



**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**PLANNING & DEVELOPMENT COMMITTEE**

**19<sup>TH</sup> SEPTEMBER 2019**

**SITE MEETING**

**APPLICATION NO. 19/0329 – CHANGE OF USE FROM RESIDENTIAL INTO A CHILDREN'S CARE HOME.**

**REPORT OF THE SERVICE DIRECTOR, DEMOCRATIC SERVICES & COMMUNICATION**

**Author:** Hannah Williams, Council Business Unit.

**1. PURPOSE OF THE REPORT**

- 1.1 To consider the outcome of the site inspection in respect of the above-mentioned proposal and to determine the application, as outlined in the report of the Director, Prosperity & Development, attached at **Appendix A**.

**2. RECOMMENDATION**

It is recommended that Members:

- 2.1 Approve the application in accordance with the recommendation of the Director, Prosperity & Development.

**3. BACKGROUND**

- 3.1 In accordance with Minute No 7 (Planning and Development Committee – 13<sup>th</sup> June 2019), a site inspection was undertaken on Wednesday 10<sup>th</sup> July 2019 to consider potential highways issues and the impact of the development on neighbouring amenities. As many of the issues raised by the objectors were not planning matters, the Planning and Development Committee also requested that an invitation to the site inspection be extended to Care Inspectorate Wales (CIW), in order for a representative to address the concerns.
- 3.2 The meeting was attended by the Planning and Development Committee Members County Borough Councillors S. Rees, G. Caple, D. Grehan, S. Powell, J. Williams, D. Williams, W. Owen and R. Yeo.
- 3.3 Local Member, County Borough Councillor J. Cullwick was also present at the meeting.

- 3.4 The South Wales Police Inspectorate for the local area was also present at the meeting.
- 3.5 Apologies for absence were received from Committee Members - County Borough Councillors P. Jarman, G. Hughes and J. Bonetto.
- 3.6 Members met at the relatively large detached dwelling located on the Vicarage Road and were provided with the opportunity to view the interior of the dwelling.
- 3.7 The Planning Officer in attendance informed members that planning permission is sought for the change of use of a residential dwelling into a care home for four children of mixed gender with an age range of 11-17. The officer went on to explain that if approved, the home would be staffed by three residential care workers per day, two of which would carry out sleep in duties to ensure 24-hour care provision.
- 3.8 Speaking of the number of objections received from residents and the local MP and AM, the Planning Officer advised that whilst all concerns were acknowledged, many are not controlled under the scope of the planning system and are either legal, regulatory or political issues, or a matter for the Care Inspectorate Wales (CIW). Following questions from Members regarding the attendance of a representative of the Care Inspectorate Wales to address the concerns, the Planning Officer regrettably informed that CIW had declined the invitation to the meeting, advising that they do not undertake site visits relating to planning matters as part of their registration application process. Members learned that CIW had however, already visited the dwelling on a separate occasion, to assess the suitability of the premises. Members acknowledged those concerns raised by the residents and emphasised the importance of such care homes being well managed for the benefit of those residing in them, and those in the locality.
- 3.9 Referring to the objector's concerns regarding the impact on the character and appearance of the area, the Planning Officer advised that there would not be any structural changes to the building and as a result, the proposal is not considered to have any more of a negative impact on the privacy of neighbouring residents than the existing dwelling. Since the publication of the report, the Planning Officer was able to update Members in respect of Condition 5, which states that the attic windows on the side gable elevations should be fitted with obscure glazing to safeguard the privacy of residents in the locality. Members were pleased to learn that the applicant had already undertaken work to address the concerns.
- 3.10 Members questioned the objector's concerns in respect of the use class of the development and the Planning Officer advised that a children's care home is identified as a use C2 class compared to the existing C3 use class dwelling. The officer stated that the impact of a C2 use would more likely result in a greater intensity of use than a C3. However, due to the similar characteristics of the two uses in this case, the impact was not considered to be significantly greater on material planning considerations. When questioned whether the applicant would require permission to change the use class to use class C2A

in the future, Members were assured that the applicant would have to consult with Care Inspectorate Wales.

- 3.11 Following questions raised by Members regarding parking and highways safety, the Highways Officer advised that the property as a five-bedroom house would require 3 parking spaces and in excess of 3 are provided. The proposal would require 4 parking spaces and 6 spaces are provided which is considered acceptable and a condition is suggested to ensure that the garages and parking areas are retained for use of parking vehicles only.
- 3.12 Although Members recognised the positive outcomes, which arise from children care homes, the local residents' fears about crime and anti-social behaviour were also acknowledged. Discussions ensued around the 'fear of crime' as a material planning consideration, which was outlined within the letter received from Leanne Wood AM. The South Wales Police representative suggested that although there had been no objections to the proposal from the police, it would have been beneficial if he had been consulted as the local Inspector, for statistics regarding anti-social behaviour within the local area. As such, Members requested that further consultation take place with Police in order that further information to be provided for Members when the application is reported back. ***(This information is outlined within section 4 of this report).***
- 3.13 Furthermore, Members requested that the Council's Children's Services section is also re-consulted, with any further response included in the report back to the Committee. ***(This information is outlined within section 5 of this report).***
- 3.14 Members also queried whether there was potential for a condition to be included for CCTV installation, should they be minded to approve the application. The Planning Officer explained that as the care home would be for four children only, CCTV was not considered to be a reasonable request but that it would be for Members to determine.
- 3.15 The Chair thanked the officers for the report and closed the meeting.

