South Tyneside Council

Reference:	ST/0753/24
Location:	170 Mortimer Road South Shields NE34 0RW
Ward:	West Park
Description:	Change of use under Class V of Part 3 of Schedule 2 of the General Permitted Development (England) Order 2015 for dual use between dwellinghouse (C3) and residential children's home (C2) for care/supported living for a maximum of 2 children (under 18).
Recommendation:	Grant Permission with Conditions
Case Officer:	Samantha Gallagher
Case Officer Contact No.:	0191 4247447 or 07741109243

Description of the Site

This application relates to 170 Mortimer Road a semi-detached dwelling in a residential area of South Shields. The property benefits from a driveway to the side for off-street parking. The application site is part of a street of similarly designed semi-detached dwellings with the attached semi located to the north and the adjacent semi to the south. Further to the north, west and south are other semi detached dwellings and a convenience store on the corner of Mortimer Road and Cauldwell Avenue. To the rear of the application site is Mortimer Road Primary School. To the front of the property is a bus stop.

Description of the Proposal

The application seeks planning permission for the change of use of the property from a C3 dwellinghouse to a dual use as a C3 dwellinghouse and C2 children's home for two under 18's under Class V of the Town and Country Planning (General Permitted Development (England) Order 2015 (as amended) (the GPDO). No external alterations are proposed as part of this application.

The agent has advised that the proposal would be for care for 2.no. under 18's in care/supported living. The proposal includes care provided by full-time members of staff working shifts throughout the day and the application submission has confirmed that one member of staff would be present on site at all times, and staffing would not exceed three staff members on site at any one time.

The submission also clarifies that the third bedroom would be used by overnight staff and as a staff office.

Relevant Planning History

The planning history of the site is as follows:

None relevant to this application

Summary of Consultation Responses

The following responses were received in response to the statutory consultation period which ended on 05/02/2025.

Community Safety Team
No crime and disorder concerns.

Highway Authority
No objection.

Environmental Health (land contamination)
No comments in relation to land contamination.

Lead Local Flood Authority
No history of flooding at the proposed development site and is considered at low risk for surface water flooding. However, can the applicant be made aware of the surrounding areas of the development which are considered to be at medium and high levels of surface water flood risk.

Designing out Crime Officer
Northumbria Police have raised no formal objection, however they note that the application submission does not include sufficient detail with regards to supporting documents, such as detailing how the children's home will operate, safeguarding policies and Locality Risk Assessment (as detailed in Paragraph 15.1 of the Guide of Children's Home Regulations).

The local Neighbourhood Policing Team has provided additional comments and have referenced the location of the children's home, being in close proximity and easy access of the main areas of the town centre and the sea front, where there have traditionally been issues with crime and anti-social behaviour, as well as mix of drug/alcohol abuse by vulnerable young children.

Figures for reported incidents and crime within the Mortimer Road area the past 12 months have been provided :
Crime: 461
Public Safety and Welfare: 429
ASB: 63

We have reviewed the Floor Plans of the property and we have noted the use of the third bedroom by overnight staff and an office and recommend that office accommodation be secured and allow for the safe storage of both personal items, keys and confidential files.

Without the full information relating to how the proposal would be run operationally and the lack of supporting information currently attached to this planning application, Northumbria Police cannot fully support this application in its current form and would require additional information with regards to:

- Safeguarding Documents, including:
  Staff levels/shift patterns
  Measures in place for any incidents that may occur, such as if a young person goes missing, how would this be managed if there was only one staff member on duty.
  Staff should have access and the use of a vehicle to assist in managing the risk away from the home.
  Safeguarding and missing from home policies.

Summary of Representations

1no. representation has been received in objection to the proposal. The issues raised are summarised as follows:

- There is a bus stop outside of the property. Buses stop and park over the driveway access.
- The property is near a school with pupils escorted on foot and in vehicles. This causes congestion.
- Residents find it difficult to park or gain access to their homes.
- This will cause problems for carers to get vulnerable children into the house.

Relevant planning policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise.

