

## **PLANNING & DEVELOPMENT COMMITTEE**

**17 August 2023**

### **REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

#### **PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 23/0398/10 (GRD)  
**APPLICANT:** Mason and Young Property Investments Limited.  
**DEVELOPMENT:** Change of use from a HMO (C4 use) to a Children's Home and associated works. (Amended Site Location Plan received 08/06/2023)  
**LOCATION:** 37 ELIZABETH STREET, ABERDARE, CF44 7LN  
**DATE REGISTERED:** 08/06/2023  
**ELECTORAL DIVISION:** Aberdare East

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**RECOMMENDATION:** Approve, Subject to conditions

**REASONS:** The application site is located within a predominantly residential area and within the settlement boundary limits of Aberdare. The site is in a highly sustainable location with good access to public transport, facilities, and key services.

The site also relates to an existing residential property and, other than the presence of a small number of staff and an element of care provided, the proposed use would remain and continue to be residential in nature.

Additionally, no external alterations are proposed at the property, and the development would not impact upon the character and appearance of the application property or wider area. Furthermore, the development would not be considered to impact or upon the amenity and privacy of surrounding properties, nor would it have an adverse impact upon highway safety.

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#### **REASON APPLICATION REPORTED TO COMMITTEE**

- A written request has been received from Councillors for the application to be reported to the Development Control Committee.

#### **APPLICATION DETAILS**

Full planning permission is sought for the conversion of an existing property, last used as a small HMO (C4) to a residential Children's Home (C2). The applicant has confirmed that the conversion would not result in any external changes with minimal internal changes required.

The proposed care home would contain a living room, kitchen and utility room to ground floor, with 2 no. bedrooms, a bathroom and W/C to first floor, with two further bedrooms and a living room to the second floor.

The application is supported by a planning statement which includes the following information in relation to the proposed care home for children:

The property would accommodate a maximum number of 2no. children and 2no. carers, who would sleep at the property overnight. Staff would work 48hour shifts. The statement also notes that children placed at the home would stay on a long-term basis which is likely to be more than 18 months with the care provider noting in their statement that the process of accepting children to the home would be via referrals from Social Services.

## **SITE APPRAISAL**

The application site relates to a three-storey terraced property located near the junction of Elizabeth Street and Griffith Street in Aberdare.

The principal elevation of the property faces the adjacent highway at Griffith Street to the north of the site. The site is adjoined to the west and south by its neighbouring terraced properties and the site is bound to the east and north by adjacent public highways.

The application site itself relates to a three-storey property and a small rear garden is provided within the curtilage of the property. The surrounding area is predominantly residential with both Elizabeth Street and Griffith Street containing terraced properties.

## **PLANNING HISTORY**

22/1221/09: 37 ELIZABETH STREET, ABERDARE CF44 7LN: '*Certificate of Lawfulness for the change of use from C4 to C3 use and the proposed use of the dwelling as a children's home*'. Withdrawn, 21/12/2022

16/5062/41: 37 ELIZABETH STREET, ABERDARE CF44 7LN: Pre-application query. Withdrawn, 16/11/2016

## **PUBLICITY**

The application has been advertised by means of direct neighbour notification and through the erection of site notices in the vicinity of the site. No letters of objection from neighbours were received.

The Local members for the ward, Cllr Bradwick and Cllr Dunn, have objected to the application. They have noted their concerns with the proposal and do not consider that this is a suitable location for a children's care home facility.

## **CONSULTATION:**

Local Highway Authority

No Objection

Public Health & Protection

No Objection. Conditions and Advisory Notes recommended.

South Wales Police

No Objections, subject to condition. Advisory Notes recommended.

South Wales Fire and Rescue Service

No Comments received.

Community and Children's Services

Objects to the planning application

## **POLICY CONTEXT**

### **Rhondda Cynon Taf Local Development Plan**

Members will be aware that the current LDP's lifespan was 2011 to 2021 and that it is in the process of being reviewed. The Planning (Wales) Act 2015 introduced provisions specifying the period to which a plan has effect and providing that it shall cease to be the LDP at the end of the specified period. These provisions were commenced on 4th January 2016 but do not have retrospective effect. Therefore, the provisions do not apply to LDPs adopted prior to this date and plans adopted before 4th January 2016 will remain the LDP for determining planning applications until replaced by a further LDP. This was clarified in guidance published by the Minister on 24th September 2020. Subsequently, Members are advised that the existing Plan remains the development plan for consideration when determining this planning application.