#### **4. FURTHER CONSULTATION WITH SOUTH WALES POLICE**

Information has been submitted by Damien Mckeon of South Wales Police in relation to the RISE CARE children's home in Ebbw Vale which is operated by the applicant. In respect of this home Damien Mckeon advised that between the period 10<sup>th</sup> July 2018 to 10<sup>th</sup> July 2019 the following occurrences were recorded by police: -

- 1 ASB call
- 1 Threats call
- 1 Serious Sexual Offence
- 1 Theft
- 1 Damage
- 10 Concern Calls
- 2 Suspicious Incidents

## 49 Missing Person Episodes

He advised that the care home was in 4<sup>th</sup> position for total number of occurrences out of 12 care homes but that he had spoken to the Police Constable who covers the care home and they were complimentary of the way the care home was run and that it was run with lots of engagement.

The Council have no context for the figures above. Members are advised that a recording of an occurrence is not evidence that a crime has been committed. The figures above detail the number of occurrences recorded by the police for the care home in Ebbw Vale. The information does not evidence actual criminal activity arising from the care home.

In addition to the above Members are advised that South Wales Police made no objection to the proposed application and recognised the need for such facilities in communities subject to appropriate safety and security measures.

### 5. **FURTHER CONSULTATION WITH THE COUNCIL'S CHILDREN'S SERVICES SECTION (responses in italics)**

Following the site visit a number of specific questions (reflecting issues raised at the site visit) were put by the Planning Officer to RCT Children's Services. The responses are provided in italics below each question.

- Many of the residents suggest that there is an over-proliferation of such care home facilities in RCT and that the further care home proposed by this application is not needed. So if you have information in respect of the demand in RCT for 'X' spaces, whilst the supply in RCT is 'X';

*Currently there are 16 residential children's homes within RCT – 3 of which are run by RCT Council. In terms of geographic spread there are 3 homes in Porth, 1 in Tonyrefail, 2 in Pontyclun, 1 in Pontypridd, 5 homes are in the Cynon Valley. RCT currently have 37 children placed with external children's homes providers of which 3 are placed in homes within RCT.*

- Depending on the above, are we a net exporter of children to care homes outside RCT, as a consequence of there not being sufficient places available within RCT;

*RCT place the majority of children with external providers outside of RCT, therefore, there is a demand for additional spaces which could be used for RCT placements*

- As a Council are we aware of any reasons why we would not commission placements through this company (Rise Care Ltd). At the site meeting Mr Imran Ahmed of Rise Care Ltd did initially state that it was their aim to fill all 4 places with children from within RCT. Although he did then suggest that he would guarantee that 50% (i.e. 2 spaces) would be RCT placements;

*RCT children's services have not used Rise Care Ltd services to date so we are unable to comment on the company. As commercial companies providers cannot guarantee they will maintain places specifically for this LA.*

- If there is no demand from RCT for the proposed places do this Council have any role or influence in the children placed that could/would be placed there

*Providers are able to tender for placements using CCSR (Children's Commissioning Support Resource) database and any vacancies can be offered to neighbouring local authorities or LA's further afield. If there is no demand from RCT for placements we would not be able to prevent other LA's using the resource. CIW would have a role in monitoring the quality of the service provision at the home through inspection process.*

- As a Council do we recognise any particular problems with such facilities in the Borough? Members are well aware of the issues that have seemingly arisen in Mountain View, Tonyrefail (whilst appreciating that the facility is managed by a different provider) where residents are claiming a 300% increase in recorded crime as a consequence

*We have been aware of issues with some residential provision in the past. Should there be safeguarding issues these are dealt with by RCT Safeguarding services. RCT would be involved in liaising with CIW, the placing LA's and the provider to resolve safeguarding concerns where raised. Where there are issues occurring in the community this would be dealt with by the provider, police and the placing LA.*

**PLANNING & DEVELOPMENT COMMITTEE**

**13 JUNE 2019**

**REPORT OF THE SERVICE DIRECTOR, PLANNING**

**PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 19/0329/10  
**(GW)**  
**APPLICANT:** Rise Care Limited  
**DEVELOPMENT:** Change of use from residential into a children's care home.  
**LOCATION:** ARCHGROVE, VICARAGE ROAD, PENYGRAIG, TONYPANDY, CF40 1HN  
**DATE REGISTERED:** 04/04/2019  
**ELECTORAL DIVISION:** Penygraig

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**RECOMMENDATION: GRANT**

**REASONS:**

The proposal would beneficially provide a home for children in need of care. Whilst a number of objections have been received that state the development would result in a detrimental impact on residential amenity, the character of the area and on parking and highway safety, it is considered due to the small scale of the proposed care home that there would not be a significant detrimental impact on these issues.