The statutory development plan comprises the Council's adopted Local Development Framework (LDF) development plan documents. Those LDF documents of relevance to this application comprise of the Core Strategy 2007 and a Development Management Policies Development Plan Document (DPD) 2011,

The following policies of the South Tyneside Local Development Framework Core Strategy are relevant to this planning application:

- LDF CS SC1 - Creating Sustainable Urban Areas
- LDF CS A1 - Improving Accessibility
- LDF CS EA3 - Biodiversity and Geodiversity
- LDF CS EA5 - Environmental Protection
- LDF CS ST1 - Spatial Strategy for South Tyneside
- LDF CS ST2 - Sustainable Urban Living

The following policies and guidance are also relevant to this planning application:

- SPD6 - Parking Standards
- DM1 - Management of Development

Although the Publication draft South Tyneside Local Plan is now at a more advanced stage of preparation having been subject to two statutory consultation periods, Borough Council decided on 5 September 2024 not to endorse submission of the Local Plan to the Secretary of State for Examination. As such only negligible weight can be afforded to relevant policies

at this time and less weight than would have been afforded in the period between completion of the Regulation 19 consultation in March 2024 and prior to Borough Council's decision. For this reason, the report does not seek to identify specific policies from this Plan.

National planning policy is also a material consideration in determining this planning application. Relevant national policy comprises the National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG), the National Design Guide and the National Model Design Code.

The following paragraphs of the NPPF are relevant to this planning application:

- Paragraph 63 – Different Housing Types and Tenures
- Paragraph 96 – Promoting Healthy and Safe Communities
- Paragraph 135 – Design

Assessment

The key issues in the assessment of this planning application are as follows:

- Principle of Development
- Security, safety of local community, crime and anti-social behaviour
- Highways and Parking
- Residential Amenity
- Other Matters

Principle of Development

This application seeks planning permission for the dual use of 170 Mortimer Road for use as a C3 Dwellinghouse and a C2 Children's home for under 2no. under 18s under Class V of Part 3 of Schedule 2 of the GPDO. Permitted development under Class V of the GPDO comprises development consisting of a change of use of a building or other land from a use permitted by planning permission granted on an application, to another use which that permission would have specifically authorised when it was granted.

Therefore, under Class V the applicant may make an application for a change of use to a number of different uses. Once permission is granted the applicant can change between the permitted uses over a period of 10 years following the grant of permission. In effect the change of use would allow the continued use of the premises as a C3 Dwellinghouse but with the addition of flexibility to use the premises as a C2 children's home. It can also allow for the property to be reverted back to a C3 dwellinghouse should the need for a children's home be no longer required. It therefore needs to be considered if a C2 use would be appropriate in this location.

The application seeks to include a children home use for up to two children. Use Class C2 of 'Residential Institutions' of the Town and Country Planning (Use Classes) Order 1987 (as amended) includes the following uses:

• Use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3 (dwelling houses));
• Use as a hospital or nursing home;
• Use as a residential school, college or training centre.

Use Class C3, as referenced above covers ‘Use as a dwellinghouse’ (whether or not as a sole or main residence) by:

a) a single person or by people to be regarded as forming a single household;
b) not more than six residents living together as a single household (where care is provided for residents)
c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

As such, depending on the circumstances of each case, a children’s home will fall into either a C2 or C3 use classification. The starting point is therefore to firstly establish, as a matter of fact and degree, whether the use of the property for a children’s care home would constitute a change of use from C3 to C2. As the above list references, there is provision for a dwellinghouse to provide supported accommodation (category b). Based on the list above, a property cannot fall within use class C3 (b) if more than six residents are to occupy it. However, where the proposed number of occupants would be six or fewer (as would be the case with the current application - the proposal would accommodate a maximum of 2 children (alongside support staff)), the key question is therefore whether they would be living together 'as a single household'.

Planning case law *North Devon DC v First Secretary of State (2003)* established that children are not able, on their own, to form a 'single household' because they are not capable of living without adult care and supervision. However, children living together with an adult carer can potentially constitute a single household, if that carer is permanently resident. Non-resident (not permanent) carers are not deemed to be part of the household, even in circumstances where care is provided to the children 24 hours a day, seven days a week. Whilst the proposal would have staffing 24/7, the proposal would have non-resident carers and as such the proposal would not constitute a ‘single household’.

However, a change of use from C3 to C2 may not amount to a material change of use and may still not amount to development which requires planning permission. 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. If the premises have 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 no material change of use would occur. Each case must be determined on its own merits (based on fact and degree in each case), with considerations including noise levels, number of children that would be resident, increased pressure on parking caused by visits from carers etc., and the need for any additional security at the property.

