

**Report Reference Number:** 2022/0381/COU

**To:** Planning Committee  
**Date:** 6 July 2022  
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**Lead Officer:** Hannah Blackburn (Planning Development Manager)

APPLICATION NUMBER:	2022/0381/COU	PARISH:	Eggborough Parish Council
APPLICANT:	Dove Adolescent Services Ltd	VALID DATE: EXPIRY DATE:	10th May 2022 13th July 2022
PROPOSAL:	Change of use from C3 to C2 to be a Children's home for 4 Children ages 8 – 18		
LOCATION:	Braemar Weeland Road Eggborough Selby North Yorkshire DN14 0PW		
RECOMMENDATION:	Grant		

This application has been brought before Planning Committee due to 3.8.9(b)(vi) as more than 10 letters of representation have been received which raise material planning considerations and Officers are recommending approval contrary to these representations.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site comprises of an existing red brick 4-bedroomed detached dwelling, with an integral garage located on a corner plot on the junction with Weeland Road and Braemar Court.
- 1.2 Access is taken from Weeland Road and the frontage is enclosed by a low 1m wall with railings above. Double gates then enclose the driveway to the property. To the east is a 2m wooden close boarded fence which forms the boundary to Braemar

Court. The property has the benefit of a driveway and hardstanding area to the frontage and an enclosed garden to the rear.

1.3 The property is surrounded by other residential properties of a similar scale and design.

1.4 The site is located within the defined Development Limits of Eggborough.

### **The Proposal**

1.2 The application seeks permission to change the use of the property from a C3 use (dwellinghouse) to a C2 use (residential institution) to provide a Children's home for 4 Children between the ages of 8 and 18.

### **Relevant Planning History**

1.3 The following historical application are considered to be relevant to the determination of this application:

- CO/2001/0715 - Proposed erection of two detached dwellings with attached garages Decision: PER, Date: 01-OCT-01.
- CO/2001/1184 - Outline planning for the demolition of existing dwelling and the erection of four detached dwellings and associated access, Decision: PER, Date: 17-OCT-02.
- CO/2002/1147 - Reserved matters application for the erection of 4 No. detached dwellings with associated garaging, access and landscaping, Decision: PER, Date: 11-MAR-03.

## **2. CONSULTATION AND PUBLICITY**

### **2.1 NYCC Highways Canal Rd**

There are no local highway authority objections to the proposed development.

### **2.2 Parish Council**

Extension requested – no comments received.

### **2.3 Designing Out Crime Officer**

A strong legislative and policy framework exists for considering Community Safety as part of the planning process. The Revised National Planning Policy Framework (England) July 2018 paragraphs 91 and 127 state that planning policies and decisions should aim to ensure that developments create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. Designing out crime and designing in community safety should be central to the planning and delivery of new development.

Section 17 of the Crime and Disorder Act 1998 requires all local authorities to exercise their functions with due regard to their likely effect on crime and disorder and do all they reasonably can to prevent crime and disorder. Having liaised with the Neighbourhood Policing Team, it should be noted that the primary concern is

vulnerable children running away from home from similar facilities in the area and being at risk from 'county line' involvement or sexual exploitation. Consequently, it is recommended that there be a management plan for the premises. This should include details of how the premises will be operated and managed, conflict resolution procedures for issues that may affect the neighbourhood and a process to liaise with North Yorkshire Police Vulnerable Persons Unit and Selby District Councils Children's Services so that appropriate child protection measures are in place for the children housed in the premises.

This recommendation may not be deemed to be a material consideration from a planning perspective. However, it would be argued that it can have a positive impact upon the amenity of the immediate neighbours to this proposal and safeguard the children placed at the premises.

It is requested that should this application be granted, that a Crime and Safety Planning Condition be placed on it stating that, prior to the premises coming into use, the applicant is required to provide a comprehensive Management and Safeguarding Plan. These measures should be agreed in writing by the Local Authority in consultation with North Yorkshire Police and Selby District Council Children's Services.