Objectors have also stated that the care home would result in an increase in levels of crime, vandalism and anti-social behaviour and that this would have a detrimental impact on the character of the area and the community. Whilst these issues would not be welcomed, it is not the remit of the planning system to control who is homed or how care homes are run. Notwithstanding this, the applicant has detailed the home would be staffed by care workers and a manager and that the home would be registered with Care Inspectorate Wales (CIW). It is acknowledged that the additional information submitted by the applicant may not eliminate local anxiety and fear, however, it is considered that the actual and perceived risk to public safety would not carry sufficient weight to warrant the refusal of the application.

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## REASON APPLICATION REPORTED TO COMMITTEE

The application is being reported to Committee as three or more letters of objection have been received.

## APPLICATION DETAILS

Full planning permission is sought for the change of use of a residential dwelling into a care home for 4 children.

The home will be run as a residential children's home for four young people of mixed gender with an age range of 11-17. The Young People will all be on care orders and accommodated through local authorities. The applicant has clarified this could involve care for young people from Welsh authorities, including RCT.

The home will be staffed by three residential care workers present each day working on a shift pattern. These are part of a total of 9 carers (3 teams of 3 staff). Two of those care workers will carry out sleep in duties on rotation, ensuring a 24-hour provision. In addition, the home will be managed by a Registered Manager working during the week. The home is currently in the process of being registered with the Care Inspectorate Wales.

There will be no structural changes to the building. Four parking spaces on the drive and two spaces within the garage are identified.

The application is supported by:

- Planning Statement
- CIW report for house run by Rise Care in Ebbw Vale

## SITE APPRAISAL

The application site is a relatively large detached dwelling located on the Vicarage Road. The surrounding area is mainly residential in nature. To the rear is Belle Vue Park, which can be accessed from Park Road.

## PLANNING HISTORY

The following application's do not relate specifically to the application property, but relate to sites in close proximity, which it is considered have a relevance to the current application.

18/0267	Danycraig, 11 Vicarage Road, Penygraig	Proposed use as a supported living property for 7 residents and associated staff facilities (C2 Residential Care Home)	Granted 18/06/18
54/96/0072	Land adjoining 7 Vicarage Road, Penygraig	Outline planning permission for residential development	Granted 20/03/96

## **PUBLICITY**

The application was advertised via the erection of site notices and by direct neighbour notification. 53 objections including a petition from 3 people have been received at the time of writing this report and their comments are summarised below:

### **Leanne Wood A.M.**

- Opposes the application. It will be a 24-hour operation in a quiet residential area. Parking and noise will impact on the residents.
- I have concerns generally about the state of the children's care home sector throughout the UK. I am not against children's homes being located in the Rhondda. I am aware that there is a great need for this type of accommodation. However, the type of homes that have previously been set up in Rhondda Cynon Taf and also nearby in Bridgend County Borough Council, have failed to meet the criteria of the stable environment that vulnerable young people require.
- The primary motive of private companies in this sector is to make the maximum profit. Given these concerns I would request an assessment from social services as part of this planning process to determine whether this facility would meet local need, noting in particular that the policy intention of all local authorities should be to reduce residential placements and invest in proper training of parents to provide family homes for "looked after" children.
- The fear of crime is a material consideration when determining this type of development and thus can provide a lawful basis for refusal of planning permission. The children who are sometimes placed in such residential children's homes can be the most challenging of looked after children, often requiring intensive personal support. In a proper facility, such support would be provided by fully qualified and trained professionals who are experts with this potentially challenging group. Local residents can in no way be expected to have the same level of expertise to deal with difficult situations and are concerned about having to. Experience elsewhere has shown that companies frequently cut corners and fail to provide proper or adequate support and that the inspection system has been slow or unwilling to hold them to account and to rectify problems that have arisen.
- I am aware that many of the objections from the local community may not be planning considerations and that on a legal basis, planning permission could therefore end up being granted in this case. If residents objections – and the objections outlined in this letter – are not deemed to be pertinent enough planning considerations, then I would urge that conditions are imposed on this development and permission is granted only on a temporary basis (one year), that children with criminal records for violent offences or burglary should not be placed at this particular home and that the company concerned pay for security features on neighbouring properties and engage with the neighbours on a regular basis.