Understanding the differences between the above use classes, the applicant has submitted a planning application for a change of use; no pre-application discussions on materiality took place and consent is being sought for the dual use between C3 and C2 under Class V of the GPDO. As such, the planning application must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise. Consideration of the above and provision for an element of care within use class C3, is however noted; recognising that under differing operational circumstances including the provision of resident care staff, a C3 use (and thereby not requiring planning permission) could be proposed.

The application site has therefore most recently been used as a dwelling house and the proposed use as a children’s home would continue to retain the use of the property as residential accommodation. Externally the property would not alter and would maintain its residential appearance and character within the terrace of residential properties.

The application seeks consent to change the current use of the property from one form of residential use to another form of residential use, a residential institution (Use Class C2), which includes residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres. The C2 Use Class comprises uses for the provision of residential accommodation and care to people in need of care. Care is defined by the legislation as *'personal care for people in need by reason of old age, disablement, mental disorder, or alcohol and drug dependence.'*

Referring to the definition of a C2 use above, it is recommended that due to the inclusion of other types of 'residential institutions' within Use Class C2, in addition to a care home, that a planning condition should be attached to the grant of permission to limit the use of the premises to a children's care home (Use Class C2) and for no other purpose (including any other purpose within Class C2 of the Schedule to the Town & Country Planning (Use Classes) Order 2015. It is considered that an alternative use to the premises would require further assessment specifically in terms of residential amenity, highway safety and available in curtilage car parking, as standards differ between types of use (as set out in SPD6 Parking Standards guidance).

The application site is located within the built-up area of South Shields. The site is located within a predominantly residential area and is in close proximity to local facilities, including shops, schools, a local park and public transport bus stop in easy walking distance to the application site. The site has good connectivity to the strategic highway network across the borough. It is considered that due to the sustainable location of the site, this would be an appropriate location to accommodate children in a typical family environment.

A C2 Children's Home use is a form of residential use, and is not, as a matter of general planning land use principles, considered to be an inappropriate use within a locality such as that surrounding the application site which predominantly hosts residential properties.

Whilst it is noted that the proposal could result in and constitute the loss of a C3 dwellinghouse, it is not considered that this would result in significant harm to the housing mix and availability of dwellings in the area. Indeed, it is considered that the proposal would assist in meeting particular housing needs.

It is considered that the application site, located within a predominantly residential area, is in a sustainable location and would provide ease of access to amenities and facilities.

<u>Security, safety of local community, crime and anti-social behavior</u>

NPPF paragraph 96 (b) in promoting healthy, inclusive and safe communities states that 'planning policies and decisions should aim to achieve healthy, inclusive and safe places which: are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion…' South Tyneside LDF policy ST2 (F) also seeks to ensure that the need to design out crime and fear of crime has been addressed. In considering the likely occurrence of crime and antisocial behavior associated with the proposed use, it is considered that children from the home will have more supervision and support than other types of residential accommodation.

The Northumbria Police Architectural Liaison Officer has raised concerns regarding the details of the supporting documents of the application and concerns regarding the location of the children's home in close proximity and easy access to the main areas of the town centre, and the seafront where there have traditionally been issues with crime and anti-social behavior. Crime data for the past 12 months for the area has been provided, however no additional details in respect of specific incidents and correlation to the proposal have been provided or indicated. As detailed above, Northumbria Police have requested additional

information regarding, staff/shift patterns, measures in place for incidence (such as a young person going missing) and safeguarding and missing from home policies.

It is acknowledged that critical to minimising any potential for anti-social behavior and impact to residents of the area, will be the management of the home and any management plan (statement of purpose) that is agreed with Ofsted and all partners, and in particular an agreed protocol with Northumbria Police Safeguarding Team about how to deal with Missing persons and other matters, required and agreed through another regulatory regimes governing the management and delivery of the care home, it is not considered that this information is required as part of this planning application.

In respect of future occupants and comments received from Northumbria Police, the planning system is concerned with land use in the public interest, rather than the individual users of that land use. It is considered that it is not for the planning system, or the decision-making process on this planning application, to consider day-to-day operational matters and management associated with the proposed use (or its residents).

