



PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE

TUESDAY 30 JUNE 2020

1.30 PM

VENUE: [Peterborough City Council Youtube Page](#)

AGENDA

Page No

1. Apologies for Absence

2. Declarations of Interest

At this point Members must declare whether they have a disclosable pecuniary interest, or other interest, in any of the items on the agenda, unless it is already entered in the register of members' interests or is a "pending notification " that has been disclosed to the Solicitor to the Council.

3. Members' Declaration of intention to make representations as Ward Councillor

4. Development Control and Enforcement Matters

4.1	19/01752/FUL - Land Adjacent To 15 Apsley Way Longthorpe Peterborough PE3 9NE	3 - 24
4.2	20/00128/FUL - 58 Warwick Road Walton Peterborough PE4 6DB	25 - 36
4.3	20/00266/FUL - 20 Broadway Gardens Peterborough PE1 4DU	37 - 50
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Committee Members:

Councillors: G Casey (Vice Chairman), C Harper (Chairman), P Hiller, R Brown, Warren, Hussain, Iqbal, Jones, B Rush, Hogg and Bond

Substitutes: Councillors: N Sandford, Simons, M Jamil and E Murphy

Further information about this meeting can be obtained from Karen Dunleavy on telephone 01733 296334 or by email – daniel.kalley@peterborough.gov.uk

CASE OFFICERS:

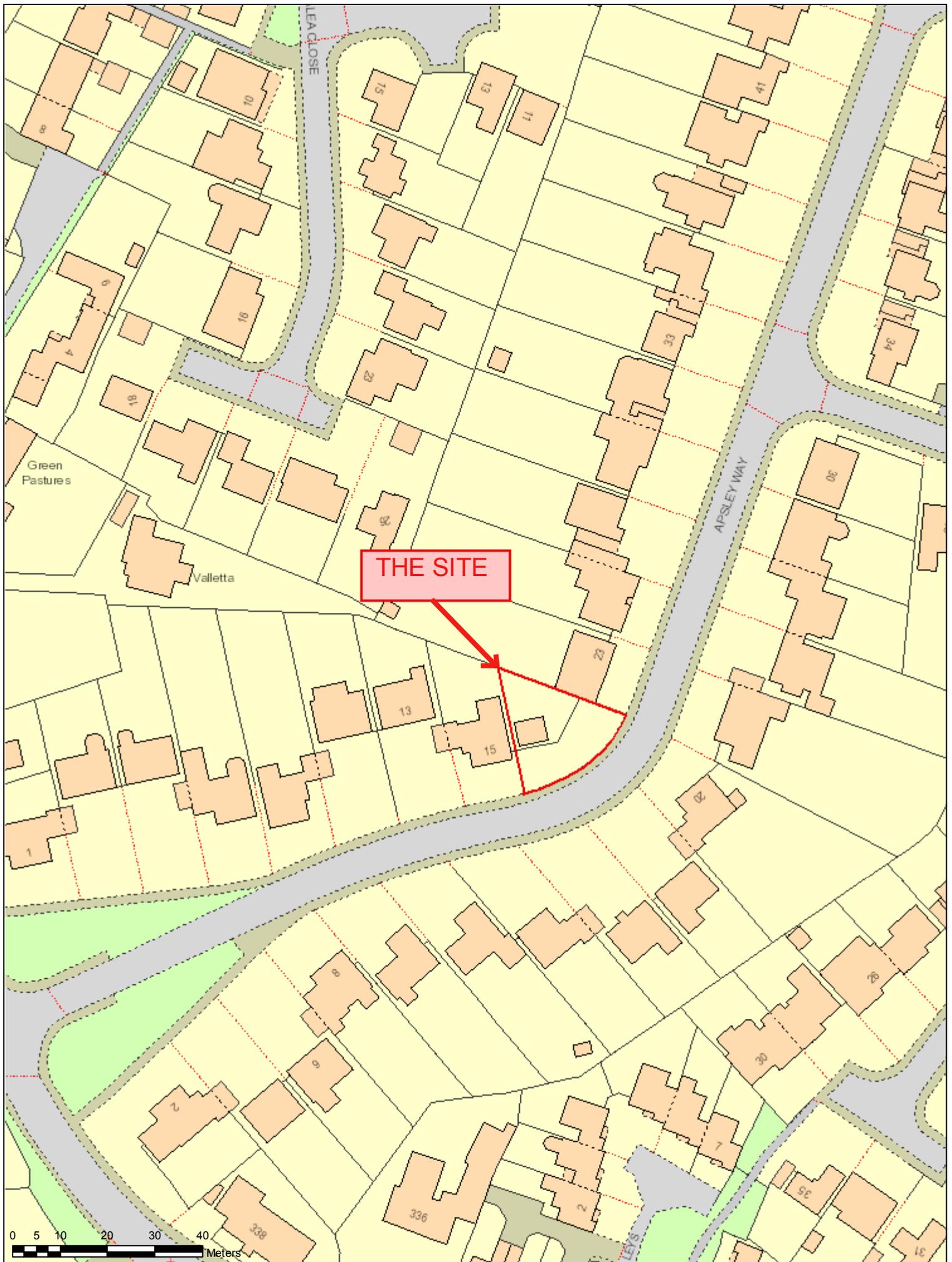
Planning and Development Team: Nicholas Harding, Mike Roberts, Janet Maclennan, David Jolley, Louise Simmonds,, Amanda McSherry, Matt Thomson, Asif Ali, Michael Freeman, Jack Gandy, and Carry Murphy

Minerals and Waste: Alan Jones

Compliance: Clive Dunnett, Julie Robshaw, Glen More, Andrew Dudley

NOTES:

1. Any queries on completeness or accuracy of reports should be raised with the Case Officer, Head of Planning and/or Development Management Manager as soon as possible.
2. The purpose of location plans is to assist Members in identifying the location of the site. Location plans may not be up-to-date, and may not always show the proposed development.
3. These reports take into account the Council's equal opportunities policy but have no implications for that policy, except where expressly stated.
4. The background papers for planning applications are the application file plus any documents specifically referred to in the report itself.
5. These reports may be updated orally at the meeting if additional relevant information is received after their preparation.



Planning Committee Location Plan - 19/01752/FUL - Land Adjacent To 15 Apsley Way

Scale 1:1,000
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Item No. 1

Application Ref: 19/01752/FUL

Proposal: Proposed one and half storey 2 bed dwelling

Site: Land Adjacent To 15 Apsley Way, Longthorpe, Peterborough, PE3 9NE
Applicant: Mrs S.F. Fisher

Agent: Ms Catherine Symonds
Clear Design

Referred by: Councillor Fitzgerald and Councillor Ayres
Reason: Given the level of objections to this application, taking into account the views of the immediate neighbours regarding their concerns over the loss of residential amenity and their view that the proposal would not be in keeping with the character of the area and any number of other reasons given in replies sent to the department.

Site visit: 20.12.2019

Case officer: Mr Jack Gandy
Telephone No. 01733 452595
E-Mail: jack.gandy@peterborough.gov.uk

Recommendation: **GRANT subject to relevant conditions**

1 **Description of the site and surroundings and Summary of the proposal**

Site and Surroundings

The application site comprise a portion of garden within the curtilage of No. 15 Apsley Way, a property predominantly located with the residential area. This parcel of land is situated on the inside of a highway bend, where access to this land is also provided. A separate access with parking provision is adjacent to No. 15 Apsley Way.

Proposal

Permission is sought for the construction for a one-and-a-half storey dwelling. The proposed dwelling would measure approximately 9.7 metres in width and approximately 9.2 metres in depth. The highest point of the property, the proposed ridge line, would measure approximately 6.6 metres in height above ground level. At its nearest point, the proposed dwelling would be set approximately 5.5 metres from the back edge of the public footway to the front of the site. The proposed dwelling would be served by a rear garden alongside on-site parking provision to the front of the dwelling.

Amended plans were submitted following Officer consideration that the original proposal submitted would have adversely impacted upon the character of the site and the surrounding area as well as the impact to the amenity of adjacent neighbours. Further plans were also submitted given identified drawings errors. The revised plans were subsequently re-consulted upon.