### **Chris Bryant MP**

- Has been contacted by many constituents with concerns about the care home.



### **Councillor Cullwick**

- Rise Care Ltd and its director and deputy director have limited experience of running care homes. Only 9 months in Ebbw Vale.
- They are based in Bristol where the finances will go.
- They do not know much about the community, history, culture or geography of the South Wales Valleys.

### **Residents Comments**

#### **The planning use class, Land ownership, covenant, plans and advertising of the application**

- What use class is this in?
- Archgrove's land registry title includes: - "that the property can only be used as a dwelling house", a category C3 building. To consider a change of use, and locating a Residential Child Care Home seems incomprehensible.
- It's my understanding that Rise Care, making this application, are not the owners of Archgrove.
- The submitted block (location) plan is inaccurate and misleading. The rear of it omits Belle Vue Park. The floor plans are titled with a different house name. They have blue markings which are unexplained.
- There is no fire escape route shown on the plans.
- I only heard of the application on social media which is disappointing. Residents have not been formally consulted on the planning application.

#### **Crime, anti-social behaviour and noise and disturbance**

- A similar care home in Tonyrefail has attributed to a 300% crime increase, a rise in car crime, a rise in anti-social behaviour, criminal damage, drug related offences and residents in the community have been threatened. Police call outs have raised from 3 in 30 months to 18 call outs of police all relating to the care home in 5 months. These issues have happened at a care home in Bridgend. Any damage would come out of the Councils and tax payer's pockets.
- There are similar issues at Rise Care Ltd.'s home in Ebbw Vale. Police were called to this property a 100 times in a month. In the past 18 months 18 staff have left. It took 6 months for issues to be sorted out.
- Rhondda Cynon Taff County Borough Council Corporate Plan 2016 – 2020, it has, as one of its objectives that 'Rhondda Cynon Taff will be amongst the safest places in Wales, with high levels of community cohesions and residents feeling safe'. The RCT Community Plan and Local Development Plan promotes health and well-being and safer communities. The Council has a statutory obligation to reduce crime and anti-social behaviour.

- The Well Being of Future Generations (WFG) Act 2015 asks Councils to implement five ways of working – think about the long term impact of their work; look to prevent problems from happening and work better with local people, communities and other organisations. A longer term impact needs to be taken into account in this planning decision.
- There is a lack of details with regard the type of children who will occupy the property. It can only be assumed they will have the very worst level of problems.
- Vicarage Road is a quiet and peaceful residential area of a strong character where people aspire to live. The area is 90% pensioners or young family's (most vulnerable people in the community) with a park across the road that the children use.
- Penygraig is labelled a Communities First area and within the 10% of the most deprived areas in Great Britain and the crime rate here is higher than other areas of RCT. Allowing this care home will increase crime, threatening behaviour, vandalism, littering, antisocial behaviour, drug abuse and noise and disturbance.
- We don't want to live near this and it will destroy the community and change the character of the area. Planning must aim to improve the area and not make it even worse. It will affect how secure I feel in the area and result in increased fearfulness, anxiety and would affect my mental health.
- These young people are being brought in from outside of RCT which leads me to assume that they have had to leave their previous areas for reasons that are negative. They do need support, but we cannot put our own children and community at risk.
- The property is also situated right on the boundaries of the local park where young children play and the care home children would be able to come and go from the home when they want and have easy access to the park.
- Concerns are raised that potentially vulnerable youths will be housed in an area where an existing resident has received an ASBO and that there is already existing anti-social behaviour and people involved in drinking and drug taking in the area.
- There is little in the area for children to do to keep them occupied. There is also no work. This will increase the potential for the occupiers to cause crime.
- The area is already troubled by gangs of youths who cause significant unrest and damage over and above what is reasonable and the Police are constantly in attendance in the area. This will increase the strain on the police, local services and the local authority's financial resources.

### **Suitability of Rise Care, the staff and privately run care homes**

- This will not be a residential property. It will be a 24hr business operation with staff shift changes which will continuously create, light and noise (both an environmental pollutant), disturbance, and disruption .
- There is a general failing of placing society's unwanted and damaged children in to care homes, particularly those run for profit, and this is a disgrace.
- Rise Care has only 2yrs experience of running its only residential care home. There is no evidence they are financially stable and the applicant is involved in other companies and has not demonstrated it is committed to child care. The applicant is more interested in profit than the care of the children.
- The children in the house will not be cared for in a stable environment and this will result in them being involved in criminal activities.
- The property has little in the way of usable garden space for amenity use by the occupiers. It will not be fit for purpose.
- The business is based in Bristol. How can they provide support for the staff and children?
- There will be inadequately trained staff and a high staff turnover.
- The ratio of staff to children is inadequate.
- If a commercial use is allowed it will lead to potential other similar uses in a residential area. This would spoil the community.

