

DELEGATED DECISION REPORT

SMD/2023/0648
Valid 07/02/2024

PARK VIEW
PARK HALL
LEEK ROAD
CHEADLE

USE OF THE DWELLING BY
UP TO FOUR CHILDREN WITH
CARE PROVIDED ALONG
WITH MINOR EXTERIOR
ALTERATIONS (FULL -
MINOR)

MAIN ISSUES

- Whether or not this is development
- Green Belt
- Access
- Neighbour amenity

DESCRIPTION OF SITE

The location is in the rural countryside and Green Belt about 1 mile north west from the northerly edge of the Cheadle development boundary. The site is reached via a 500m private lane west from the A522 Leek Road. The site comprises a detached red brick dormer bungalow in a moderately sized irregular plot. The property is one of three dwellings which together with outbuildings make up a loose cluster of somewhat ad hoc development at the head of the lane. A public footpath right of way skirts the easterly fringe of the site possibly passing through the curtilage land. A dense woodland on an area of former workings (coal) occupies land butting up to the west edge of the site.

PROPOSAL

The application was submitted on the 20th December 2023 and made valid on 7th February 2024. On the application form the description of the development is given as 'Change of Use application only - C3(a) to C3(b)'. In full (as recorded on ILAP) the applicant submitted the description as '*Change of Use application only - C3(a) to C3(b) including modest entrance alterations and external changes*'. In consultation with the applicant the LPA has suggested the description be altered to 'Use of the dwelling by up to four children with care provided along with minor exterior alterations'. The agent has confirmed their agreement to this by exchange of e-mail.

Revised plans were submitted 23rd Feb along with a covering e-mail and an attached letter. NB although this refers to further supporting documents these were not actually attached. As these were decision notices without any of the officer assessment reports and from three London Authorities and not all comparable to the current application they may be of limited assistance. The certificate notice was later requested (and supplied) – from Enfield, not Hackney, as it turned out – but as noted no officer report was made available.

The revised plans confirm that the total number of bedrooms would be four as opposed to five which had at first been indicated by a numbering error in the first submitted drawings.

From the covering letter dated 22nd Feb and received by e-mail on 23rd Feb 2024 the following can be noted:

“The proposal seeks to operate as a small-scale children’s residential home for four (4) children who suffer from autism learning, emotional and behaviour difficulties.

“The applicant seeks to provide a safe, supportive and nurturing living environment for young people ages 5 to 18 years that are unable to live with their families or where family members are not present in the child’s life.

“The property would provide children a normal domestic environment and setting, whilst also attending mainstream schools and live as close to a normal family life as possible.

“The on-site carers shall staff the property 24/7 and work on a rota basis of 12hr shifts, ensuring presence on site at all times. The carers will provide domestic chores, cleaning and preparing meals for themselves and the children. The property would be operated and occupied as reflective of a family home with a single kitchen for all food preparation set schedules for meals. The carer would transport the children to school in a single vehicle and collect the children from school so they are all leaving and arriving in one journey mode. The office will operate as the carers sleeping space and staff office.”

Exterior work:

- Timber framed double glazed window replacements
- 1.8m high timber access gate on the main access (posts already in situ) to the property and a 1.8m high inner access gates adjacent the house.
- All outer boundaries to have a 1.8m high timber boundary fence erected.
- New front and rear UPVC door with glazing square
- Minor change to bathroom layout (not classed as development)

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Local Plan (adopted 9th September 2020)

SS1 Development Principles
SS2 Settlement Hierarchy
SS10 Other Rural Areas Area Strategy
DC1 Design Considerations
NE1 Biodiversity and Geological Resources
NE2 Trees, Woodland and Hedgerows
T1 Development and Sustainable Transport

National Planning Policy Framework (Dec 2023)

Paragraph(s) 1 – 14;

Section(s) 4 – Decision making; 6 – Building a strong and competitive economy; 8 Promoting healthy and safe communities; 11 – Making effective use of land; 12 – Achieving well designed places and beautiful places; 13 – Protecting Green Belt Land; 15 – Conserving and enhancing the natural environment; 16 – Conserving and enhancing the historic environment.