2 Planning History

Reference	Proposal	Decision	Date
98/00767/FUL	Detached garage (retrospective, amends previous approval 98/00027)	Permitted	26/08/1998
98/00027/FUL	Erection of detached garage	Permitted	05/02/1998

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

National Planning Policy Framework (February 2019)

Paragraph 47 - Determination of Applications

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Paragraph 70 - Windfall sites

Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

Paragraph 109 - Transport Impacts

Development should only be prevented or refused on highway safety grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Paragraph 122 –Development and efficient use of land

Planning policies and decisions should support development that makes efficient use of land, taking into account: (a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it; (b) local market conditions and viability; (c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use; (d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and (e) the importance of securing well-designed, attractive and healthy places.

Paragraph 130 - Poor Design

Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an areas and the way it functions. Conversely where the design accords with clear expectations in plan policies, design should not be used by the decision marker as a valid reason to object to development. Local Authorities should seek to ensure that the quality of the development approved is not materially diminished between permission and completion.

Peterborough Local Plan 2016 to 2036

LP01 - Sustainable Development and Creation of the UK's Environment Capital

The council will take a positive approach that reflects the presumption in favour of sustainable development within the National Planning Policy Framework. It will seek to approve development wherever possible and to secure development that improves the economic, social and environmental conditions in the area and in turn helps Peterborough create the UK's Environment

Capital.

LP02 - The Settle Hierarchy and the Countryside

The location/scale of new development should accord with the settlement hierarchy. Proposals within village envelopes will be supported in principle, subject to them being of an appropriate scale. Development in the open countryside will be permitted only where key criteria are met.

LP03 - Spatial Strategy for the Location of Residential Development

Provision will be made for an additional 21,315 dwellings from April 2016 to March 2036 in the urban area, strategic areas/allocations.

LP08 - Meeting Housing Needs

LP8a) Housing Mix/Affordable Housing - Promotes a mix of housing, the provision of 30% affordable on sites of 15 or more dwellings, housing for older people, the provision of housing to meet the needs of the most vulnerable, and dwellings with higher access standards

LP8b) Rural Exception Sites- Development for affordable housing outside of but adjacent to village envelopes maybe accepted provided that it needs an identified need which cannot be met in the village, is supported locally and there are no fundamental constraints to delivery or harm arising.

LP8c) Homes for Permanent Caravan Dwellers/Park Homes- Permission will be granted for permanent residential caravans (mobile homes) on sites which would be acceptable for permanent dwellings.

LP13 - Transport

LP13a) New development should ensure that appropriate provision is made for the transport needs that it will create including reducing the need to travel by car, prioritisation of bus use, improved walking and cycling routes and facilities.

LP13b) The Transport Implications of Development- Permission will only be granted where appropriate provision has been made for safe access for all user groups and subject to appropriate mitigation.

LP13c) Parking Standards- permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP17 - Amenity Provision

LP17a) Part A Amenity of Existing Occupiers- Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

LP17b) Part B Amenity of Future Occupiers- Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

LP19 - The Historic Environment

Development should protect, conserve and enhance where appropriate the local character and distinctiveness of the area particularly in areas of high heritage value.

Unless it is explicitly demonstrated that a proposal meets the tests of the NPPF permission will only be granted for development affecting a designated heritage asset where the impact would not

lead to substantial loss or harm. Where a proposal would result in less than substantial harm this harm will be weighed against the public benefit.

Proposals which fail to preserve or enhance the setting of a designated heritage asset will not be supported.

LP28 - Biodiversity and Geological Conservation

Part 1: Designated Site

International Sites- The highest level of protection will be afforded to these sites. Proposals which would have an adverse impact on the integrity of such areas and which cannot be avoided or adequately mitigated will only be permitted in exceptional circumstances where there are no suitable alternatives, overriding public interest and subject to appropriate compensation.

National Sites- Proposals within or outside a SSSI likely to have an adverse effect will not normally be permitted unless the benefits outweigh the adverse impacts.

Local Sites- Development likely to have an adverse effect will only be permitted where the need and benefits outweigh the loss.

Habitats and Species of Principal Importance- Development proposals will be considered in the context of the duty to promote and protect species and habitats. Development which would have an adverse impact will only be permitted where the need and benefit clearly outweigh the impact. Appropriate mitigation or compensation will be required.

Part 2: Habitats and Geodiversity in Development

All proposals should conserve and enhance avoiding a negative impact on biodiversity and geodiversity.

Part 3: Mitigation of Potential Adverse Impacts of Development

Development should avoid adverse impact as the first principle. Where such impacts are unavoidable they must be adequately and appropriately mitigated. Compensation will be required as a last resort.

LP29 - Trees and Woodland

Proposals should be prepared based upon the overriding principle that existing tree and woodland cover is maintained. Opportunities for expanding woodland should be actively considered.

Proposals which would result in the loss or deterioration of ancient woodland and or the loss of veteran trees will be refused unless there are exceptional benefits which outweigh the loss. Where a proposal would result in the loss or deterioration of a tree covered by a Tree Preservation Order permission will be refused unless there is no net loss of amenity value or the need for and benefits of the development outweigh the loss. Where appropriate mitigation planting will be required.

LP31 - Renewable and Low Carbon Energy

Development proposals will be considered more favourably where they include measures to reduce energy demand and consumption, incorporate sustainable materials, incorporate decentralised or renewable energy or carbon offsetting. Proposals for non-wind renewable energy will be considered taking account of the impact of the landscape including heritage assets, amenity, highways and aviation. Wind proposals will also only be considered if in addition to these factors the site is in an adoptable Neighbourhood Plan and the proposal has local support.

LP32 - Flood and Water Management

Proposals should adopt a sequential approach to flood risk management in line with the NPPF and council's Flood and Water Management SPD.. Sustainable drainage systems should be used where appropriate. Development proposals should also protect the water environment.

LP33 - Development on Land Affected by Contamination

Development must take into account the potential environmental impacts arising from the development itself and any former use of the site. If it cannot be established that the site can be safely developed with no significant future impacts on users or ground/surface waters, permission

will be refused.

4 Consultations/Representations

Archaeological Officer (11.12.19)

No objections: The City Council's Archaeologist advises that watching briefs undertaken at No. 1 Apsley Way and at 335a Thorpe Road in 2003 and 2006, respectively, revealed no archaeological features or artefacts, in spite of the fact that buried deposits did not appear to have been disturbed. These results would confirm that the subject area was part of the medieval open fields, away from the area of main settlement clustered around the medieval church of St Botolph to the south. Roman finds recorded in the general area, including a brooch and a bronze religious figurine, are not securely 'provenienced'.

Part of the site has already witnessed development. Therefore, widespread disturbance caused by former groundwork may be anticipated. On the basis of this evidence however, the proposed development is unlikely to impact on significant buried remains.

PCC Peterborough Highways Services (23.12.19 and 13.01.20)

No objections: The Local Highway Authority advise that there shall be adequate space within the site to park two vehicles without encroachment onto the public highway.

The proposed dwelling does not constitute 'intensification' of the access given that the existing access serves the existing dwelling.

The drawings show vehicles would require reversing manoeuvres on or off the public highway. Whilst it is unfortunate turning has been omitted, which would have been beneficial, given that 1no. single dwelling would be served, turning cannot be insisted upon.

It is appreciated that local residents have the knowledge and experience of local highway conditions, but comments can only be based upon on-site observations and the information put before LHA Officers during the consultation process.

Therefore, the following conditions are recommended on:

- Securing visibility to pedestrian splays at 1.5m x 1.5m either side of the proposed access;
- The new access should be built in accordance with the approved plans;
- The new parking area shall be built in accordance with the approved plans; and
- Details of temporary facilities to be submitted to, and approved by, the Local Planning Authority.

PCC Pollution Team (17.12.19)

No objections: Pollution Control have no objections to the proposal, but advise the following:

The development site appears to have been used as a domestic workshop / garage, therefore there is a potential for 'made ground' to be present on the site. It would therefore be prudent to apply the unsuspected contamination condition if approval is sought. Additionally, demolition and construction should be carried out in such a manner so as not to cause nuisance to existing dwellings.

Condition: If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority, a Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with approved details in the interests of the protection of human health and the environment.

PCC Tree Officer (18.12.19)

No objections: The Tree Officer advises that the site is not within a Conservation Area and that there are no current Tree Preservation Orders on or adjacent to the site.

There is no objection to the proposal in principle. The Tree Officer does not consider the construction works on site will have an adverse long term effect on any trees or hedges on or adjacent to the property. The Tree Officer considers that it is the applicant's duty of care to ensure damage does not occur to third party properties, including all forms of boundary treatments including hedges and trees.