### **Parking and access**

- There is insufficient parking for the staff required to fully operate this home and off road parking at the house is limited and some is potentially unusable due to the steep and narrow drive.
- It is already difficult to park in the street outside my property without numerous staff and visitor parking outside the neighbouring properties .
- The access is on a bend with poor visibility.
- The increase may negatively impact on access for emergency services.

### **Impact on resident's amenity**

- It will result in overlooking. The attic windows are not obscurely glazed and should be prevented from opening. There will be overlooking from other windows and from the conservatory.
- Archgrove can easily accommodate a further two children at least if permission is granted increasing the negative impacts.

- A care home for deaf/ blind people has been allowed recently. How will the occupiers be affected and the addition of another care home in the area?

#### **Other objections/comments**

- How can they already be carrying out works and permission has not been granted yet?
- It will decrease the value of houses in the area.
- The dwelling has not been built in accordance with the original planning permission. The attic windows have not had obscurely glazed glass installed. There is a drainage problem. The levels of the house and surrounding land was changed without informing the neighbours. This has impacted on watercourses and has forced groundwater either side of the house and on to the public highway.
- A site visit should take place by the Planning Committee to look at the issues.

Care Inspectorate Wales – no comments received.

Dŵr Cymru/Welsh Water – no objection subject to: surface water from any increase in the roof area of the building/or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

RCT Children's Services – no objection. The registration of this children's home would be via Care Inspectorate Wales who would be responsible for inspections of any children's home and ensuring it meets the requirements of the regulations.

RCT Flood Risk Management – no objection and no conditions are recommended.

RCT Public Health and Protection – no comments received.

RCT Transportation Section – There is some concern that the off-street car parking is tandem. However, taking into account the off-street car parking available is in accordance with the council's SPG Access, Circulation & Parking 2011 and the garages and car parking areas have been conditioned to remain for the parking of vehicles only the proposed is acceptable.

South Wales Fire and Rescue – no objection.

South Wales Police – no objection to the proposed application and recognise the need for such facilities in communities. Safety and security measures are recommended.

## **POLICY CONTEXT**

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

The site is within settlement boundaries as defined by the Rhondda Cynon Taf Local Development Plan and is unallocated.

**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 the scale, form and design of new development to have an acceptable effect on the character and appearance of the site and surrounding area and existing features of the built environment to be retained. Development must have no significant impact on the amenities of neighbouring properties, be compatible with other uses in the locality and to design out the opportunity for crime and anti-social behaviour. Development must be sustainable, have safe access and provide car parking in accordance with the Council's Supplementary Planning Guidance (SPG).

**Policy AW10** - development proposals must overcome any harm to public health, the environment or local amenity.

### **Supplementary Planning Guidance**

Delivering Design & Placemaking: Access Circulation and Parking Requirements  
(March 2011)

### **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 5th December 2018, and the document aims to incorporate the objectives of the Well-being of Future Generations Act into Town & Country Planning.

The following Planning Policy Wales chapters set out the Welsh Government's policy on planning issues relevant to the determination of the application.

Chapter 2 - People and Places: Achieving Well-being Through Placemaking;

Chapter 3 - Strategic and Spatial Choices (good design making better places, promoting healthier places, sustainable management of natural resources);  
Chapter 4 - Active and Social Places (community facilities and recreational spaces);  
Chapter 5 - Productive and Enterprising Places (reducing energy demand and use of energy efficiency); and  
Chapter 6 - Distinctive and Natural Places (landscape, biodiversity and ecological network and lighting).

Other relevant policy guidance consulted:

PPW Technical Advice Note 11: Noise;  
PPW Technical Advice Note 18: Transport;  
PPW Technical Advice Note 23: Economic Development; and  
Manual for Streets.

## **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.

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

The applicant has submitted the planning application for the conversion of a dwelling within an existing residential area to a residential care home for 4 children. Three care staff and a manager would be present during the day and two care staff overnight.

Firstly, it is noted that many of the objections infer that the system of care homes in the community shouldn't be allowed; particularly those run by private companies, not based in the area and who could put making a profit at the expense of the care of the children. Further objections raise concerns that Rise Care Ltd and its directors are inexperienced and that there should be an assessment of their ability to provide a care service and the local need for it. Whilst these opinions are acknowledged, these are however legal, regulatory and political issues, that are not controlled under the scope of the planning system. The planning system and decisions on planning applications are primarily concerned with land use issues such as the impact on amenity and the environment.

The question of what use class this proposal comes under has been raised in the public consultation exercise. A children's care home comes under a C2 use class (Residential Institutions). Other uses under this use class include other care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres. It should however be noted this class is separate from a C2a (Secure Residential Institution) use class which covers young offender's institutions, prisons, secure hospitals etc.