Adopted Supplementary Planning Documents/Guidance (SPD/G):

- Space About Dwellings SPG
- Design Principles SPG
- Design Guide SPD adopted 21st February 2018

Local Plan Supporting Evidence Documents:

- Landscape and Settlement Character Assessment (2008)

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

- SMD/1980/0902 (80/08682/OLDDC). DESCRIPTION: Site for replacement dwelling. DECISION: APPROVED.
- SMD/1981/0796 (OLD REFERENCE: 81/10423/OLDDC). DESCRIPTION: Details of replacement dwelling. DECISION: APPROVED.
- SMD/1988/0822 (OLD REFERENCE: 88/00400/OLD). DESCRIPTION: Park View Park Hall Lane off Leek Road Cheadle - Erection of stable store and garage. DECISION: APPROVED.

CONSULTATIONS

Publicity

Site Notice expiry date: 26.03.2024

Neighbour consultation period ends: 29.02.2024

Press Advert: N/A

Public Comments

5 Objections received, regarding:

- Additional traffic generated by visiting family members, as well as caring staff, therapists, school buses, goods/grocery delivery, specialist nursing staff and private refuse vehicles, will have an amenity impact.
- Concerns that the additional traffic will pose a vehicle safety risk to the children which already live at the neighbouring properties.
- Access across private land to the site – the access lane and land immediately outside of the site boundary are privately owned by two separate neighbouring properties.
- Concerns about the property being run as a business in a residential setting.

Town / Parish Comments

Cheadle Town Council – none received

Staffordshire County Council Highways

There are no substantial changes to the dwelling and no increase to the number of bedrooms. Access is via a private driveway of A522 Leek Road. Visibility to the north is good. Visibility to south is restricted by vegetation. This is a road mirror opposite the access, but at the time of my site visit it was missed over and not performing as intended. Highways do not support the use of road mirrors, partly for that reason, but in any event, it is not strictly required. Visibility to the north is good enough to allow a vehicle to pull slightly forward to improve visibility to the south.

The private drive is single track and unsurfaced. It is approximately 500m from Leek Road to the site itself. There are few passing places. At the junction of the track with Leek Road the bellmouth is approx. 19m wide. At 5m set back the track is approx. 7.5m wide. At 6m setback the track is 5m wide. At 10m setback the track is approx. 4.4m wide. Minimum highway standard would be for the bellmouth to be at least 5m wide for at least 5m rear of the carriageway to allow two vehicles to pass at the access. This bellmouth meets that standard.

Class C3b allows up to 6 persons living as a single household with care. Trip generation profile may be different for a C3b dwelling when compared to a C3a dwelling, with adults /staff visiting the home rather than leaving. However that does not equate to an increase in trips that would be considered severe.

Current records show that there was 1 personal injury collision on Leek Road within 215m either side of the proposal in the previous 5 years. Although collisions are regrettable, the overall volume of collisions does not suggest that there are any existing safety problems that would be exacerbated by the proposed development.

OFFICER COMMENTS

Principle of Development

Planning Use Class C3 is that of a normal dwelling house and is defined as a dwelling house (whether or not as a sole or main residence) by—

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

It is not relevant or necessary to consider material change of use between C3a and C3b as by definition there wouldn't be a material change of use between the two and planning permission would not be needed. In other words, in principle if the proposed use of the premises were to conform with C3b it would not involve a change of use from C3a. The applicant was at first invited to change the description of proposed development to in effect one that seeks simply to confirm that C3b use is acceptable in planning terms. The Planning Use Classes Order establishes that any of the three variations described in (a) to (c) are all within the scope of use covered and provided for in a building that is a 'dwelling house'.