The Tree Officer requests that the existing Magnolia & Cherry situated on the front verge of the proposed property are retained, as well as details for a landscaping scheme to secure additional ornament planting to the frontage verge of the new dwelling to enhance the development of the site.

PCC Rights of Way Officer (10.12.19)

No objections.

Ramblers (Central Office) (16.12.19)

Neutral input from Peterborough Ramblers.

Local Residents/Interested Parties

Initial consultations: 6

Total number of responses: 52

Total number of objections: 50

Total number in support: 0

Several letters of representation were received objecting to the development from nearby residents. This amounts to 50 objections from 52 responses. No letters of support were received from nearby neighbours. The extensive objections are summarised below, but all comments are visible in full detail (minus personal data) on the pending planning file online.

First round of consultation

- The proposed dwelling would be within very close proximity to No. 15 and No. 23 Apsley Way.
- The property would not be in-keeping with the rest of the design of this part of Apsley Way.
- The development will result in a significant loss of green/garden space and established hedgerow which may affect wildlife.
- The proposed ground floor and first floor front facing windows will overlook No. 16 Apsley Way and impact upon this neighbour's privacy.
- The site's location on an apex, plus the relatively small driveway proposed, will increase the likelihood of further traffic/parking on the corner will almost certainly be increased, which will affect safety in the vicinity.
- If permitted, the proposal would unacceptably impact upon surrounding neighbours through an adverse loss of privacy, unacceptable overbearing and create shadows.
- Loss of important green space.
- Approval would set a precedent in this area for 'garden-grabbing' proposals.
- The pre-application advice given is incorrect. Policy LP3 encourages development on brownfield sites, it does not encourage or permit development of residential gardens in urban areas.
- The Court of Appeal (Dartford Borough Council vs Secretary of State for Communities and Local Government (2017) confirmed the correct approach to determine a development plan document is through "accordance of the language used, read as always in its proper context". The exercise of judgment falls within the jurisdiction of planning authorities and their exercise or judgement can only be challenged on grounds that it is irrational or perverse.
- The site currently serves as garden to No. 15 Apsley Way. It would be irrational or perverse to classify it as anything else. Even the Design and Access Statement acknowledges the site is garden.

- Overbearing impacts would result given the proposed dwelling's siting nearer to the streetscene (as a result of the triangular site area) and proximity to neighbouring properties.
- Loss of privacy, overshadowing and intrusion of outlook to the neighbouring properties and gardens of Nos. 15, 20, 22 and 23 Apsley Way.
- The proposed dwellings is poor in design terms and fails to meet Policy LP16's requirements. It is detrimental to the surrounding area's character and appearance.
- Garages are characteristic of the surrounding area and no garage is proposed. Open front gardens are also the norm in this area and the proposal fails to respect this character.
- The position of the drive on the apex, coupled with the proposed side fencing and the speeds road users travel down Apsley Way at, will increase the risk of accidents to road users and pedestrians.
- The Design and Access Statement is inadequate and its contents is disproportionate into how the proposal meets policies.
- Cycle parking is not proposed.
- The proposed ridge height is approximately 0.4 metres higher than surrounding properties.
- The site currently serves as garden and not 'previously developed land'. The pre-application advice provided in the planning application form states the proposal accords with Policy LP3, which is not the case given the NPPF's definition on previously developed land.
- The dwelling contravenes Policy LP16 by being out of character with the area and the design of the area as a whole. This is visible through its very small proposed garden against existing sizable gardens within the surrounding area.
- The proposed fencing is contrary to the open character of Apsley Way and it is also a traffic hazard
- The Tree Officer request a landscaping scheme to secure additional ornament planting to the frontage verge. This is contrary against the character of the surrounding area as well as a traffic accident risk.
- No. 15 Apsley Way is subject to restrictive covenants which prohibit the development of the proposed development.
- The proposed house would limit the amount of sunshine available to the garden and patio area of No. 23 Apsley Way. Natural light would be blocked and large shadows would fall across No. 23 Apsley Way.
- Alongside the proposed driveway and fencing, it is likely more vehicles will park on the bend given that there are no double yellow lines, which further limits visibility and increases the risk of accidents.
- The site is outside Longthorpe Conservation Area but the application does not consider the impact of the development to this Area.
- Removal of the hedgerow would incur a loss of habitat for wild birds and a loss of cover for animals such as hedgehogs and foxes.
- There is little indication on what materials are proposed.
- Government policy is to ensure the protection of gardens and open space. The proposal contravenes this policy.
- Vehicles regularly speed around the sharp bend. The proposed fence, along with any parked vehicles, will block the line of sight of vehicles approaching in either direction, thus increasing the danger.
- There is a covenant requiring house owners to preserve their front gardens as open spaces. The proposal would contravene the covenant.
- The proposed dwelling directly overlooks No. 23's garden and patio area and it does not consider the privacy of the garden area. The Leylandii trees on the right side of the development supposedly will be removed, the roots have probably spread and removing these may affect my property as they are close to the rear of our home. Smaller replacement trees will further affect the garden's privacy
- The proposed dwelling looks into a bedroom window above the garage, which will impact upon the neighbour's privacy.
- The proposed driveway is dangerous given its location. Neighbouring cars parked on their driveways will make it near impossible for a car to reverse out onto the road without being physically on the road before getting a clear view of any oncoming cars. Any cars parked on the drive way will be creating a potential hazard along the blind bend for cars entering or existing

Apsley Way as well as being a dangerous blind spot for users of the driveway not seeing pedestrians using the pathway. Installing a 0.6m post and rail on the drive will also add to the issues.

- The Design and Access Statement is poor and factually incorrect. The property garden is vastly smaller in length compared to No. 23 and only intersects less than halfway down this neighbouring garden. Most surrounding properties have fairly large gardens either at the front or back. This property being on the corner has a wider frontage area by the road and a very narrow rear garden which is now proposed to be made even smaller. Bisecting the plot will make these two dwelling out of proportion to the neighbouring properties.
- The proposed building is to be set further forward than the adjacent properties building line creating a very small out of character garden. The building is not deemed to be central as described in the D&A statement.
- No. 15 Apsley Way's dormer windows on the side of the property are directly in line with the proposed building and again will affect the occupier of this room and their privacy.
- It would significantly impinge upon the amenity and outlook from neighbouring dwellings by imposing a property set on the very front part of the opposite plot which would be overbearing. The original concept of this part of the local area, honoured by all was a lower density, large garden, residential community setting the tone for the entrance and aspect of the whole road. This speculative development would radically and detrimentally change the character of this part of Longthorpe, and if successful could spawn other gardens 'growing' houses not plants - which would create environmental, social and aesthetic impacts.
- The proposed dwelling extends beyond a line drawn between the two existing buildings abutting it, this encroaches closer to the road thereby reducing visibility on a narrow bend.
- Space for only two cars is indicated, meaning any other vehicle visiting the property would be driven to pavement parking or park on the road, causing significant visual obstruction and causing a traffic hazard on the outside of a fast flowing bend.
- How can Peterborough be considered the 'UK's Environmental Capital' which has been promoted in recent years, if aggressive developments are allowed which result in further reduction in valuable green spaces?
- The hard surfacing is pre-existing which is undeniable, but it has never been used as a driveway in the accepted meaning of the word. The understanding is that its original purpose was access to the large workshop building in the rear garden, but the access has hardly ever been used.
- It therefore should be treated as a 'new' driveway and should be treated as such given the huge intensification of use to serve a new dwelling. This will therefore increase the risk of accidents on the adjacent bend.
- Because of the generous plots, driveways and garages along that stretch of Apsley Way, there are rarely examples on road parking. As a result of this, driving habits are established and that stretch has become a faster stretch than designed for what the law allows.
- The apex creates a number of hazards: The restricted vision using the driveway given the car parked at No. 23 Apsley Way, thereby increasing collision risk; street parking from visitors would cause a chicane like situation on the bend taking traffic necessarily to the wrong side of the road - this would be exacerbated by speed and it is already taken too fast by many users; Street parking is limited given the difficulties to park safely and with courtesy
- It is recommended that the LHA visit the site around 08:30hours to see the road actually being used by commuters rather than the sleepy suburban 'middle of the day' traffic patterns.