The applicant has identified that the proposed care home would accommodate two children. All children's homes are governed and inspected by Ofsted, including occupancy. It is also acknowledged that the size and location of the property would itself control the number of bedrooms available and consequently the capacity of the home. Living, dining, bathroom and kitchen provision would be needed alongside staff office space. Due to other regulatory regimes controlling this aspect of the proposal, it is not considered appropriate that a planning condition be attached restricting capacity.

Notwithstanding the comments and matters raised by Northumbria Police, it is considered, on balance, that the proposal is acceptable and would not result in an increase in crime and anti-social behaviour in the area. Overall, the proposal is considered to accord with LDF Policy ST2 (F).

Highways and Parking

There is no requirement for the planning application to be accompanied by a Transport Statement, Travel Plan or Transport Assessment. As such the application has not included any data in respect of vehicle movements. However, it is considered that due to the scale of the development and taking into consideration the current use of the property as a dwelling house, there would be no significant increase in the vehicle movements associated with the proposed use. It is considered that due to the small scale of the proposed use including the staffing numbers, anticipated deliveries associated with the use and visitors to the application site, the proposal would not generate a level of vehicular trips and movements that could not be accommodated within the local highway network. As such, it is not considered that the proposal would give rise to any material impacts of the surrounding local highway network and no objections have been raised to the proposal by the Council's Transport Development Officer (the Highway Authority) on highways safety or highways capacity grounds.

The proposal would use the existing highway of Mortimer Road to provide pedestrian and vehicular access to the application site with no.2 off street parking spaces. A representation has cited existing problems with parking on street during school drop off and pick up periods and the location of a bus stop outside the application site and the problems this could cause for staff and residents of the children's home.

The application stated that the proposed use would have a minimum staffing level of 1 at any one time with a maximum of 3 staff members at any one time. The property has 2 off street

parking spaces for staff. Any visitors, visiting professionals, further staff or inspectors to the site would have to park on the street.

South Tyneside Council LDF SPD6 – Parking Standards identifies a maximum standard for development, and in respect of care homes, SPD6 states that there should be 1 space per resident staff, 1 space per 3 staff on the premises and 1 space per 10 residents for visitors. The proposal would therefore require 3 spaces. There are currently 2 off street parking spaces available in the application site which would be retained for the proposal. It is considered that the proposal would not generate a level of parking demand significantly different to the lawful use. The additional parking/vehicle movements would be during the day when demand is less. It is therefore considered that the proposal with 2 parking spaces would be acceptable given the specific circumstances of this application which would not significantly increase parking demand.

SPD6 states that in respect of cycle provision, there should be 1 cycle space per 5 staff. As such, the property would need to accommodate 1 cycle. It is considered that there would be sufficient space within the curtilage of the property to accommodate the parking of a cycle.

It should also be noted that the property is located within a sustainable location with access to public transport; bus stops are located in close proximity including immediately to the front of the property, and Chichester metro station is within walking distance. Staff members and visitors would therefore have ease of access to the property through other means than private car.

As set out above, objections have been received in respect of on-street parking availability during school drop of and pick up times and due to the bus stop outside of the property the staff for the premises may struggle to access the parking in the site. There are parking restrictions on Mortimer Road to prevent parking in front of the drives of the properties. If unauthorised and indiscriminate parking occurs it would be a matter for the police. With regards to the bus stop location and impacting upon driveway access, this is an existing situation and the proposal would not alter this. The current bus timetable shows buses every 30 minutes and it is not anticipated that a bus would be at the bus stop for a significant length of time. As such, the proposal would not exacerbate any existing parking and carriageway width reduction than is currently experienced at Mortimer Road and the surrounding area.

In view of the above, and notwithstanding the concerns raised, it is not considered that the proposal would give rise to any undue highway safety concerns. In coming to this view consideration has been given to the fact that the scheme is unlikely to generate significantly more vehicular movements to and from the premises than would be generated were they to have remained in use as a dwelling. As such, it is considered that the proposed development is in accordance with LDF Policies A1 and DM1 (G and H).

Residential Amenity

Policy DM1 (B) seeks to ensure that development is designed to convey sensitive consideration of its surroundings, is acceptable in relation to any impact on residential amenity and the impact of the development is acceptable in relation to highway capacity and safety. Consideration of highway capacity and safety have been addressed above.