Objectors have detailed the use is not similar to a residential use and is however a commercial use. It is also stated the building is not appropriate for use as a care home, particularly in terms of the lack of usable outside amenity space. Whilst it is acknowledged that staff would work on a shift pattern over 24 hours, that a manager would be based at the site during the week and it would be run by a private company, the property would also be a home for the children and the time they are there. The building itself was constructed as a dwelling and would generally retain a standard arrangement of rooms found in most homes, albeit with a staff room, education room and an office. In terms of the outside amenity space there is a small patio and conservatory to the rear. It is noted the garden areas are in places steep and overgrown, however some usable space could be created if needed. Whilst more space would be welcomed, it is also noted that in terms of the age group of the children that would be at the home (11-17 year olds), that this age group normally have a lesser requirement for garden space than younger children. Members are also advised that access to Belle Vue Park, to the rear of the property, is in close proximity on Park Road. Therefore, it can also be argued that small care homes can have similar characteristics to dwelling houses (C3 use class). Members are advised that this has been clarified in some planning case law examples.

In 'North Devon District Council v First Secretary of State (2003)', it is argued that whilst the use of a property had changed from C3 to C2 that there has not been a material change of use that requires planning permission. In general, the case law suggests, this is the case, where there are 6 (or less) occupants living as a single household. The decision whether the change of use would or would not be considered material is a matter of fact and degree.

The submitted application details a proposal similar to that in the case above where children would live in a home looked after by care staff on a rota system. This application would however have a property manager working during the week and the 8 occupiers that could be at the house during the day is over the 6 threshold for care homes that come under the C3 (b) use class. These details seem to indicate that a material change of use would occur as a result of this proposal. Notwithstanding the above, this is not an application to determine if planning permission is required or not. As such, the application for a change of use has been submitted and it will be considered on this basis.

However, Members are advised that it is considered important for the assessment of this application, that the case law detailed above is noted and that this highlights that the main consideration for this application is the impact of the increased intensification of the proposed use. The impact of a C2 (residential care home) use would be more likely to result in a greater intensity of use than a C3 (dwelling house) use in terms of planning considerations such as access and parking and residential amenity. These issues are discussed in greater detail below:

### **Impact of the greater intensity of use on material planning considerations**

#### **Noise and disturbance**

As detailed in the 'Publicity' section, objectors state the area is a quiet residential area and have raised concerns with regard the 24hr nature of the proposal, issues of

noise and light pollution, disturbance from shift changes and the coming and going of traffic.

With regard to these issues the property is relatively large, detached and is set with in its own grounds with parking off the street. The number of staff required is low and the scale of the running of the care home would more than likely not require significant coming and goings. It is noted that staff would cover a 24-hour period, however shift changes would be minimal with one in the morning and one in the evening. During unsociable hours, like most homes, it is expected the residents would be more than likely asleep or within the house. Noise from the occupants could be similar to that in any dwelling.

Therefore, whilst there may be some increased impact; it is considered likely that there would not be a significantly greater impact from noise and disturbance than could be experienced from the existing use.

### **Impact on privacy**

There would be no changes to the property in terms of the position and size of windows in the existing dwelling. Objectors have however raised issues with regard overlooking of properties to the front and either side and to the park. It is however considered there would be no difference to the potential of overlooking from that of the existing use of the building.

One objector raises concern that the attic windows do not have obscure glazing and that this should have been put in when the dwelling was built.

Members should note this issue, with regard the dwelling not being constructed in accordance with the original planning permission, is also further commented on in the 'Other Objections' section below.

Turning back to the privacy issue, the objector also details these windows should be prevented from being opened. In assessing this, the windows are small and no use has been shown for that room. If permission was however granted, there would be no restriction on it being used for living accommodation, a recreation room or a bedroom etc. The applicant has been informed with regard the objection and has agreed to fit obscure glazing. Members are advised this can be controlled by a suitably worded condition. In terms of the window being non-opening, it is considered this would not be necessary or reasonable.

In summing up this issue, it is considered there would not be a significantly greater impact from overlooking and loss of privacy as a result of the proposed use as compared to that of the existing dwelling.

### **Parking and Highway Safety**

The property benefits from 2no. garages and a drive for 4no. cars. Members are advised parking would need to serve 4 no. staff during the day and any visitors. It should also be noted that it is a possibility that staff could use public transport or if they live locally then they may not need car parking.



Objectors have detailed that the off-street parking may not be usable, the access is dangerous and that there is a significant amount of on-street parking and that further on-street parking would exacerbate existing highway safety issues.

It is acknowledged that further on-street parking could occur if the proposal is granted. As with every property that has a drive, it cannot be controlled that the off-street parking is used. However, parking is not restricted on Vicarage Road and is available to use. At the time of a site visit there was space available, however it is acknowledged this was at one particular time during the day. Whilst parking may be in high demand at other points of the day this is a first come first served basis. The care home is not of a large scale and any increase in on-street parking as a result would not be significant.