This will fulfil paragraphs 91 and 127 of the National Planning Policy Framework and also enable the Authority to discharge its functions in accordance with Section 17 of the Crime & Disorder Act 1998. It is recognised that pre-commencement planning conditions should only be imposed where necessary, relevant to planning and reasonable. For this proposal it is considered necessary to impose a Crime and Safety Planning Condition for the amenity of the neighbours to the premises and for safeguarding the children to be housed there.

## **2.4 Publicity**

The application has been advertised by site notice and 23 representations have been received, raising objections on the following grounds:

- Insufficient parking and highway safety
- Increase in crime and anti-social behaviour
- Decrease in house values (not a material planning consideration)
- Impact on residential amenity
- Noise
- Lack of a business plan in place

## **3. SITE CONSTRAINTS**

### **Constraints**

- 3.1 The application site is located within defined Development Limits of Eggborough and in Flood Zone 1 (low probability).

## **4. POLICY CONSIDERATIONS**

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose 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". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.

- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. Consultation on preferred options took place in early 2021. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (July 2021) (NPPF) replaced the February 2019 NPPF, first published in March 2012. The NPPF does not change the status of an up-to-date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2021 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

*"219...existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*

### **Selby District Core Strategy Local Plan**

- 4.6 The relevant Core Strategy Policies are:
- SP1 – Presumption in Favour of Sustainable Development
  - SP2 – Spatial Development Strategy
  - SP15 – Sustainable Development and Climate Change
  - SP18 – Protecting and Enhancing the Environment

### **Selby District Local Plan**

- 4.7 The relevant Selby District Local Plan Policies are:
- ENV1 – Control of Development
  - T1 – Development in relation to the Highway Network
  - T2 – Access to Roads

### **National Planning Policy Framework**

- 4.8 The relevant sections of the NPPF are:
- 2 – Achieving sustainable development

## 5. APPRAISAL

5.1 The main issues to be taken into account when assessing this application are:

- Principle of Development
- Impact on Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety

### Principle of Development

5.2 Saved Policy SP1 of the Core Strategy outlines that “...when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.” and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.

5.3 The application site is located within defined development limits of Eggborough and comprises of an existing residential dwelling (C3). The use proposed is for a children’s home (a residential institution) (C2) which still falls within the residential uses set out in The Town and Country Planning (Use Classes) Order 1987 (as amended).

5.4 There are no policies within the Development Plan or NPPF to identify this form of development as being unacceptable in principle in this location subject to no other material planning consideration outweighing the benefits of the proposal.

### Impact on Character and Appearance of the Area

5.5 Section 12 of the NPPF sets out the need for ‘...the creation of high quality’ places and that ‘good design is a key aspect of sustainable development’. Paragraph 130 sets out how planning applications should be considered in relation to their impact on the local environment.

5.6 This is addressed through Policies ENV1(1), (4) and (5) of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy.

5.7 The proposal does not involve any external alterations to the existing dwelling; however, it includes a widening of the driveway to provide sufficient off-street parking. The proposal is not considered to have a significant visual impact on the overall appearance of the area.

5.8 Concerns have been raised by residents that the use proposed, will have a negative impact on the character of the area and would lead to a devaluation of local properties. Impact on property values is not a material planning consideration and thus cannot form a reason to refuse an application. In terms of the character, the use of the property will continue to operate very much like a C3 dwelling, with children and shift workers coming and going to the property similar to that of a family dwelling.

5.9 Concerns have been raised with regards to potential for crime and anti-social behaviour. Paragraph 92 (b) of the NPPF states that development should be ‘...safe

*and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion...*' whilst Paragraph 92 (a) also states that it should '*...promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other*'.

- 5.10 The Police – Designing Out Crime Officer has been consulted on the application and whilst it is acknowledged that this type of development has the potential to cause anti-social behavior concerns this can be avoided by a suitable management scheme. The Designing Out Crime officer recommends a condition requiring '*...that, prior to the premises coming into use, the applicant is required to provide a comprehensive Management and Safeguarding Plan*'.
- 5.11 It is considered that on the basis that a suitable management and safeguarding plan can be agreed (between the operators, Police and the Council), that the impact on the overall character of the area through potential anti-social behaviour can be limited and thus the proposal would not have a significantly adverse impact on the character and appearance of the local area and would comply with SDLP Policy ENV1, Core Strategy Policies SP18 and SP19 and the NPPF.

