

## DELEGATED DECISION REPORT

---

**SMD/2023/0650**  
**Valid 07/02/2024**

**433 CHEADLE ROAD**  
**CHEDDLETON**  
**LEEK**  
**ST13 7BH**

**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
- Neighbour amenity
- Design appearance

### DESCRIPTION OF SITE

The location is within the Cheddleton south development boundary. The property is a detached two-storey dwelling facing Cheadle Road but set back with an 18m front garden. To the north side is a children's play area and behind the property (east) is a car park serving a sports facility. To the south side is a similar detached dwelling in similar plot.

### PROPOSAL

The application was submitted on the 20<sup>th</sup> December 2023 and made valid on 7<sup>th</sup> 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.

A revised block plan drawing was submitted 23<sup>rd</sup> 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.

From the covering letter dated 22<sup>nd</sup> Feb and received by e-mail on 23<sup>rd</sup> 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:

- Double glazed upvc window replacements
- 1.8m high timber boundary fence to sides adjacent house and to the rear
- Permeable hardstanding (where applicable)
- Glazed windows adjacent main entrance removed and bricked up and a star glazed window added.
- 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 9<sup>th</sup> September 2020)**

SS1 Development Principles  
SS2 Settlement Hierarchy  
SS8 Larger Villages 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; 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/1985/0664 (85/13931/OLDDC). DESCRIPTION: Extension to form kitchen and garage with two bedrooms over. DECISION: APPROVED.

#### **CONSULTATIONS**

##### **Publicity**

Site Notice expiry date: 26.03.2024

Neighbour consultation period ends: 29.02.2024

Press Advert: N/A

##### **Public Comments**

Representation received from the adjacent neighbour at 435 Cheadle Road:

- a few anomalies which concern us regarding our party wall fence and hedge
- what is the proposal for the hedges?
- are they intending to take them out?
- this is the boundary line
- are they putting a fence up as a double-sided clad system?
- Concerns regarding drainage including rainwater drainage soakaways from 435 that run under the proposed driveway

##### **Town / Parish Comments**

Cheddleton Parish Council – more information required and clarification on the comments from [the neighbour at 435]

##### **Staffordshire County Council Highways**

Acceptance. Application is for COU from C3a to C3b. There are no substantial changes to the dwelling and no increase to the number of bedrooms. Access is off A52 Leek Road. Access is as existing and will be unchanged. Driveway is proposed to be resurfaced and extended to increase parking area. Class C3b allows up to 6 persons living as a single household with care. The dwelling is currently 5 bedrooms and will remain 5 bedrooms if/when COU is allowed. Current records show that there were no Personal Injury Collisions on Cheadle Road within 160m either side of the property access in the previous five years.

##### **SMDC Environmental Health**

To note: the granting of planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of part III of the Environmental Protection Act 1990 be received.

Advisory: the developer should pay due regard for the need to be compliant/ adhere to Building regulations Approved Document E and BS8233:2014 Guidance on Sound

Insulation and Noise Reduction for Buildings (special note should be made to Section 7.7.5 and Annex H). It would be advisable to appoint a buildings acoustics specialist to conduct a site specific assessment of the site to ensure this building is future proofed for all uses permitted under this permission.

Four conditions recommended:

- Timing of construction / demolition work
- Construction / demolition pollution control
- Outdoor lighting
- Timing of deliveries for noise control reasons

#### **SMDC waste collection services**

- No issues

### **OFFICER COMMENTS**

#### **Principle of Development**

Planning Use Class C3 is that of a normal dwelling house and is defined as use 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 a '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.

In the main the physical exterior changes are very minor. Replacement of windows and doors and changes to the openings would be PD for a dwelling. 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.

GPDO(2015) Schedule 2 part 1 Class F permits hard surfaces incidental to the enjoyment of a dwellinghouse and this would cover driveway replacement or extension subject to the provisions of Class F. The submitted drawings do not illustrate or specify the extent of the drive way work. The implication appears to be that with the exception of narrow planting beds at the road front the entire front garden would be made over to driveway and parking – an area 17m x 15 or 255 m2. Whilst in a dwelling this would be permitted development (subject to the conditions) permission is being sought here and is only being made necessary as a result of the proposed change of use away from dwelling. Issues of character, appearance and environment are raised and will be discussed more fully below.

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 as shown in the drawings not coming forward of the front elevation. This ensures no conflict with the lesser permitted height rule for fencing alongside a public highway. The property owner carrying out the work would need to ensure they hold the rights over the boundaries to do so and would be well advised to liaise directly with adjacent owners.

## **Design**

There are no issues that arise in the design appearance of the building and its proposed changes. The proposed fencing would be PD whether or not a dwelling.

The apparent proposal to change the front garden to a parking yard of 255m<sup>2</sup> appears excessive. As a comparator a dwelling with four or more bedrooms as here should have three 2.4m x 4.8m spaces which would amount to just under 12m<sup>2</sup>. The proposal would retain the existing integral garage which is c.4.8m x 4.4m but this is less in length than the current guidance of 3m x 6m. It would be feasible to provide adequate parking at the front with a much reduced loss of lawn / planted areas. A condition should be attached to specify minimum retained planted beds / lawn at the front of the property that would still allow parking and turning for at least 3 vehicles.

Matters relating to any impacts of the extension to parking areas on local drainage such as referred to by the neighbour may be considered private or non-planning matters and the applicant will need to ensure they do not create drainage problems and that they honour any established drainage arrangements. All new hard surfacing should be conditioned to be of porous construction.

### **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 is at the end of a short row of detached dwellings. The north side wall of no.435 is relatively close at c.4.5m from the side wall of the application dwelling.

SMDC EH recommend a restriction on timing of deliveries. On balance given the nature and scale of the proposed use – very comparable to a family dwelling – this would seem unnecessary and unduly restrictive on the proposed use. EH conditions 1 and 2 are also un-necessary given the very limited amount of construction / demolition involved. The proposed lighting condition would also seem un-necessary as there is little reason to consider that the lighting needs would differ from those of a normal household.

### **Highway Safety**

No objection and no conditions requested. HA has noted no change in bedroom numbers. No changes are proposed to the existing access point onto the highway.

The property benefits from reasonable existing drive space and with minor additional provision appears well capable of accommodating the described proposed use. As such it is considered that the proposals do not raise any highway safety concerns.

### **Other Matters**

Some of the existing boundaries comprise attractive hedging especially to the boundaries with no 435 including both the front and the rear gardens. It is unclear how or whether the proposed 1.8m high fencing could be erected without loss to the hedging where it exists. 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 the rear boundary and sides. As noted above a fence of up to 2m in height can be

erected where it does not adjoining the highway, without the need for planning permission.

## **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 same 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 broadly 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 five 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, though ‘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:** 9<sup>th</sup> May 2024

X *J. Colley*

---

Signed by: Jane Colley Signature

**On behalf of Staffordshire Moorlands District Council**