the rear of the property which could be used for 2 parking spaces. Therefore, the existing use as a residential dwelling is technically deficient by 1 space.

The Head of Engineering and Transport (Highways Section) has assessed the proposal and offers no objection to the development, subject to conditions. This is on the basis that the proposed use would comply with the Authority's Parking Standards SPG which requires the following:

- 1 space per 3 non-resident staff (staff parking) – 1 space required;
- 1 space per 4 beds (visitor parking) - 1 space would be required.

Members will note that the existing planning permission in place for a HMO at the property benefits for 5 adult residents that could generate up to 5 separate vehicles being parked in the locality on a more permanent basis.

In light of the above and the information provided within the application, the proposal to provide 2 off-street car parking spaces to the rear of the property, accessed off an adopted lane access, is in compliance with the authority's parking standards and the proposal is therefore acceptable in terms of highway and pedestrian safety.

In respect of staff changer over, it is noted that only 1 'staff' parking space would be provided on site, but there is a need for up to 3 staff on site at any one time. The applicant has confirmed that staff changeover will be staggered from 7.30am, with other changes overs taking place 8.00am and 9.00am respectively. Whilst this means that it could result in staff cars being parked on the nearby streets for a short period during the hand-overs, it is noted that there are no parking restrictions on the top of Grandison Street - indicating that there are no 'on-street' parking pressures there currently. Furthermore, given the existing lawful use of the site and the HMO already granted consent, together with the sustainable location of the site (i.e. on a bus route), it is considered that the overall proposal would be acceptable in terms of highway and pedestrian safety, and refusal of the application on highway/parking grounds could not be substantiated at appeal.

### Other Matters

As identified earlier in this report, a number of objections were received in response to the publicity exercise. In response to the main issues raised which have not been addressed elsewhere in this report, the following comments are made:

- In relation to the concerns that the proposal will decrease property values, it should be noted that this is not a material planning consideration, so cannot be taken into account when determining this application.
- In respect of the concerns regarding the safety of the children it should be noted that this is also not a material planning consideration and would be under the control of the Care Inspectorate Wales. Noting that staff are present on site on a 24 hour basis.

In respect of the objections raised by Briton Ferry Town Council, the following comments are made:

- With regards to the concerns regarding overdevelopment of the site, it should be noted that a 3-bed care home would be akin to a 3-bed residential dwelling and would be less intensive than the 5-bed HMO granted consent.
- Turning to the concerns that it would be detrimental to the area and unsuitable in a residential area, Members should note that there would be no external alterations to the property itself, with the only visible changes being the car parking provision, amenity area and bin storage – again features typical of a residential dwelling. As such, these would not be considered defensible reasons for refusal of the application if the applicant chose to appeal.
- Turning to the comments regarding the adequacy of the amenity area and front garden it should be noted that these are not a material planning consideration and would be assessed by Care Inspectorate Wales. Furthermore, if deemed necessary, a gate could be installed at the front boundary off the existing pillar up to 1m high under 'permitted development' without the need for any planning permission.
- Finally, in respect of the concerns regarding similar establishments in Neath Port Talbot area, it should be noted that this would not be a reason to refuse the application, as each application is considered on its individual merits.

## CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises Future Wales - the National Plan 2040 and the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

It is considered that the proposed development would not have a detrimental impact upon residential amenity or upon the character and appearance of the surrounding area, and there would be no adverse impact upon highway and pedestrian safety. Hence, the proposed development would be in accordance with Policies SC1, TR2 and BE1 of the Neath Port Talbot Local Development Plan.

It is further considered that the decision complies with Future Wales - the National Plan 2040 and the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

RECOMMENDATION: Approval, subject to conditions

Time Limit

1. The development shall begin no later than five years from the date of this decision.

Reason:

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

#### List of Approved Plans and Documents

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

Dwg. No. 010 Rev A.

Dwg. No. 001.

Dwg. No. 002.

Dwg. No. 102.

Dwg. No. 110.

Reason:

In the interests of clarity.

#### Action

3. Prior to the first beneficial occupation of the Children's Care Home hereby approved (Use Class C2) the rear parking area detailed on the approved block plan, to accommodate two car parking spaces, shall be provided on site accessed via the adopted rear lane. The parking area shall be surfaced in porous material, or provision must be made to direct run-off water from the hard surface to a permeable porous area or surface within the curtilage of the property, with no surface water allowed to flow out onto the public highway. A minimum of two spaces shall be permanently maintained and available for use for parking of vehicles within the curtilage of the property thereafter, with no enclosure permitted to be provided at any time which would impede the use of such spaces for the parking of vehicles.

Reason:

In the interest of off-street car parking provision and highway safety, and to comply with Policy TR2 of the Neath Port Talbot Local Development Plan.

4. Prior to the first beneficial occupation of the Children's Care Home (Use Class C2) hereby approved the designated bin storage area and recreation area, as detailed on the approved block plan, shall be provided on site and retained for such use thereafter.

Reason:

In the interest of visual and residential amenity and to comply with Policies BE1 and TR2 of the Neath Port Talbot Local Development Plan.

Regulatory Conditions

5. The use hereby approved shall benefit for a maximum of 3 residents only.

Reason:

In the interests of clarity.