Second round of consultation

- The NPPF discourages development of gardens, advising that plans should consider the case to setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area (paragraph 70).
- The NPPF encourages development in general but it specifically requires the value of gardens be taken into account, including maintaining the desirability of an area's prevailing character and setting, as well as to secure well designed, attractive healthy places (paragraph 122).
- The proposal does not meet Policy LP16's criteria and will not positively contribute to character and local distinctiveness of the area.
- If planning permission is granted, it would set a precedent to development that any garden in the

area can be developed.

- The site description 'Land Adjacent to 15 Apsley Way' is incorrect. The land is part of No. 15 Apsley Way.
- Restrictive covenants should be considered as part of the context of the site and the surrounding area, which the proposal clearly demonstrates no respect.
- The proposal is out of keeping. Furthermore, the drive to the new property would be right on the bend and would be a nightmare for anyone parked on the roadside. It would block the view ahead causing more near misses and accidents.
- The proposal will increase the potential of parked cars around this corner, becoming a danger to both road users and pedestrians, including many school children that access the local primary school. This area already suffers with excess parking due to people visiting the Fox and Hounds public house, Longthorpe Tower, and the local church for events.
- This application if passed will open the door for many local properties to try to squeeze in small, out of character dwellings adding further to all the above problems.
- The Council contradicts its own policy LP3 by interpreting garden as 'previously developed land'. The 9% of windfall must not include residential gardens and it is made clear through published local and national policies.
- Allowing intrusive development to maintain housing numbers will breach what is largely a coherent streetscape that retains its intended character.
- The design makes no attempt to mitigate the climate emergency, especially following Peterborough City Council declaring its own declaration in relation to the climate emergency.
- The description of the proposed building site as "adjoining land" to No. 15 is inaccurate. In reality the site is most of the garden of No. 15.
- Were the application to be granted it would be solely of financial benefit to the applicant and to the detriment of the environment of nearby residents.
- A precedent would be set for future purchasers of houses in Apsley Way to profit from using gardens as building sites, the unfortunate results of which can be seen not so far away in Central and Park Wards.
- Few details have been provided with regards to materials.
- There have been drawing errors on the proposed plans submitted. This includes the revised dormer not being shown on the site plan.
- The proposed dwelling will block out sunlight to the garden and patio area to No. 23 Apsley Way (imagery provided).
- The proposal would cause unacceptably overbearing and loss of privacy impacts to No. 23 Apsley Way. Are there minimum distances under current regulations?
- No cycle storage is proposed.
- All the properties from the entrance at Thorpe Road are erected on substantial plots defining the general characteristics of the properties. Some properties have large front gardens with the properties being set back with a smaller rear garden, whilst other dwellings are forward and have large rear gardens. The proposal will be set in front of the current properties close to the road, which would be out of character and would disturb the current natural setting of the properties, as the apex of the proposed building is currently within the natural building frontages.
- The current dropped kerb to No. 15 Apsley Way is connected to No.23 Apsley Way. The dropped kerb from 23 Apsley Way boundary to the connecting dropped curb at No. 15 is 3.6m away. Therefore, the statement of utilizing the current dropped kerb is inaccurate and the existing dropped kerb will be either extended round the bend or another dropped curb to be installed a few metres away. The existing driveway will not really be utilised but changed.
- The site is on a large bend. Any visitor or delivery parking will cause congestion to passing traffic, limiting views and create additional hazards to cyclists and vehicles. Vehicles turning in and out of the new driveway will be unseen by children running around the bend on the path, especially as the property will be close to the road. Other homes in this location have longer driveways which provide a clear view for both motorists and pedestrians.
- The school are currently trying to resolve congestion in Bradwell Road and have suggested that parents use Apsley Way as a stop off and collection point. This will increase traffic and parking in this road. Therefore there is serious concern about the development's impact upon the safety of local children.

Summarised matters raised in two petitions, received 2 March 2020 and 9 March 2020.

- The proposal represents a large bulk crammed into the site garden of No. 15 and shows no respect to scale, massing or depth of nearby properties.
- It would be the only dwelling without a garage and with boundary fencing to the front.
- The proposed position of the dwelling would appear overbearing and dominating across the street scene and to adjacent neighbours.
- The dwelling would remove valued garden that forms part of the area's character and provides environmental, health and wellbeing benefits for prospective occupants and the wider community.
- The siting on a an apex will worsen already dangerous situations for road uses when cars are parked on the apex, worsened still by the impaired visibility; visiting vehicles to the property parking on the bend and in other unsafe positions.
- There is not attempt to reduce demand on resources. No renewable energy sources or energy efficiency provisions are proposed, but Policy LP31 suggests for these to be a design requirement for new development.

Summarised matters raised in another petition received 9 March 2020.

- The siting of the proposed dwelling in the street scene will adversely impact upon its sense of space and 'airiness' created by the established spaced out houses and large gardens.
- The proposal overwhelmingly disregards the local character and vernacular of house, plot sizes and amenity spaces. It fails to positively contribute to local character and local distinctiveness, as required by Policy LP16. It also fails to ensure standards of amenity for future occupiers and neighbours, as required by Policy LP17.
- The ridge height is 0.4 metres higher than compared to surrounding properties.
- The requirement to provide visibility across the street's curvature prevents the proposal from being able to provide 2no. appropriate and deliverable parking spaces required by Policy LP13.
- The paucity of information makes the design too uncertain and the proposal incapable of any reasonable and proper assessment against the Local Plan.
- The points within this petition are expanded upon in much greater detail.

Councillor Fitzgerald and Councillor Ayres

- Given the level of objections to this application already, taking into account the views of the immediate neighbours regarding their concerns over the loss of residential amenity and their view that the proposal would not be in keeping with the character of the area and any number of other reasons given in replies sent to the department, should Officers be minded to approve the application, it is requested that this proposal is referred to the Planning Committee for their consideration.

5 Assessment of the planning issues

The main considerations are:

- Principle of development
- Design and impact to the character and appearance of the site and the surrounding area
- Highway safety and parking provision
- Neighbour amenity
- Occupier amenity
- Trees
- Lifetime homes and water efficiency
- Contamination
- Archaeology

a) Principle of development

The application site is located within the urban area of Peterborough and not within the open countryside. There are no national or local policies that preclude the development of dwelling in these area.

Comments have raised concern regards to whether Policy LP3 of the Peterborough Local Plan (2019) is sound. Specifically, Policy LP3 states "The overall development strategy is to continue to focus the majority of new development in and adjoining the urban area of the City of Peterborough (maximising growth within the urban area), creating strong, sustainable, cohesive and inclusive mixed-use communities, making the most effective use of previously developed land....". A representation received states that in the definition by the National Planning Policy Framework (2019), 'previously developed land' excludes land in built-up areas such as residential gardens. Therefore, it is suggested that there is a conflict to utilise Policy LP3 in decision-making and therefore it has no grounds to make planning decisions.

The starting point of any development is the Peterborough Local Plan (2019). Officers have sought legal advice and state that Policy LP3 neither encourages nor discourages use of residential gardens for development. Furthermore, Policy LP3 supports delivery of housing delivery through windfall sites (sites that are not specifically identified within the Local Plan). Such windfall sites can include residential gardens and Officers have historically approved housing delivery on gardens where other material planning considerations are not considered to be unacceptable. Furthermore, prior to its adoption in 2019, the Peterborough Local Plan (2019) went through extensive consultation and examination by an independent Planning Inspector who found the Plan to be 'sound', before it was adopted by Peterborough City Council.

Finally, a representation received requested how the application is determined in the context of sustainable development. Policy LP1 determines applications with a presumption in favour of sustainable development to aid in the growth of Peterborough up to 2036. For the Peterborough area, the questions of "what are current and present needs?" and "who represent these needs?" are answered through the analysis of the evidence-basis used to support the Peterborough Local Plan (2019). This evidence basis is updated through each revision of the Local Plan, alongside periodical assessments such as, for example, strategic housing market assessments.

Officers therefore consider the principle of development be acceptable, subject to consideration of the following material planning considerations.

b) Design and impact to the character and appearance of the site and the surrounding area

The surrounding area is comprised of two housing styles, predominantly one-and-a-half storey chalet bungalows and two storey dwellings. Properties are situated upon sizable plots, however, for dwellings to the north-side of Apsley Way (from No. 5 to No. 15 Apsley Way), the average plot size decreases in a west-to-east direction from the Apsley Way / Thorpe Road junction up to the bend in the highway adjacent to the application site. The plot at the turn of the bend is No. 15 Apsley Way with its existing side and rear gardens.