No objection has been raised by the Transportation Section as they detail sufficient off-street parking for the use is available. Therefore, it is considered this issue would not warrant a refusal reason.

### **Character of the area**

In terms of the character of the area, no physical changes to the building and grounds are proposed. Objectors have stated that the area's character would change for the worse due to the proposal and the commercial aspect of the proposed care home and others in the area. Whilst a more intensive use may result in a greater number of people/cars at the property, due to the small scale of the proposal, there would not be much difference to the use of the building as a dwelling. It is therefore considered the proposal would not warrant a refusal reason on this issue.

### **Crime and Anti-Social Behaviour**

Significant objection has been received from local residents who suggest this proposal would result in an increase in crime, vandalism, anti-social behaviour and police call outs in the area and that this would affect the amenity of residents, the community and its character. Many of the objectors have pointed to issues at care homes in Tonyrefail, one in Bridgend and one run by the applicant's company in Ebbw Vale. Members are advised that it is understood the homes in Tonyrefail and Bridgend are not run by the applicant's company. As such, it would be difficult to show a link that crime or anti-social behaviour from occupiers of these homes would result in similar issues at the proposed home.

Whilst the objector's concerns are noted and highlight potential issues that can result from the running of care homes, it could be the case that the proposed children's home would not result in such significant issues. There may also be examples of care homes in the area that do not result in such significant issues, albeit no evidence has been put forward to show this. The behaviour of the occupiers would be a matter for the individuals in the home and the management of it and the planning system cannot control who manages care homes. The regulation of standards in care homes is controlled by Care Inspectorate Wales (CIW).

In one case law example (Bromley 02/12/1994 DCS No 033-844-797) a Planning Inspector states, "that the frequency of bad behaviour would be difficult to predict and would depend on individual children and the supervision they received. These were personal matters not concerned with the use of the property". Therefore, whilst any incidences would not be welcomed, it is considered that the use of the land, as a care home, would not warrant a refusal reason for this issue.

As detailed above, some objectors have stated Rise Care Ltd do not have the experience or ability to run care homes. Whilst it is not in the remit of the planning system to regulate the running of care homes or any commercial business and for the purposes of a balanced argument; the following provides some evidence to the contrary. The applicant has detailed the home would be staffed over a 24-hour period and that they are going through the process of registering the home with CIW. The applicant has also submitted a CIW report dated 1<sup>st</sup> May 2019 for their home in Ebbw Vale. This details that home did experience issues, but shows a generally positive way in which the home has improved and is currently run. The summary of the report includes the following:

"We found that significant improvements and progress had been made since the last inspection. Young people are well cared for and experience a good sense of well-being; they are making very good progress and are supported to engage in a range of education, employment and volunteering opportunities. Young people's views and wishes are listened to and respected; care and support is personalised to meet individual needs and preferences. An established motivated staff team is in place and the home is well managed by an experienced and effective manager".

As such, it is considered, this provides evidence, that Rise Care Ltd have shown they are following the regulatory process that maintains standards for the running of care homes.

Members are also advised that no objection has been raised by South Wales Police who acknowledge the need for this type of facility in communities. They recommend that safety and security measures are provided to the home. If permission is granted this can be added as an informative note. The Council's Children's Services Division have not raised any objection to the application.

In summing up the above, significant objections and concerns have been raised by local residents. These suggest, that in the opinion of objectors, the home would result in crime and anti-social behaviour to the detriment of the character of the area and the community. However, the home would be staffed by care workers and a manager and the home would be registered with CIW. It is acknowledged that this may not totally eliminate local anxiety and fear, however, it is considered that the actual and perceived risk to public safety that has been evidenced would not carry sufficient weight to warrant the refusal of the application.

Following on from the above, some objectors have detailed there is a significant amount of existing anti-social behaviour/crime in the area and that it is not a suitable area for the children in care to be looked after. Again, this is not a land use planning issue and no significant evidence has been submitted to prove that the children

placed in the home would be at risk or that would carry sufficient enough weight to warrant a refusal reason.

In a letter from Leanne Wood A.M., it details if permission is granted the neighbouring properties should be fitted with CCTV cameras. As identified above, it is considered that there is not sufficient evidence that the occupiers and the use would result in crime or anti-social behaviour. As such, it would be unreasonable to require the developer to provide these measures.

In addition, the Assembly Minister has suggested a condition limiting the home to those without convictions for violent offences or burglary. Whilst these concerns are acknowledged, the planning system does not control who can occupy care homes and residential dwellings within local communities. It is therefore considered it would be unreasonable to restrict the occupation of the care home from children with such backgrounds. Members should also note that the proposal is not for a secure residential institution (C2A Use Class) where children are being held for having caused a crime.