It is acknowledged that the management of the home and supervision of the children will be a significant factor in ensuring no impact to neighbouring occupiers and the local community from the proposed use, but as set out above, that is a non-planning matter and is controlled

by other mechanisms. It has been stated that the children would be supported and cared for by staff who will be on site 24 hours a day. The care home would be inspected and assessed by Ofsted, the Council and other independent (regulation 44) inspections. The management of the home, inspections of the home, and the arrangements and procedures for the supervision of children would therefore be monitored.

In terms of internal noise and any noise from use of the external gardens, it is considered that the proposed use would not be substantially different to the current lawful use of the property, where residents of a dwellinghouse could generate noise both inside and outside the property. In view of the above and on balance, it is considered that the proposal would not result in significant impacts to residential amenity that would warrant refusal of planning permission and it is therefore considered that the proposal would accord with LDF Policy DM1(B).

Ecology

In terms of Biodiversity Net Gain, the proposed development would be below the threshold as the proposal is for a change of use and would not impact on-site habitat. This would fall under de minimus exemption under Regulation 4 of the Biodiversity Gain Requirements (Exemptions) Regulation 2024.

The proposal has also been eliminated from assessment under the Habitats Regulations 2017 because it could not have any conceivable effect on a European site due to the existing and proposed uses.

Therefore, on the basis of the above, the development would be in accordance with Policy EA3 of the LDF Core Strategy and the NPPF with respect of ecology.

Other matters

As set out earlier operational matters and the suitability and qualifications of management of the care home are regulated by other agencies who oversee care home providers and are outside the control of the land use planning system.

Securing planning permission is just one stage in a larger process. There are additional regulatory regimes involved and checks and processes that would need to be addressed, secured and be in place for any home to be operational – any grant of planning permission is not the sole regulatory process. Furthermore, and as detailed previously, any care home requires appropriate management, inspection, review and monitoring and the health, safety and well-being of any children placed; for example Ofsted, regulation 44 and local authority inspections and the requirement of suitably qualified and registered staff and management being appointed.

Given the extant use of the site, no concerns have been raised by Environmental Health in respect of land contamination or flooding.

In deciding whether to grant planning permission the Council must have due regard to the 3 equality aims contained in Section 149 of the Equality Act 2010 (the public sector equality duty). A preliminary assessment of the potential equality impacts of any grant of planning permission in this case has been undertaken. There are no apparent equality impacts of the proposed development which give rise to the need to undertake a more detailed equality impact assessment.

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further

effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Conclusion

Having regard for the above it is considered that the proposal would result in no significant harm to the character of the area or amenity of nearby residents or would adversely impact the local highway network or existing on-street parking arrangements.

As a result, it is considered that the proposed development complies with all relevant local and national planning policy and guidance. Consequently, this application is recommended for approval.

Recommendation

Grant Permission with Conditions

Conditions

1 The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

As required by Section 91 of the Town and Country Planning Act 1990 and to ensure that the development is carried out within a reasonable time.

2 This permission authorises the use of the premises for a dwellinghouse (use class C3) and a Childrens home (use class C2) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose (including any other purpose within Class C2 of the aforementioned Order or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) for a period of 10 years from the date of this decision. The last use of the premises prior to the expiry of this ten-year period shall be the authorised use thereafter, unless further permission is granted.

To comply with the terms of the application and to ensure compliance with Schedule 2, Part 3, Class V of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and to enable assessment of any alternative use of the building by the Local Planning Authority to determine whether the development would be acceptable in terms of policy, highway safety, parking, access and amenity, in accordance with South Tyneside Local Development Framework Policies, DM1, EA5 and A1.

Informatives

1 Approval of a Biodiversity Gain Plan NOT REQUIRED before development commences

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition") that development may not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and
(b) the planning authority has approved the plan.

However, based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply - please refer to Biodiversity net gain: exempt developments - GOV.UK (www.gov.uk).

List of plans etc. for standard note on decision

Plan Reference

Ground and First Floor Plans received 23/12/2024

Location Plan 23/12/2024

Photograph 23/12/2024

Case officer: Samantha Gallagher

Signed: S Gallagher

Date: 11/02/2025

Authorised Signatory: Helen Lynch

Date: 11/02/2025