The proposed dwelling, to be erected within the existing side garden serving No. 15 Apsley Way, is small in area compared to surrounding plots, but Officers consider that it would continue the aforementioned layout pattern in this area. The proposed dwelling would also continue to provide an open frontage, similar to other properties in this area and therefore makes reference in design to the character and appearance of the surrounding street scene.

In terms of the dwelling's design, it is considered that the proportions are appropriate and take reference from the existing chalet bungalows within the surrounding area. Concerns have been raised with regards to the proposed roof height, advising that the proposed dwelling would be 0.4 metres taller than surrounding dwellings. However, on balance, this is not considered to be adverse, given the approximate 7.7 metre separation distance between the two storey side elevation of No. 23 Apsley Way and the proposed side elevation of the dwelling, plus the proposed proportions of the dwelling would be shared with the surrounding chalet bungalows.

The flat roof dormer proposed to the front of the dwelling is considered to accord with the street character of bungalows nearby, which include dormers to their front, side and rear elevations.

The Applicant has advised the materials would match to nearby properties. This is acceptable in principle, but full details would need to be submitted to the Local Planning Authority, which would be secured under a planning condition prior to any above ground works commencing.

Finally, comments raised note that there are few propositions to enhance the energy efficiency / renewable energy source uses to the proposed dwelling. Policy LP31 advises that development can be considered more favourably if such features are installed and no other adverse harms result. However, this policy does not consider proposals to be unacceptable if such features are not proposed. As such, this is not a reason to refuse the application upon.

Officers were previously against the proposal in terms of the harm to the character and appearance of the surrounding area, but a reconsideration of the surrounding area's development pattern, plus the design alterations proposed and consulted upon, which better reflect the street's characteristics, has altered this view.

On the basis of the above, the proposal is considered to be in accordance with Policies LP16 and LP31 of the Peterborough Local Plan (2019)

c) Highway safety and parking provision

Under adopted parking standards, two parking spaces are required to serve dwellings with two or more bedrooms, as well as providing appropriate and safe access to the public highway.

Two parking spaces would be provide via a tandem layout, via the driveway that extends towards the side of the proposed dwelling. The back edge of the driveway to the back edge of the public footway measures approximately 10.5 metres, which is sufficient for two vehicles to park without encroachment onto the public footway. In addition to this, pedestrian visibility splays of the standard 1.5 x 1.5 m dimension can also be provided without encroachment onto neighbouring land. Such splays and the parking layout shall be secured by condition. The 0.6 metre high boundary fencing proposed shall also be secured by condition for the avoidance of doubt.

A number of comments have raised safety concerns with regards to the proposed access, in terms of its siting in relation to the bend, vehicles potentially reversing out on to the road and the impact to pedestrians, especially during peak periods when children head to Longthorpe Primary School. The bend adjacent to the site is a concern, hence the visibility splays to be secured. Officers do consider it necessary to ensure that the front area forward of the dwelling is kept clear to ensure maximum visibility and hence this is to be secured by way of a planning condition.

Furthermore, whilst securing on-site turning would be beneficial to avoid vehicles reversing onto Apsley Way, such is not characteristic of nearby dwellings within the surrounding area. Officers consider that by providing the maximum visibility as can be secured, on balance, the proposal would not cause adverse impacts to the surrounding public highway safety. Finally, the comments relating to pedestrian safety are noted, but Officers consider that the provision of pedestrian visibility splays alongside a clear site frontage, would not arise adverse harm to the safety of these users.

No cycle parking is proposed. Whilst Policy LP13 requests provision of cycle parking in a covered space, it is not considered reasonable to refuse on this matter alone.

On the basis of the above, the proposal is considered to be in accordance with Policy LP13 of the Peterborough Local Plan (2019).

d) Neighbour amenity

The side boundaries of the application site abut to No. 15 Apsley Way and No. 23 Apsley Way.

i) No. 23 Apsley Way

No. 23 Apsley Way is the adjacent neighbour to the north east of the application site. The dwelling is served by a sizable rear garden, a double garage and additional on-site parking forward of the garage. Officers do not consider that the proposed dwelling would be unacceptably prominent and overbearing to this neighbour. The neighbouring attached garage measures approximately 6 metres in width. At its nearest point, the proposed dwelling would be off-set from the boundary by 1.7 metres. Therefore, there is approximately 7.7 metres between the proposed dwelling and the two storey elevation of No. 23 Apsley Way. The neighbouring side elevation to No. 23 has a window that serves a bedroom, however it is not considered that an adverse loss of outlook or privacy would result given the separation distance but also there is a lack of window openings facing No. 23 Apsley Way. One rooflight is proposed to serve a bathroom, which can be obscured glazed via a condition to aid securing the privacy of No. 23 Apsley Way.

The proposed dwelling would be visible from the rear garden of No. 23 Apsley Way. Views from the bathroom windows would be directly towards to the centre of the neighbouring garden, but given that such windows are to be secured with obscure glazing, it is not considered an adverse loss of privacy would result.

Finally, Officers do not consider that unacceptable overbearing impacts would arise to No. 23 Apsley Way's rear garden to an unacceptable and unusable level. This is because firstly, the immediate area to the rear of No. 23 Apsley Way is the patio and for most properties is normally the most-utilised by homeowners for their recreation. It is considered that proposed siting of the dwelling would not appear prominent to this patio area as a result of the proposal's siting. Secondly, the proposed dwelling's siting would be situated approximately along the rear elevation building lines of No. 15 Apsley Way and No. 23 Apsley Way. It is not considered that the proposed dwelling would project adversely towards the neighbouring rear garden and whilst the dwelling would be visible from the rest of No. 23 Apsley Way's garden, given the sizable area of this neighbouring garden, it is not considered that the proposed dwelling would impact upon its usability or enjoyment.

ii) No. 15 Apsley Way

No. 15 Apsley Way is the adjacent neighbour to the west of the proposed dwelling.

A side facing dormer on No. 15 Apsley Way would face towards the proposed dwelling. The dwelling would therefore reduce some of the views and outlook to this dormer. On balance, the proposed roof which would slope away from the neighbour and it is considered that the outward, divergent project of the proposed dwelling would on balance not cause prominent shadowing or overbearing to this neighbour. Furthermore, no side-facing elevations windows are proposed, therefore Officers do not consider that the proposal would unacceptably impact upon the privacy of this neighbour. The one rooflight proposed facing towards No. 15 Apsley Way serves an-suite. Therefore, obscure glazing is considered to be necessary to secure through a planning condition.

To ensure an acceptable level of privacy is retained for both No. 15 Apsley Way and No. 23 Apsley Way, Officers consider it necessary and reasonable to remove permitted development rights for additional rooflights and dormers by way of a planning condition.

iii) Other nearby properties

Finally, the proposed dwelling would be readily visible from the street scene. Given the separation of the Apsley Way highway, the adjacent footways and the neighbouring gardens and driveways to dwellings opposite the application site, Officers do not consider that unacceptable overbearing or shadowing impacts would impact upon nearby dwellings to the south and east of the application site. It is also not considered that the first floor bedrooms plus ground floor kitchen would cause an unacceptable loss of privacy to properties such as Nos 18, 20 and 22 Apsley Way, given that the street-facing elevations of these neighbouring dwellings would be located more than 20 metres from the front elevation of the dwelling.

On the basis of the above, the proposal is considered to be in accordance with Policy LP17 (Part A) of the Peterborough Local Plan (2017).

e) Occupier amenity

The proposed dwelling would be served by a rear garden and it is considered that the internal layout would acceptably serve the needs of future occupiers. The habitable rooms, being the bedrooms, living spaces and kitchen, are all served by window openings to allow both light and outlook to future occupiers, which is considered to be acceptable. Bin storage is also proposed to the rear of the driveway.

The rear garden appears small, but on balance it is not considered to be unacceptable as a result of its approximate 12 metre depth and its approximate 90 square metre area. However, to ensure this is not lost by way of future development, which would impact upon the needs of future occupiers, Officers consider it reasonable to remove permitted development rights to construct extensions and outbuildings through a planning condition.