### **Impact on Residential Amenity**

- 5.12 Saved Policy ENV1(1) of the Selby Local Plan requires development to take account of the effect on the amenity of adjoining occupiers.
- 5.13 The proposal is for the property to operate as a children's home for no more than 4 children between the ages of 8 and 18 and the necessary carers to ensure that these children are supported and cared for. The proposal is to operate in a manner similar to a C3 dwelling, except that the residents do not live as a 'single household' which is a requirement for the property to be a C3 use.
- 5.14 It is not considered that the proposal would have an excessive level of noise associated with the use, and any noise issues can be dealt with under Environmental Protection Legislation.
- 5.15 There will be 'comings and goings' from the property in terms of the arrival and departure of carers to the property, however the planning statement identifies the need for two carers to be present during the day and two during the evening. This level of 'comings and goings' is consistent with the normal operation of a dwelling as would be the level of visitors to the property.
- 5.16 It is therefore considered that subject to a suitable management plan as set out above that the proposal would not have a significant adverse impact on residential amenity and would accord with SDLP Policy ENV1 and the NPPF.

### **Impact on Highway Safety**

- 5.17 Policies ENV1(2) and saved policy T2 of the Local Plan requires development to ensure that there is no detrimental impact on the existing highway network. Paragraph 110 of the NPPF seeks a safe and suitable access and only supports refusal of development on highway grounds if there would be unacceptable impacts on highway safety.

- 5.18 The proposal utilises an existing vehicular access and the submitted plans show that at least three vehicles including a large minibus can be parked within the site, following the widening of the driveway.
- 5.19 Concerns have been raised by residents that there would be insufficient parking arrangements within the site leading to on street parking on the private road.
- 5.20 NYCC Highways Authority have been consulted on the proposal and raise no concerns. It is considered expedient to attach a condition requiring the parking to be provided prior to the first use of the property.
- 5.21 As such, it is considered that the proposal would not have unacceptable impacts on highway safety and complies with national and local planning policies.

## **6. CONCLUSION**

- 6.1 The application seeks permission to change the use of the existing domestic property to provide a Children's home for up to 4 children and for the care staff required to provide support to the children within the home.
- 6.2 Subject to relevant conditions it is considered that the proposal would not create a significant adverse impact on the character or appearance of the area, residential amenity or highway safety and thus would accord with Policies ENV1, T1 and T2 of the Selby District Local Plan, Policies SP1, SP2, SP18 and SP19 of the Core Strategy and the NPPF and as such is recommended accordingly.

## **7. RECOMMENDATION**

This application is recommended to be GRANTED subject to conditions:

1. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act.

2. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:

Proposed Site Plan – WAL-22-26-05  
Proposed Building Plan – WAL-22-26-03  
Braemer House Parking

Reason: For the avoidance of doubt.

3. Prior to the first use of the premises for a C2 use as hereby permitted, a comprehensive Management and Safeguarding Plan shall be provided to the Local Planning Authority for approval. This should include details of how the premises will be operated and managed, conflict resolution procedures for issues that may affect the neighbourhood and a process to liaise with North Yorkshire Police Vulnerable Persons Unit and Selby District Councils Children's Services so that appropriate child protection measures are in place for the children housed in the premises.

Reason: In the interests of residential amenity and to accord with Policy ENV1 of the Local Plan and the NPPF.

4. Prior to the first use of the premises for a C2 use as hereby permitted, the parking areas shall be laid out in accordance with the approved plans and shall be made available for residents and visitors at all times, for the lifetime of the development.

Reason: In the interests of residential amenity and to accord with Policy ENV1 of the Local Plan and the NPPF.

## **8. Legal Issues**

### **8.1 Planning Acts**

This application has been determined in accordance with the relevant planning acts.

### **8.2 Human Rights Act 1998**

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

### **8.3 Equality Act 2010**

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However, it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

## **9. Financial Issues**

Financial issues are not material to the determination of this application.

## **10. Background Documents**

**Planning Application file reference 2022/0381/COU and associated documents.**

**Appendices:** None.

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