

**PLANNING & DEVELOPMENT COMMITTEE**

**17 SEPTEMBER 2020**

**REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

**PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 20/0433/10 (GH)  
**APPLICANT:** Independence Pathways Ltd  
**DEVELOPMENT:** Re-submission to use a property for a single occupancy care home with a young person in supported living, with all staff and support workers on waking shifts.  
**LOCATION:** 9 AVONDALE ROAD, GELLI, PENTRE, CF41 7TP  
**DATE REGISTERED:** 13/05/2020  
**ELECTORAL DIVISION:** Ystrad

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**RECOMMENDATION:** GRANT SUBJECT TO THE CONDITIONS BELOW:

**REASONS:**

The change of use sought would provide a home for looked-after children and due to the small scale of the development and the absence of external alterations to the property, it is considered that no harm has been caused to highway safety or any discernible impact to the appearance of the street scene.

In addition the property is located within a residential area and in a sustainable location within the settlement boundary. It is considered that a continued residential use of the dwelling, as a care home of limited size, is compatible with the surrounding dwellings and is not detrimental to the amenity of existing neighbouring residents.

Consequently, the development is considered to comply with Policies AW2, AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.

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**REASON APPLICATION REPORTED TO COMMITTEE**

Five letters of objection have been received from neighbouring residents.

**APPLICATION DETAILS**

Full retrospective planning consent is sought for the change of use of 9 Avondale Road, Gelli from a dwelling to a residential children's home for a single young person in supported living.

The proposal is a resubmission of an earlier application, 20/0084/10, which lacked supporting detail about the proposed use and options to mitigate the potential for surface water flooding. Consequently, the application was refused on the basis of insufficient information.

The home is operational all year and according to the details submitted with the application, has members of staff on duty at all times, who operate waking shifts.

No physical changes are proposed or have been carried to the layout of the dwelling, which would contain a living room, kitchen, bathroom and staff toilet to the ground floor, and two bedrooms and an office to the first.

In order to inform the application and for the benefit of consultees and residents, the Applicant was asked to provide some further background detail.

Supporting information was provided clarifying that the company offers a home for young people from the age of 10 up to the age of 18, which may include those with emotional and behavioural difficulties, self-harming, complex needs, referrals via looked after children services and so forth.

Two further documents have been received, the first of which comprises details of mitigation measures for surface water flooding and internal procedures for their implementation. The second document outlines the management of the property in respect of staffing details, staff to child ratios, qualifications of staff, vetting procedure and a list of general house rules.

## **SITE APPRAISAL**

The application property is a two storey Victorian house located towards the centre of the village of Gelli, and positioned mid-terrace on Avondale Road.

The principal elevation of the dwelling faces towards the south and is immediately adjacent to the highway. The house benefits from a large single storey extension to the rear, whilst the remaining amenity space benefits from direct access to an adopted rear lane.

The closest neighbouring properties are mostly residential in nature and are located immediately to the west and east, and 10.4m to the south. In addition there are retail properties and other dwellings located along Gelli Road to the north.

## **PLANNING HISTORY**

The most recent or relevant applications on record with this site are:

**20/0084/10:** Change of use from a domestic property to a care home. Decision: 29/04/2020, Refused.

## **PUBLICITY**

The application has been advertised by direct notification to eleven neighbouring properties and notices were erected on site.

Objections were received from five properties raising the following concerns:

- There is no information about who would be living at the address and how this might affect me as a neighbour.
- Will my quality of life be compromised with regard to noise and safety?
- I am an elderly lady living on my own and this is a great concern to me.
- This is a quiet terraced street with many elderly residents and before any decisions are made they need to be aware of any potential consequences.
- Parents are concerned about the safety of their children.
- Parking is already a nightmare and with carers back and forth it will make matters worse.
- There is a high percentage of elderly residents in the street that this is causing anxiety to.
- We are worried about noise and safety with it being a terraced house.

## **CONSULTATION**

### Transportation Section

No objection is raised or conditions suggested.

### Public Health and Protection

Conditions are recommended in respect of demolition and the control of noise, dust, waste and hours of operation during construction. However, since the development does not include any construction work such conditions would be unnecessary.

### Dwr Cymru Welsh Water

No objection.

### South Wales Police

Young persons in care are a particularly vulnerable group in society who sometimes have complex support needs and a detailed management plan is requested as a condition of any consent.

### Flood Risk Management

The property is within an area of medium to high risk of surface water flooding. It is suggested that the proposed mitigation measures are captured within a flood strategy.

No other consultation responses have been received within the statutory period.