In light of the above, the proposal is considered to be in accordance with Policy LP17 (Part B) of the Peterborough Local Plan (2017).

f) Trees

The Tree Officer has advised that the site is not within a Conservation Area and that there are no tree preservation orders. Furthermore, the hedge that wraps around the site frontage is not protected and therefore can be removed without planning consent.

The Tree Officer has suggested retaining the two west-most trees to the site frontage, as well as securing a landscaping scheme for ornamental planting. To avoid a conflict with highway safety and visibility, as well as to ensure appropriate an appropriate planting scheme, it is considered necessary and reasonable to secure the landscaping scheme through a planning condition. Tree protection methods shall also be secured to protect the trees along the site frontage nearest to No. 15 Apsley Way.

On the basis of the above, the proposal is considered to be in accordance with Policy LP29 of the Peterborough Local Plan (2019).

g) Lifetime homes and water efficiency

Policy LP8 requires that all new dwellings comply with Part M4(2) of the Building Regulations. The proposed dwelling appears to comply with this requirement. There are acceptable clearance around all of the bed spaces and ground floor sanitation facilities are provided. There is a porch overhang forward of the front door, which provides for a covered access. Sufficient clearance is provided to the principal private entrance. The widths to the internal corridors are greater than the minimum requirement of 0.9 metres to provide sufficient circulation for movement within the dwelling.

Policy LP32 requires all new dwellings to have efficient water usage, limited to 110 litres of water per person per day, as defined by Part G2 of the Building Regulations. This matter can be secured under a planning compliance condition.

In light of the above, the proposal is considered to be in accordance with Policies LP8 and LP32 of the Peterborough Local Plan (2019).

h) Contamination

The City Council's Environmental Health department raise no objection to the proposed

development, but advise that the construction of the domestic garage on site has potential for 'made ground' (human disturbance upon the land it is situated on). Therefore, a scheme for dealing with any unsuspected contamination should be applied to the scheme. Officers consider this request is reasonable to secure under a compliance condition for this proposal.

On the basis of the above, the proposal is considered to be in accordance with Policy LP33 of the Peterborough Local Plan (2019).

i) Archaeology

Within the wider area, archaeological schemes have previously been performed at No. 1 Apsley Way and No. 335A Thorpe Road, however, no features or artefacts were discovered. The City Council's Archaeologist advises that the subject area was part of the medieval open fields, away from the area of main settlement clustered around the medieval church of St Botolph to the south.

Given that the application site is part of a wider residential scheme, plus land would have been altered to produce a garden space serving No. 15 Apsley Way when it was first constructed, it is not considered that the proposed dwelling would unacceptably impact on any significant buried remains.

In light of the above, the proposal is considered to be in accordance with Policy LP33 of the Peterborough Local Plan (2019).

Other matters not considered above

- Pre-application advice: A section of the pre-application response to the Applicants was pasted into the planning application form. The full pre-application response is more detailed and extensive. Only the Applicant can decide whether to share to full pre-application response provided by the Council in relation to the plans submitted under that application.
- Assessment of proposal and arising precedent: It is not considered a precedent to wider development in the nearby area would follow the outcome of this application. Planning applications are assessed on a discretionary basis and the merits and issues of proposals are considered against adopted policies.
- Longthorpe Conservation Area: The site is approximately 64 metres north of the Longthorpe Conservation Area. It is not considered that the proposal would impact upon setting of this defined area.
- Trees: There are no protected trees or hedges on-site or immediately off-site. No planning consent is required to remove such trees or hedges.
- Green spaces: Although gardens are green by their nature, it is not considered that the application site hosts valuable 'green space' that is beneficial to nearby residents. This is because the private side garden only provided amenity benefits to the occupiers of No. 15 Apsley Way as a result of its enclosure.
- Separation distance and overbearing impacts: There are no defined rules in planning that specify minimum distances in relation to overbearing. Such matters are assessed on a case-by-case depending on what is proposed and the proposal's relationship to neighbouring properties and what they are served by.
- Site address: The description 'Land adjacent to 15 Apsley Way...' was applied by Technical Advisors registering the submitted application. It is a means of identifying the application site. Whilst there are other ways to label the site location, it is not considered that the site as described has any major impact upon the determination of this application.

- Restrictive covenants: This fall under separate legislation outside of planning and therefore they cannot be considered under assessment of any proposal.
- Design and Access statement: Officers consider that the statement submitted is satisfactory for proposal determination
- Advertisement of planning application: For this development, neighbours adjacent to the site were consulted, along with an advertisement in a local newspaper and a site notice. This is considered to be satisfactory, given that it would be adjacent neighbours who would feel the impacts of the proposed development.

6 Conclusions

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- The principle of development is acceptable.
- The character and appearance of the site and the surrounding area would not be adversely impacted upon by the proposed development, in accordance with Policy LP16 of the Peterborough Local Plan (2019).
- The safety of surrounding highways would not be unacceptably impacted upon by the proposed development, in accordance with Policy LP13 of the Peterborough Local Plan (2019).
- The amenity of surrounding neighbours would be retained to an acceptable level, in accordance with Policy LP17 (Part A) of the Peterborough Local Plan (2019).
- The proposed development would adequately serve the amenity of future occupiers, in accordance with Policy LP17 (Part B) of the Peterborough Local Plan (2019).
- Protected trees would not be adversely harmed by the proposed development, in accordance with Policy LP29 of the Peterborough Local Plan (2019).
- The proposed dwelling would comply with Part M4(2) of the Buildings Regulations and would meet water efficiency standards described in Part G2 of the Building Regulations, in accordance with Policies LP8 and LP32 of the Peterborough Local Plan (2019).
- No known contamination would impact upon the construction or use of the proposed dwelling, in accordance with Policy LP33 of the Peterborough Local Plan (2019).
- The proposed development would not adversely impact upon any significant buried remains, in accordance with Policy LP19 of the Peterborough Local Plan (2019).

7 Recommendation

The Executive Director of Place and Economy recommends that Planning Permission is **GRANTED subject to the following conditions:**

- C 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

- C 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

- Proposed Elevations, Floor Plans and Block Plans (Drawing number 05B)

Reason: For the avoidance of doubt and in the interest of proper planning.

C 3 No development other than groundworks and foundations shall take place until details of the following external materials to be used have been submitted to and approved in writing by the Local Planning Authority:

- Walling;
- Roofing;
- Cills and lintels;
- Windows and doors;
- Roof lights; and
- Rainwater goods.

The samples/details submitted for approval shall include the name of the manufacturer, the product type, colour (using BS4800) and reference number. The development shall not be carried out except in accordance with the approved details and thereafter retained as such.

Reason: For the Local Planning Authority to ensure a satisfactory external appearance, in accordance with Policy LP16 of the Peterborough Local Plan (2019).

C 4 Before the development hereby permitted is first occupied, the two rooflights and two rear-facing windows to serve the first floor en-suite and bathroom, as shown on the drawing 'Proposed Elevations, Floor Plans and Block Plans' (Drawing number 05B) shall be fitted with obscure glazing to a minimum of Pilkington Level 3. The obscure glazing shall be continuous and shall not incorporate any clear glazing features. It shall subsequently be retained as such in perpetuity.

Reason: In the interests of securing privacy to both future occupiers and the amenity of the neighbours No. 15 Apsley Way and No. 23 Apsley Way, in accordance with Policy LP17 of the Peterborough Local Plan (2019).

C 5 Prior to occupation of development hereby permitted, vehicle to pedestrian visibility splays of the following dimensions 1.5m x 1.5m shall be provided on both sides of the new access, measured up each side of the access and along the back edge of the highway from where the access joins the public highway. The splays shall be maintained thereafter and shall be kept permanently clear of any obstruction over a height of 600mm.

Reason: In the interest of highway safety, in accordance with Policy LP13 of the Peterborough Local Plan (2019).

C 6 Prior to commencement of development, details of the temporary facilities that shall be provided clear of the public highway for the parking, turning, loading and unloading of all vehicles visiting the site during the period of construction (and demolition of any existing buildings) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety, in accordance with Policy LP13 of the Peterborough Local Plan (2019).

C 7 If, during development, contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter not be carried out except in complete accordance with the approved scheme.

Reason: To ensure all contamination within the site is dealt with in accordance with Policy LP33 of the Peterborough Local Plan (2019).