It might have been concluded that in fact the proposal does not amount to development (as defined in the planning acts) and therefore would not require

planning permission. In which case an alternative approach would have been for a Lawful Development Certificate to be applied for. However that is not the application that has been submitted. On further examination it is also apparent that the proposal is not simply one that conforms with C3b.

To be satisfied that the use described comes within the scope of dwelling house the LPA needs to consider and be satisfied that the proposal as described in the application equates to the use as defined by the words – which are not further or more fully defined as given at C3b: “not more than six residents living together as a single household where care is provided for residents”.

Questions arise such as: Who are the ‘residents’? Are they all ‘living together’ or just a portion of them for whom additional care comes in to stay with them in the 12 hour shifts as described in the application? The six ‘residents’ must be ‘living together as a single household’. Can people visiting in 12 hour shifts conform to the definition of household? Appeal decisions have established that children alone cannot form a ‘household’ and neither can changing shifts of care staff.

The LPA suggested a further change to the description:

Use of the dwelling by up to four children with care provided along with minor exterior alterations.

This description has been agreed by exchange of email with the agent for the application.

The main issues to be considered in the planning decision are whether the proposal is materially different from C3b or is otherwise so different and impactful eg on neighbours that it couldn’t be supported with a stand-alone planning consent.

From the additional supporting information summarised above under ‘Proposal’ it can be seen that the use would be very similar to that of a normal dwelling and but for involving a staffing rota working a 12 hour shift pattern it appears the proposal would equate to C3b use.

The physical exterior changes are very minor and virtually undetectable eg a French doors set in the south east elevation changed to a standard door with vertical side window. In a dwelling this would be permitted development. Subject to when the work takes place ie. whether still a dwelling or whether in a new use permission may or may not be required. Fencing in all cases is subject to GPDO(2015) Schedule 2 Part 2 and within the defined limits is permitted development – up to 2m high would be permitted for this property.

Design

There are no issues that arise in the design appearance of the building. All of the proposed work would be PD for a dwelling – with the possible exception of a 1.8m fence if it were ‘erected or constructed adjacent to a highway used by vehicular traffic’ but no part of this property could be considered ‘adjacent to a highway’.

Amenity

Issues to consider are whether the form of use of the premises could result in impacts that would be unduly harmful to the residential occupiers of adjacent dwellings. The application dwelling itself is some 35m from the nearest adjacent neighbour dwelling at Park Hall Bungalow. Park Hall House is slightly further away again. There is an adjacent storage yard (unconnected with the development land) see file photo 140533 which is close alongside the front garden but this could not be unduly affected. This is understood to be owned as part of the neighbouring Park Hall Bungalow. As such the closest neighbours are considered to be positioned at a sufficient distance where the use of the building, and its gardens would not give rise to any harm to their amenities. Even if children were to play in the garden, the development only relates to four children, and would be similar in terms of impact to a private residential dwelling.

There are objections from the occupiers of Park Hall Bungalow but these do not raise matters of living conditions within the property. They are concerned about traffic volumes and limited manoeuvring with consequent safety risks to pedestrians and also congestion and questions about rights based on land ownership of the access routes.

There is also an objection from the occupiers of Park Hall House but again the concern is chiefly about access and visitor / worker traffic.

Highway Safety

No objection from the highway authority and no conditions requested. HA has noted no change in bedroom numbers though took as read the stated five bedrooms. As this is actually a lesser scheme with 4 bedrooms there is no reason to think this correction by the applicant would lead to any change in the HA assessment. They also comment that the existing access point onto the public highway meets current standards for its width and visibility.