## **POLICY CONTEXT**

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

The application site lies within the settlement boundary.

**Policy CS1** - sets out criteria for achieving strong sustainable communities including: promoting residential and commercial development in locations which support the role of principal towns and key settlements; provide high quality, affordable accommodation that promotes diversity in the residential market; and ensuring the removal remediation of dereliction by promoting the re-use of under used and previously developed land and buildings.

**Policy AW2** - development proposals will only be supported in sustainable locations, including sites within the defined settlement boundary, which would not unacceptably conflict with surrounding uses, have good accessibility by a range of sustainable transport options, have good access to key services and facilities and support the roles and functions of the Principal Towns.

**Policy AW5** - sets out criteria for new development and requires there to be no significant impact on the amenities of neighbouring properties, for it to be compatible with other uses in the locality and to design out the opportunity for crime and anti-social behaviour.

**Policy AW10** - supports development proposals which are not detrimental to public health, the environment or local amenity.

### **Supplementary Planning Guidance**

Access, Circulation and Parking Requirements

### **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.

The Welsh Government published Planning Policy Wales 10 on 5<sup>th</sup> December 2018, and the document aims to incorporate the objectives of the Well-being of Future Generations (Wales) Act into Town and Country Planning.

It is considered that this proposal meets the seven wellbeing of future generations goals inasmuch as they relate to the proposed development and that the site has been brought forward in a manner consistent with the five ways of working.

It is considered that the proposed development is consistent with the key principles and requirements for placemaking as set down in Chapter 2 People and Places: Achieving Well-being Through Placemaking, of PPW10 and is also consistent with the following inasmuch as they relate to the development:

Chapter 1 (Managing New Development)

Chapter 2 (Maximising Well-Being and Sustainable Places through Placemaking)

Chapter 4 (Active and Social Places)

Other policy guidance considered:

PPW Technical Advice Note 12 - Design

## **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 the existing dwelling into a children's care home which represents a change from use class C3 to C2. Although the size of the property would limit the accommodation to just one or two children, the change of use is required because the property would be considered to be a residential institution, rather than a dwelling.

The reason for this is that children living together could not be considered to constitute a single household as they would be incapable of undertaking the tasks associated with running and living within a dwellinghouse. This was established by the courts in the case of North Devon District Council v First Secretary of State [2003].

Conversely, it is worth noting that a proposal for a care home for up to six adults, which might include those with emotional and behavioural difficulties and with an element of

live-in care, would not constitute a change of use because class C3(b) already determines that this would be lawful.

In this case, notwithstanding the degree of care and the permanent staff presence, it is considered that a small care home of this size would mostly exhibit the same residential characteristics as the surrounding dwellings and the internal layout of the application property would be no different from any other typical dwelling.

However, since the carers do not live on the premises, and there is no accommodation proposed for them other than an office, such an arrangement would clearly differentiate its operation from that of a traditional dwelling.

Nevertheless, given the limited scale of the development and the size of the property, it is considered that the application is acceptable in principle, subject to the material planning matters discussed below.

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

No external changes are proposed to the appearance of the property, and thus the street scene. Consequently, there are no observations in this regard.

### **Impact on amenity and safety**

It is considered that a key concern about the acceptability of the new use is how it will continue to be able to assimilate and operate without causing detriment to neighbouring residents. Since there are no physical alterations proposed there has been no intensification of existing overlooking issues, so the likelihood of any harm to privacy, or to outlook, would not be a consideration.

However, given the proximity of the property to neighbouring houses and the nature of the care use, the possibility of any noise disturbance from occupants and the comings and goings of any visitors is pertinent, and the correspondence from neighbours has revealed that there is genuine concern about how residents could be affected.

Were the care home proposed within a detached dwelling in large grounds, rather than a densely populated street of similar terraced houses, then the likelihood of neighbours being affected by the noise of occupants or staff would be insignificant.

Nonetheless, guidance provided by Development Control Practice has been considered, which states “It is difficult for local authorities to sustain arguments that a children’s home would cause additional noise and disturbance, specifically arising from the fact that occupants would be children, many from backgrounds with difficulties.”

In this regard an example of an allowed appeal (Medway 3222409) is comparable since one of the main issues considered by the Inspector was the effect of the proposal on the living conditions of neighbouring occupiers.

The Inspector determined that the appeal should be allowed, stating that “noise generated within the house and garden from the occupiers would be unlikely to be significantly different from that created by its use as a single dwelling. The Medway development also benefitted from a Management Plan with ‘*Design for crime prevention*’ appendices and a staff training schedule.