In conclusion, whilst a fear and anxiety of crime and anti-social behaviour has been generated by this application, it is not the planning system which regulates who would be housed in the care home and the management of it. It could also equally be the case that the children in care do not cause these concerns. Therefore, whilst the concerns raised are acknowledged and would not be welcomed, it is considered, that the arguments do not carry sufficient evidence and weight in planning terms to warrant a refusal of the application.

### **Temporary Permission**

It has been suggested (from responses to the consultation process) that if permission is granted that only a temporary permission is granted. Members are advised Government guidance on the use of conditions (Welsh Government Circular WGC 016/2014: The Use of Planning Conditions for Development Management) details "where an application is made for permanent permission for a use which may be "potentially detrimental" to existing uses nearby, but there is insufficient evidence to enable the authority to be sure of its character or effect, it might be appropriate to grant a temporary permission in order to give the development a trial run, provided that such a permission would be reasonable having regard to the capital expenditure necessary to carry out the development." Members are advised that this power does not apply except with the undertaker's consent (section 267 of the Town and Country Planning Act).

However, it is noted that in an appeal case for a care home (Renfrewshire 07/09/2004 DCS No 055-509-140) an Inspector allowed the appeal limiting the use for a period of two years in order to allow full assessment of the potential impact.

At the time of writing this report the applicant has verbally stated they would not agree with this condition as it would leave the children without a home if the use ceased.

Members are advised, whilst a temporary permission would allow for the use to be tested as a trial run, it is however considered it would be unreasonable and unnecessary as it is considered the use in planning terms is acceptable. If matters of poor management or behaviour were to occur as a result of the home these would be a matter for the regulatory and law enforcement bodies, i.e. CIW and the Police.

### **Number of Residents**

Members are advised that it is considered additional care home residents, beyond the 4no. being proposed, may result in a further intensification of the use that may have more significant material impacts on land use planning issues as discussed above. This may not be acceptable and it is therefore considered it would be necessary to limit the number of residents. This could be controlled by a suitably worded condition on any permission granted.

### **Other Issues**

The following other material considerations have been taken into account in considering the application, though were not the key determining factors in reaching the recommendation:

### **Other objections**

- Objections have been raised from local residents with regard to a covenant that restricts the site to a C3 residential use. This is however a legal matter and outside the scope of this planning application.
- An objector has stated the applicant doesn't own the property. The applicant has however detailed on the application form that they own the site. Whilst no evidence to prove the applicant doesn't own the site has been submitted, it is reasonable to assume the applicant does and the application forms have been completed correctly. Notwithstanding this, the ownership of the property is not a reason to warrant a refusal of the application.
- With regard to the issue of the effect on property values, it is considered this is not a material planning consideration and not a matter to be taken into account in the determination of the application.
- The objections with regard to obscure glazing, drainage and levels that have not been addressed from the original planning application for the dwelling are noted. However, the dwelling was built over 10 years ago and is now lawful and unfortunately no enforcement action could now be taken in relation to conditions on that original consent.
- The objection with regard to the submitted floorplans having a different house name is noted. The applicant has updated this with the current name of the property.
- The issue with regard to the lines on the plan are noted, however the blocking up or opening up of internal accesses would not require planning permission.

- The issue with regard the fire escape route is noted, however this is not a requirement for planning permission and is covered under other legislation.

## **Drainage**

The condition recommended by Dŵr Cymru/Welsh Water is not considered necessary as the development does not include any changes to the roof area or impermeable surfaces.

## **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 liable for a charge under the CIL Regulations 2010 (as amended) however, the CIL rate for this type of development as set out in the Charging Schedule is £nil and therefore no CIL is payable.

## **Conclusion**

The application is considered to comply with the relevant policies of the Local Development Plan in respect of the principle of development, the impact on residential amenity, the impact on the character of the area and highway safety (Policies CS1, AW2, AW5, AW6 and AW10).

## **RECOMMENDATION: GRANT SUBJECT TO THE BELOW 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 plan:

- Proposed Floor Plans received 18<sup>th</sup> May 2019

and documents received by the Local Planning Authority on 5<sup>th</sup> April and 17<sup>th</sup> April 2019, 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 residential care home for a maximum of 4no. children 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.

Reason: In the interests of residential amenity and the provision of adequate parking in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

4. The garages and parking area identified in the parking area plan received on 16th April 2019 shall remain in perpetuity for the parking of vehicles in connection with the care home use of the property only.

Reason: In the interests of highway safety and to ensure vehicles are parked off the highway in accordance with Policy AW5 of the Rhondda Cynon Taf Local Development Plan.

5. Prior to the first beneficial occupation of the care home hereby approved, the attic windows on the side gable elevations shall be fitted with obscure glazing to an industry standard of privacy level three or above and maintained in perpetuity as such.

Reason: To safeguard the privacy of residents in the locality in accordance with Policy AW 5 of the Rhondda Cynon Taf Local Development Plan.

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