The property benefits from relatively generous drive space within the site. It appears well capable of accommodating the described proposed use. In terms of rights of access including the right to use the private access lane to the property these are private matters between the owners. It can be seen how access to the storage yard could potentially be hindered if there were moments when arriving vehicles needed to stop at the proposed gated entrance – where there are existing gate piers (but at present no gates) – but there also appears to be enough room to minimise if not avoid all together any such hindrance (to either party – noting the store yard also has gates). The neighbour raises concerns about the safety of children, when vehicles are visiting the site e.g. staff members, taking the children to school. However, this concern over safety would be same if the property were being used as a single dwellinghouse. The coming and going from staff will occur twice a day, when they change shift and other visitors e.g. family members, therapists, school buses, good/grocery deliveries and refuse vehicle, could all occur if a family were occupying the four bedroom property. It is difficult to argue that the coming and goings would amount to a material difference, when compared to two adults, with children in a

single household going to and arriving back from their place of employment, visiting family attending the property and any other services, such as grocery deliveries.

Of note are the comments from the Highway Authority. Whilst the LPA considers that proposed use does not amount to a C3b use, due chiefly to the employment of supervisors / carers to attend the premises on a shift rota basis rather than there being a single constant presence of specific adults permanently living at the household, the Highway authority conclude that there would not be an increase in trips between a C3a use and C3b use, which would amount to a severe impact on the highway. This change of use would involve up to four children and their carers, however the physical size of the dwelling would not allow for any further intensification. At the proposed level of occupation, the LPA considers this to be similar to the occupations levels which could occur as a single dwelling. As such despite the concerns raised by local residents, the impact on the highway safety is considered to be acceptable.

Other Matters

The LPA has noted a registered definitive public Footpath ROW along the easterly boundary. The applicant will need to ensure any new fencing does not impinge on the legally defined route of this path and should be advised to check with SCC ROW.

Some of the existing boundaries comprise attractive hedging especially along the woodland boundary to the westerly side. It is unclear how or whether the proposed 1.8m high fencing could be erected without loss to the hedging where it exists. There is also dense evergreen hedging on the boundary with the storage yard to the south east corner of the proposal site. The applicant will need to carefully consider whether (a) they have the rights, and in precisely what position, to erect fencing on the boundaries especially if it would affect existing boundary vegetation and (b) whether the interests of the development are best served by 1.8m high boundary fencing to all sides. However as noted above fencing up to a height of 2m can be erected provided that it is not adjacent to a highway.

CONCLUSION / PLANNING BALANCE

The application construes the issues slightly differently from the LPA. The application (as first submitted) portrays the proposal as one in which a change of use between C3a and C3b would have to be approved. This is not the case. Neither C3a nor C3b involve a change of use – they are subdivisions of the planning use defined as ‘dwelling house’. There is no need for the LPA to consider if there is a material change of use between C3a and C3b – there isn’t and can’t be, as they are both by definition in the same use class. However the matter of what may or may not amount to use under C3b does need to be decided. The LPA finds that the proposal does not fully conform with a C3b use due chiefly to the employment of supervisors / carers to attend the premises on a shift rota basis rather than there being a single constant presence of a specific identifiable one or more named adult permanently part of a household.

The usage would in most other respects be very comparable to how a C3 dwelling house would operate. Deliveries, trips to and from school and visitors coming and going would be little different if at all from the comings and goings of a dwelling house similarly occupied. Even staff arriving for their shifts would have some similarity to adult residents of a dwelling house coming and going to and from work.

Whilst any ordinary dwelling even one with four bedrooms may be occupied and used in very differing amounts in terms of age group, numbers and employment and patterns of working the proposal here readily falls within the range of the norms that might be expected. The one exception to this is the on-site carers working in shifts to supervise and manage the premises rather than a permanent live-in person or persons. In conclusion, although 'technically' not the same as a dwelling, in terms of actual 'impacts' this is not found to be so substantially different that a change of use consent cannot be granted.

OFFICER RECOMMENDATION : **Approve subject to conditions**

Case Officer: Arne Swithenbank

Recommendation Date: 8th May 2024

X 

Signed by: Jane Colley Signature

On behalf of Staffordshire Moorlands District Council