- C 8 Prior to the first occupation of the dwelling hereby permitted, the area shown for the purposes of parking as shown on the drawing 'Proposed Elevations, Floor Plans and Block Plans' (drawing number 05B) shall be provided. Such provision shall thereafter be retained for this purpose and not put to any other use.

Reason: In the interests of highway safety and retaining adequate parking provision to serve the dwelling, in accordance with Policy LP13 of the Peterborough Local Plan (2019).

- C 9 The development hereby permitted shall achieve the Optional Technical Housing Standard of 110 litres of water usage per person per day.

Reason: To minimise impact on the water environment, in accordance with Policy LP32 of the Peterborough Local Plan (2019).

- C10 Notwithstanding the provisions of Class L of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the development hereby permitted shall be a residential dwelling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking and re-enacting that Order with or without modification) only.

Reason: The site is not capable of providing the necessary parking or access requirements for a small-scale house in multiple occupation, in accordance with Policy LP13 of the Peterborough Local Plan (2019).

- C11 Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no extensions, dormers, rooflights, porches or outbuildings shall be constructed other than as those expressly authorised by this permission or those expressly authorised by any future planning permission.

Reason: In order to protect the amenity of surrounding neighbours, to ensure the amenity of future occupiers and to protect the character and appearance of the site and surrounding street scene, in accordance with Policies LP16 and LP17 of the Peterborough Local Plan (2019).

- C12 Notwithstanding the provisions of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re enacting that Order with or without modification), no fences, gates, walls or means of enclosure shall be erected within the curtilage of the dwellinghouse hereby permitted, or forward of any elevation which fronts on to a highway, unless expressly authorised by any future planning permission.

Reason: In order to ensure an open character is retained as well as to ensure maximum visibility for vehicular operators and surrounding highway users, in accordance with Policies LP13 and LP16 of the Peterborough Local Plan (2019).

C13 Notwithstanding the provisions of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the 0.6 metre high fence, as shown on the drawing 'Proposed Elevations, Floor Plans and Block Plans' (Drawing number 05B), shall be erected in accordance with this drawing. It shall be maintained and retained thereafter.

Reason: For the avoidance of doubt and in the interests of retaining adequate pedestrian visibility splays, in accordance with Policy LP13 of the Peterborough Local Plan (2019).

C14 Prior to any development other than demolition, a scheme for the hard and soft landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the following:-

- Proposed finished ground and building slab levels
- Planting plans including retained trees, species, numbers, size and density of planting
- Details of any boundary treatment
- Raised platforms and decking areas

The approved hard landscaping scheme shall be carried out prior to the occupation of the dwellings, and retained thereafter.

The soft landscaping shall be carried out within the first available planting season following first occupation or alternatively in accordance with a timetable for landscape implementation which has been approved as part of the submitted landscape scheme.

Any trees, shrubs or hedges forming part of the approved landscaping scheme (except those contained in enclosed rear gardens to individual dwellings) that die, are removed or become diseased within five years of the implementation of the landscaping scheme shall be replaced during the next available planting season by the developers, or their successors in title with an equivalent size, number and species to those being replaced. Any replacement trees, shrubs or hedgerows dying within five years of planting shall themselves be replaced with an equivalent size, number and species.

Reason: In the interests of visual amenity and enhancement of biodiversity in accordance with Policy LP16 and LP28 of the Peterborough Local Plan (DPD) 2019.

Copies to Ward Cllrs Ayres and Fitzgerald.

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Planning Committee Location Plan- 20/00128/FUL-58 Warwick Road, Walton, PE4 6DB

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Item No - 2

Planning and EP Committee 30 June 2020

Application Ref: 20/00128/FUL

Proposal: Change of use from dwelling to children's home

Site: 58 Warwick Road, Walton, Peterborough, PE4 6DB

Applicant: Mr Nyasha Banhire, 24/7 Support UK Limited
Agent: Mr Richard Garnett, ARC Survey & Design Consultants Ltd

Referred by: Cllr Sandford
Reason: Contrary to Policies LP4 and LP16

Site visit: 26.02.2020

Case officer: Mr D Jolley
Telephone No. 01733 4501733 453414
E-Mail: david.jolley@peterborough.gov.uk

Recommendation: **GRANT** subject to relevant conditions

1 Description of the site and surroundings and Summary of the proposal

Site and surrounding

The application site comprises an extended detached bungalow with converted living accommodation in the roof, located on the eastern side of Warwick Road at the junction with Richmond Avenue.

The site occupies a relatively small corner plot, with the dwelling sited along the northern boundary. The southern and western boundaries of the site are enclosed by a low wall, whilst the northern and eastern boundaries are enclosed by fencing. The dwelling fronts onto Richmond Road, and there is a dropped kerb crossing providing vehicular access to a front drive with space for 4no. vehicles.

The surrounding area is residential in character, with a mix of bungalows and two storey dwellings of a similar period and architectural style.

Proposal

Permission is sought to change the use of the site from a residential dwelling (Use Class C3) to children's home (Use Class C2). The home is proposed to be occupied by 3 - 4 children, aged between 8 and 16 years.

It should be noted that the scheme has been amended from that which was originally submitted, to remove part of the proposal which sought the construction of a 2 metre high fence along the western and southern boundaries, to enclose the garden area.

2 Planning History

Reference	Proposal	Decision	Date
18/01956/HHFUL	Enlargement of roof with extension to front of dwelling and single storey side extension.	Permitted	28/02/2019

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

Peterborough Local Plan 2016 to 2036 (2019)

LP08 - Meeting Housing Needs

LP8a) Housing Mix/Affordable Housing - Promotes a mix of housing, the provision of 30% affordable on sites of 15 or more dwellings, housing for older people, the provision of housing to meet the needs of the most vulnerable, and dwellings with higher access standards

LP8b) Rural Exception Sites- Development for affordable housing outside of but adjacent to village envelopes maybe accepted provided that it needs an identified need which cannot be met in the village, is supported locally and there are no fundamental constraints to delivery or harm arising.

LP8c) Homes for Permanent Caravan Dwellers/Park Homes- Permission will be granted for permanent residential caravans (mobile homes) on sites which would be acceptable for permanent dwellings.

LP13 - Transport

LP13a) New development should ensure that appropriate provision is made for the transport needs that it will create including reducing the need to travel by car, prioritisation of bus use, improved walking and cycling routes and facilities.

LP13b) The Transport Implications of Development- Permission will only be granted where appropriate provision has been made for safe access for all user groups and subject to appropriate mitigation.

LP13c) Parking Standards- permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP17 - Amenity Provision

LP17a) Part A Amenity of Existing Occupiers- Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

LP17b) Part B Amenity of Future Occupiers- Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

4 Consultations/Representations

PCC Peterborough Highways Services (13.03.20)

No objections - The proposal requires 3-4 staff to manage during the day which means that there could potentially be space within the property for a single visitor. It is also noted that there are no restrictions in the local area when it comes to on road parking and that in the rare event that there are two or more visitors vehicles could easily be accommodated on the highway for a short duration.

However, to enable the four vehicles to access the property the existing access will need to be widened and the boundary wall adjusted therefore we would recommend the following condition be applied to any planning consent;

Highways Access - The existing access should be increased in width to a minimum of 5.5m before the property can be used.

Police Architectural Liaison Officer (PALO) (11.06.20)

Following receipt of confirmation that the proposed home will be registered with Ofsted, earlier objection (received on 10.03.20) is removed and the change of use is supported.

CCC and PCC Children's Commissioner (16.03.20)

We currently work with this provider for a different type of accommodation (supported accommodation services for children in care, rather than registered children's homes). Feedback from our Access to Resources colleagues (Placement finding) is positive, though we don't have any direct experience with this provider in this proposed scope.

A Children's Home in Peterborough is unlikely to be used solely for Peterborough (or even Cambridgeshire) young people; in the last 12 months Peterborough have made 25 referrals for placements to residential homes and of those 5 didn't progress to placements. We do see a high number of out of county placements, but I would not expect this provision to 'shift' that balance significantly, if at all. Furthermore, I understand that there are challenges in Peterborough in respect of school placements for young people; this home will likely increase that pressure.