The application site relates to an existing residential property, that is located within settlement boundary limits. The following policies are relevant in the determination of this application:

**Policy CS1 (Development in the North):** sets out criteria for achieving strong, sustainable communities in the Northern Strategy Area.

**Policy AW2 (Sustainable Locations):** advises that development proposals on non-allocated sites will only be supported in sustainable locations.

**Policy AW5 (New Development):** sets out criteria for new development in relation to amenity and accessibility.

**Policy AW6 (Design and Placemaking):** requires development to involve a high quality design and to make a positive contribution to placemaking, including landscaping.

**Policy AW8 (Protection and Enhancement of the Natural Environment):** seeks to ensure that developments would not unacceptably impact upon features of importance to landscape or nature conservation.

**Policy AW10 (Environmental Protection and Public Health):** development proposals must overcome any harm to public health, the environment or local amenity as a result of flooding.

**Supplementary Planning Guidance**

Design and Placemaking

Nature Conservation  
Planning Obligations  
Access Circulation and Parking

### **National Guidance**

In the determination of planning applications regard should also be given to the requirements of national planning policy which are not duplicated in the Local Development Plan, particularly where national planning policy provides a more up to date and comprehensive policy on certain topics.

Planning Policy Wales Edition 11 (PPW) was issued on 24<sup>th</sup> February 2021 in conjunction with Future Wales: The National Plan 2040 (FW2040). PPW incorporates the objectives of the Well-being of Future Generations (Wales) Act into town and country planning and sets out Welsh Government's (WG) policy on planning issues relevant to the determination of all planning applications. FW2040 sets out the National Development Framework for Wales (NDF), WGs current position on planning policy at regional and national level.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking set out in PPW; and is also consistent with the Well-being of Future Generations (Wales) Act's sustainable development principles through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable development and building healthier communities and better environments.

Given the minor scale of the proposed development and its relationship with only the immediate surrounding area, there are limitations to the extent such a scheme can have in promoting planning objectives at a national scale. As such, whilst the scheme aligns with the overarching sustainable development aims of FW2040, it is not considered the policies set out in the document are specifically relevant to this application.

Other relevant national policy guidance consulted:

PPW Technical Advice Note 5: Nature Conservation and Planning;  
PPW Technical Advice Note 12: Design;  
PPW Technical Advice Note 18: Transport;

### **REASONS FOR REACHING THE RECOMMENDATION**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed, unless material considerations justify the grant of planning permission.

#### **Main Issues:**

#### **Principle of the proposed development**

The application relates to the change of use of an existing residential property and small house in multiple occupation (HMO) (C4 Use) to a residential Care home for up to 2no. children (Use Class C2).

The site is situated within the settlement boundary limits of Aberdare, in a predominantly residential area. The application site is located near Aberdare Town Centre and the identified Retail Centre of Aberdare and has good access to services and facilities. The application site is also within walking distance of local bus stops and Aberdare Train Station.

The application site is in a sustainable location and predominantly residential area and is also located within the settlement boundary limits of Aberdare. The principle of providing a children's care home at this location is therefore considered acceptable, subject to other normal planning considerations which are discussed in the following sections.

### **Impact on the character and appearance of the area**

External alterations are not proposed at the property. As such, the character and appearance of the property and site would remain as existing. Furthermore, the provision of a children's care home in a predominantly residential area would not be considered to alter or harm the general character of the wider area.

### **Impact on residential amenity and privacy**

No external alterations are proposed at the property, and as such, it is not considered that the proposed development would adversely impact upon the amenities or privacy of neighbouring occupiers.

The development would result in an element of care and presence of a small number of staff at the site. However, with a maximum number of 2 children and 2 carers at any one time, it is considered that the proposed use would be of a limited scale and would largely exhibit similar characteristics as that of a residential dwelling. As such, it is not considered that the use would result in harmful levels of noise and disturbance, and it is considered that any potential impact upon surrounding properties would be limited in this regard.

The application site is also considered of an appropriate scale to accommodate future occupants, with reasonable levels of outlook provided and a small outdoor amenity space also provided to the rear of the property. In terms of access to outdoor amenity space, there is also an accessible Council owned outdoor play area within walking distance of the application site. Consequently, it is considered that the development proposal would provide adequate space for people's living needs both inside and out.