As noted by the consultation response from South Wales Police, the matter of safe, secure and well-managed care provision is of concern and there is a need for such proposals to be supported by adequate management plans.

South Wales Police has advised that there are now twenty-six Care Home/Supported Living/Respite placements within RCT of which twenty-two are privately run/managed, all of which provide approximately 94 bed spaces. The placements are a mix of CIW registered Care Homes alongside several 16+ “Support” only provisions. Amongst the total a number provide Care Home provision for children with learning disabilities or short break “respite” accommodation to disabled children and their families.

The South Wales Police Missing/CSE Safeguarding Team has highlighted a growing concern about the numbers of children who are reported missing and has stated that between 1/10/2019 – 31/3/2020 there were 735 missing occurrences reported for the RCTCBC area of which 169 (23%) were children 17 and under. Of those 169 missing youngsters 135 (80%) were from Regulated Care Home and Non-regulated 16+ Support Provisions in RCT.

The reasons why children run away from care are varied and that children and young people that go missing may be at risk of serious harm. There are particular concerns about the links between children running away and the risks of sexual exploitation. Missing children may also be vulnerable to other forms of exploitation, to violent crime, gang exploitation, or to drug and alcohol misuse. Children who are looked after are three times more likely to go missing than their peers.

As a result of these concerns South Wales Police has reflected that PPW10 and TAN 12 require Local Authorities to have regard of how development can contribute to the prevention of crime and disorder and provide places to live that are safe and attractive.

As indicated previously, the Applicant has provided details concerning the management of the property, which includes direct contact details for both the duty manager and for the responsible person at Independence Pathways. It has been confirmed that staffing ratios will be on a 1 to 1 basis and all staff are registered with Social Care Wales and enrolled with the All Wales Induction Framework. Furthermore the staff, who are subject to advanced DBS checks, are qualified to a minimum of QCF (level 3) and are supported to progress with further training opportunities.

In addition to the management details referred to above, it is noted that children's social care services and care homes for children are regulated by Care Inspectorate Wales. CIW also decides who can provide such services. Therefore, given the small scale of this care home and the management and staffing details provided, and in the knowledge of the Welsh Government's regulatory oversight, it is considered that the development is acceptable in terms of the amenity of neighbouring residents.

### **Highways and accessibility**

The Council's Highways and Transportation section has noted that the primary means of access is via Avondale Road which is acceptable.

In respect of off-street parking provision the Council's SPG for Access, Circulation and Parking requirements note that the existing use of the property as a 3 bedroom dwelling would require a maximum of 3 spaces, although none are provided.

Similarly the SPG also notes that a change of use to a care home would also require 3 spaces and therefore both uses have the same level of shortfall in curtilage parking.

Since there is no potential for providing additional space and on-street parking demand would not be exacerbated, the shortfall in parking is considered acceptable on balance.

### **Flooding**

As highlighted by the response from the Council's Flood Risk Management Team, the application property lies within an area designated as being at medium to high risk from surface water flooding, as identified by Natural Resources Wales Development Advice Maps.

Whilst this wouldn't necessarily preclude the change of use, given that the site is part of a long-established residential area, it has been noted that a care home would be identified by the Flood Risk Management Plan as 'critical infrastructure'. Initially the FRM Team objected to the proposal unless mitigation for a flood event could be demonstrated.

The Flood Risk Management Team has agreed that such measures should be incorporated within a flood alleviation strategy, including their future maintenance to ensure continuity of the standard of protection afforded to the property.

The Applicant has provided details of mitigation measures to include the fitting of a flood proof front door and air brick defences, and advised that NRW's flood alert service would be signed-up to, with information provided within the property and responsibility about who would implement any preventative measures. The development is therefore considered to be acceptable in these terms.

## **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 change of use of the application property to a small care home is acceptable on account of its sustainable location and the nature of its residential use is compatible with that of the surrounding dwellings.

It is considered the development has little impact on the character and appearance of the locality and does not cause unacceptable detriment to the amenity or privacy of neighbouring residents.

Therefore, the application is considered to comply with Policies AW2, AW5 and AW10 of the Local Development Plan.

## **RECOMMENDATION: Grant**

1. The use of the premises shall be carried out in accordance with the submitted documents entitled 'Management Plan and Flood Defence' (dated 24<sup>th</sup> August 2020) and 'Gelli Planning Submission' (dated 23<sup>rd</sup> August 2020), received by the Local Planning Authority on 25<sup>th</sup> August 2020.

Reason: In the interest of public safety, safeguarding, crime prevention and residential amenity in accordance with Policies AW5 and AW10 of the Rhondda Cynon Taf Local Development Plan.