### **Access and highway safety**

The application has been assessed by the Local Highway Authority and no objection is raised in relation to the proposal. The comments received are summarised as follows:

#### Access

Primary access to the proposal is via Griffith Street, which is a one-way street with residents only parking on the opposite side of the road to the proposed Children's Home, with double yellow lines on the development side to maintain traffic flow.

Elizabeth Street fronting the development site has double yellow lines preventing on-street car parking on both sides.

Pedestrian access is gained via continuous footways which are acceptable for safe access to the proposal.

#### Parking: Access, Circulation and Parking Supplementary Planning Guidance (SPG)

##### Existing:

The existing use as a 5-bedroom residential HMO requires up-to a maximum of 5 spaces with none provided.

##### Proposed:

Residential children's homes / homes for elderly person's / nursing homes require 1 parking space per resident staff, 1 space per 3 non-resident staff, 1 space per 4 beds.

The proposed change of use to a children's care facility with up-to 2 residents and 2 staff members on site at any one time would require up-to a maximum of 3 off-street car parking spaces with none provided.

The off street-parking requirement of the proposed use would therefore equate to 3no. parking spaces, the same as what would be required of a normal residential property (Use Class C3) at the site. The Local Highway Authority also consider that the current use as an HMO requires 2 additional car parking spaces compared to the proposed use of the site. As such, the Local Highway Authority raise no objection to the proposal with regards to parking.

There is also a public car park near the application site that could be used by staff and visitors, with further car parks located within the town centre, which is a short walk from the application site.

Surrounding streets within the vicinity of the site are also controlled by a car parking permit Zone for residents only.

##### Sustainability:

As discussed previously, the proposed care home would also be located on the outskirts of Aberdare Town Centre, which offers a variety of local facilities and public transport options to promote less reliance on the private motor vehicle as the primary mode of transport.

##### Local Highway Authority Recommendation:

The Local Highway Authority consider that the proposed change of use to a children's home requires 2 less car parking spaces than the existing use as an HMO, in accordance with the Council's car parking standards. Therefore, due to the lesser car parking demand and the site's sustainable location, with existing controls in place to prevent indiscriminate car parking, no objections have been raised by the Local Highway Authority.

#### **Community and Children's Services:**

Consultation was undertaken with the Council's Community and Childcare Services Department, who have raised significant concerns and have objected to the planning application.

The Council's Community and Childcare Service Department have noted that the care home firm which seeks to operate the children's home is an experienced provider of residential care, and it is noted that this is a service that is in insufficient supply.

However, objections have been raised to the proposal on the basis that there are 2 other children's homes located in the area, where in the case of one of those homes, the Council has responded to community representations resulting in a negative impact to resident children and staff well-being. However, it should also be noted that these care homes are located at least 1km away from the application site; and as such, are not located in close proximity to the application site.

An objection has also been raised by the Council's Community and Childcare Services department as the care provider has been unable to share plans in relation to what will happen to the care home when a law changes on 01/04/2027, which will make it unlawful to operate a 'for profit' children's home. Children's services have also published its residential transformation strategy where they seek to ensure that there is a mix of services that are required by Rhondda Cynon Taf children across the Local Authority footprint. They have requested that developers do not consider this specific area for consideration for establishing a care home.

The Council's Community and Children's Services Department have also noted that all social care homes in Wales must comply with the Regulations and Inspection of Social Care Act (Wales) RISCA and must comply with these regulations to be registered with Care Inspectorate Wales (CIW) to provide residential care provision. As part of this process, applicants would need to provide a location assessment, Statement of Purpose, and Policies in relation to the provision of care and support, along with other relevant information. As advised by the Council's Community and Children's Services Department, this process applies to all homes seeking registration in Wales.

Whilst comments received by the Council's Children's Services department have been noted, it is considered that the nature of concerns and objections received would not be material planning considerations for the purposes of this application. Some of the issues raised could also be addressed through the process of complying with the Regulations and Inspection of Social Care Act (Wales) (RISCA) and through registering with Care Inspectorate Wales (CIW).

Consequently, the consultation response and comments received by the Council's Community and Childcare Services Department would be addressed under legislation, regulations and procedures relating to Social Care Provision in Wales, with processes and regulation undertaken by the Council's Community and Children's Services Department and Care Inspectorate Wales.

**South Wales Police:**

Consultation has been undertaken with South Wales Police with regards to the planning application. No objections were received; however, South Wales Police have

requested a condition be attached to any grant of planning permission for the submission of a management plan to be submitted and approved prior to the premises opening. A condition ensuring a management plan be submitted prior to the use commencing is therefore recommended.

### **Other Issues:**

The Council's Public Health Department have issued no objection to the proposal, with standard advice recommended in respect of hours of construction, noise, dust and waste.

No external or internal alterations are proposed, and as such, the development would not be considered to impact local ecological interests. However, a condition for biodiversity enhancement details is recommended.

### **Matters Raised by the Developer:**

The developer, through their planning agent, has also included within their submission a statement outlining that the property was last used as a House in Multiple Occupation (HMO) (C4 Use) and that under permitted development rights could be used as a residential dwellinghouse (C3 Use). They have noted that the applicant could therefore operate the property under C3 use without planning permission and following a reasonable amount of time as an established residential property, could apply for a Certificate of Lawfulness to establish a Children's Care home at the site. The developer contends that case law exists which indicates that a small-scale children's care home operates so similarly to that of a residential dwellinghouse (C3 use) that no material change would occur and that a Certificate would likely be granted in such a situation.

Consequently, the developer states that they consider that based on the circumstances of this application, that they could operate the site as a residential dwelling (C3 use) under permitted development rights and in future could successfully apply for a Certificate of Lawfulness to establish a children's care home at the site. The developer has stated that they consider this a material fallback position. Furthermore, the developer notes that operating a normal residential dwelling at the site (C3 use) would exhibit similar characteristics to that of a small-scale care home for children with 2no. staff.

The Local Planning Authority acknowledge that the property last used as a small house in multiple occupation (HMO) (C4 Use) could be occupied as a residential dwelling (C3 Use) under permitted development rights. However, the developers have based their argument that they could successfully apply for a Certificate of Lawfulness to establish a children's care home at the site on an interim step which has not been implemented. It is also considered that any future application for a Certificate of Lawfulness at the site would need to be considered on its own merits and would be assessed on the evidence and supporting information provided as part of that application.

### **Community Infrastructure Levy (CIL) Liability**



The Community Infrastructure Levy (CIL) was introduced in Rhondda Cynon Taf from 31 December 2014.

The application is for development of a kind that is not CIL liable under the CIL Regulations 2010 (as amended).

## **Conclusion**

The application site is located within a predominantly residential area and within the settlement boundary limits of Aberdare. The site is in a highly sustainable location with good access to public transport, facilities, and key services.

The site also relates to an existing residential property and, other than the presence of a small number of staff and an element of care provided, the proposed use would remain and continue to be residential in nature.

Additionally, no external alterations are proposed at the property, and the development would not impact upon the character and appearance of the application property or wider area. Furthermore, the development would not be considered to impact or upon the amenity and privacy of surrounding properties, nor would it have an adverse impact upon highway safety.

## **RECOMMENDATION: Approve, subject to conditions**

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: To comply with Sections 91 and 93 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the approved plans unless otherwise to be approved and superseded by details required by any other condition attached to this consent:

- Site Location Plan. Title Number: WA349205. Received by Local Planning Authority 08/06/2023
- Existing and Proposed Plans. Drawing No. PL 01

and documents received by the Local Planning Authority on 11/04/2023, 08/06/2023 and 09/07/2023 unless otherwise to be approved and superseded by details required by any other condition attached to this consent.

Reason: To ensure compliance with the approved plans and documents and to clearly define the scope of the permission.

3. The premises shall only be used as a regulated children's home and for no other purpose; including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987 or in any provision equivalent to that Class in any statutory instrument revoking and

re-enacting that Order. When the use hereby approved ceases, the premise shall revert back to its original Class C3 use.

Reason: In the interest of residential amenity and highway safety in accordance with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

4. Within 2 months of the date of this decision, a scheme for biodiversity enhancement shall be submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: Future Wales requires all development to maintain and enhance biodiversity.

5. The use hereby approved shall not commence until a management plan for the premises has been submitted to and approved in writing by the Local Planning Authority. The premises shall operate in accordance with the agreed details for as long as the use is carried out at the property.

Reason: In order protect the amenities of neighbouring properties in accordance with Policies AW5, AW6 and AW10 of the Rhondda Cynon Taf Local Development Plan.