Local Residents/Interested Parties

Initial consultations: 5

Total number of responses: 25

Total number of objections: 23

Total number in support: 2

A total of 22no. objections have been received from local residents in relation to the proposal, raising the following concerns:

- Concerned about likely increase in crime
- Noise and disturbance
- Will the children have behaviour or drug problems?
- Construction of a 2m high fence is not in keeping with the surrounding area.
- Devaluation of house prices
- We have been burgled in the past and the proposal will increase this risk
- The Council has failed to adequately notify residents of the planning application
- Sending out the odd letter is not an accurate way to gain the opinion/impression of local residents. A more meaningful survey should be conducted by an office junior speaking to local residents
- Why are you bothering to consult when the decision has already been made?
- The area suffers from drug use
- Many of the young people that are taken into care have such complex needs they should be placed in a home that is in a more secluded area for the safety of them and the others around them

- The road is very narrow and already very busy, the use will generate far more traffic which will cause a safety hazard for motorists and pedestrians
- There will be increased road noise
- Parking problems will result.
- There is no parking for the management for this facility and visitors would be parking on the street bringing issues to the neighbours
- The dwelling has been extended without permission and without consultation with local residents
- This home would not be in the best interest of any child living there as practically the whole of the garden has been built on leaving no space for them to play/kick a ball about or enjoy any outside space
- Effect on my children and elderly residents if the Police are frequently called out to the home due to any incidents which could be any time day/night
- No facilities in the area for the young people
- Already an adults home in the area
- Locks are fitted to the doors and bars to the upper windows. Is this to keep violent residents in or protect the vulnerable retirees of Warwick Road?
- Beggars belief that such a proposal is being considered in an area occupied by retirees.
- Most residents in the area are elderly and they do not need the stress or worry of a home for children with problems
- Know the children need to live somewhere but why in a quiet estate?
- Concerned about what type of children will be living there and whether they will be local.
- We have enough problems with gypsies in the local park, which the Council seem unwilling to resolve, without having even more hassle
- The proposed use would make me feel vulnerable.
- The area is very private and the proposal will increase the number of young people and visitors which will pose a safety risk
- There appears to have been an amount of deceit so far from the Applicant when queried about the high level of security measures being installed. Residents were told that the property was to be a home for a family with a disabled member
 - The property has been overdeveloped and is totally out of keeping for the area and such a request will be obtrusive for the residents
- I believe that the current owner has leveraged the council's rules to make substantial changes to the house under the guise of residential improvements before making this application and undermining the community that surrounds the property in the name of profit

In addition, an objection from **Councillor Sandford** has been received stating:

'I would like this to be referred to planning committee, as in my view the application is contrary to parts of policies LP4 and LP16 of the adopted Peterborough Local Plan.

LP4 requires that new employment uses be in keeping with the character and appearance of the area and that there be no adverse traffic impacts. This is clearly a residential area and a commercial development such as is proposed will be out of keeping with its character and is likely to generate increase traffic movements and parking issues.

LP16 is about design and again requires that new buildings be in keeping with the character of the local area. It also requires that boundary treatments are in keeping with the area and one of the significant concerns of nearby residents is the proposed two metre high fence which they feel will interfere with the amenity of their properties.'

2no. letters of support have also been received, stating the following:

- I support the opportunity to provide help for young people in the dwelling
- Concerns of local residents over potential devaluation of their properties should not take precedence of the wellbeing of children

5 **Assessment of the planning issues**

The main considerations are:

- Fall-back position
- Principle of development
- Neighbour amenity
- Parking and highway implications
- Future occupier amenity
- Impact upon the character and appearance of the surrounding area

a) Fall-back position

Due consideration must be given to development which could take place without the benefit of planning permission – this is known as the 'fall-back' position.

Class C3 (residential dwellinghouses) of the Town and Country Planning (Use Classes) Order 1987 (as amended) is the current lawful use of the site (as the previous temporary permission has now lapsed). This class not only includes traditional family homes (i.e. where one family unit resides together) but was also expanded in 2010 to include up to six residents living together as a single household where care is provided. The Order gives an interpretation for 'care' and does not explicitly reference children however nor does it exclude them. Notwithstanding this, it is accepted that children cannot be considered as capable of forming a household without permanent adult residence in addition.

In light of this, it should be noted that were the site being used for the care of adults (the definition of which includes people in need by reason of old age, disablement, past/present dependence on alcohol or drugs or past/present mental disorder) planning permission would not have been required and indeed this use could begin at any point without any control by the Local Planning Authority.

Similarly, the Town and Country Planning (General Permitted Development) Order 2015 (as amended) allows for the change of use from Class C3 to Class C4 (small-scale house in multiple occupation) without the need for a planning application. Class C4 would therefore allow for up to 6 unrelated persons to live together with shared communal facilities (which may only include a bathroom or kitchen).

The proposal must therefore be considered against the impacts arising from the above permitted development.

b) Principle of development

Policy LP8 of the Peterborough Local Plan highlights the importance and emphasises the need to provide housing to meet the needs of all sectors of society, particularly those who are vulnerable and/or have special requirements. This includes those young people who are within the care system and require a safe home in which to live. The policy states such support is granted providing that it:

- Meets an identified need and is supported by Adult Social Care Commissioning;
- Will be suitable for the intended occupiers in terms of standard of facilities, the level of independence and the provision of support and/or care;
- Will be accessible by non-car means to essential services and community facilities as appropriate to the needs of the intended occupiers; and
- Does not conflict with any strategic policy of this plan and does not have any fundamental constraint.

Given that the proposal seeks a children's care home, establishing need and support is more appropriate from the Council's Children's Commissioner. They have advised that a care home of this type would likely not solely home referrals from the Peterborough area, albeit the Council has made 25 referrals for placement within the last 12 months. The policy does not require that the

identified need be solely from the City, and as such, Officers consider that need has been identified.

In terms of suitability for the intended occupiers, this is discussed in greater detail in section (e) below, albeit it is accepted that future occupiers would be afforded an acceptable quality of life within the home. The site is well-located in terms of services and facilities, set within an established residential area that is well-served by public transport and in relatively close proximity to the City Centre.

Assessment as to the other relevant policies of the Local Plan are considered below, however it is not felt that there is any significant conflict with the City's strategic policies, and the site does not have any fundamental constraints in terms of the use proposed.

It is noted that Councillor Sandford has objected to the proposal stating that the development is not in accordance with Policy LP4 of the Local Plan, as businesses must integrate with an area's character and must not result in unaccepted traffic impacts. However Officers do not consider this policy is relevant to the determination of the application as a children's home is not a business use.

On the basis of the above, Officers consider that the proposed change of use would provide much needed housing for children within care in accordance with Policy LP8 of the Peterborough Local Plan (2019).

c) Neighbour amenity

The level of public opposition to, and concern regarding the proposal is noted, with one of the key areas of concern relating to compatibility of the proposed use within the quiet residential area and the potential for crime, anti-social behaviour and disturbance.

In light of this, the views of Cambridgeshire Constabulary have been sought. The Police initially responded, raising concern as to the proposed change of use, and provided incident statistics in relation to another children's home within the City at No.22 Broadway Gardens. They advised that at that home, since the start of 2018, 43 calls were logged by the police. Of these, 28 related to incidents of missing persons owing to children absconding from care (19no. calls reports and a further 9no. calls relating to the children returning). Other reports include: 1 x violence; 1x suspicious circumstances; 1 x malicious nuisance; 2 x domestic incidents; and 1 x concerned behaviour. However it is not clear from the information provided by the Police how many of these calls were substantiated and action taken.

However, the context of that home differs significantly from the proposal subject to this application. No.22 Broadway Gardens was operating during the period quoted above for up to 6 children aged 16-18 years. It was therefore not registered with Ofsted and housed older teenagers. The proposal subject to this application would provide housing for no more than 4 children, and occupants would be aged 11 to 16 years. Caring for children below the age of 16 shall result in the need for the home to be Ofsted registered, with regular inspections taking place. On this basis, the Police have removed their initial objection and now offer their support to the proposal as there will be far more regulation of the care home, with Ofsted having more regulatory powers. Therefore, if further incidents occur on site which require the Police, the Police can 'log' the call-outs with the Ofsted boards, who would monitor and consider further actions against the care home if necessary. It would also provide the Police with additional leverage if the care home is failing to protect its young and vulnerable residents.

It is proposed that the use operates in a use similar to a single family dwellinghouse, utilising shared communal facilities including living room, kitchen and dining room. The occupants will live semi-independent lives, with special needs, learning or physical disabilities, and will likely be in full time education. It is not considered that children living together and receiving care in the manner proposed would significantly intensify the use of the site above and beyond a traditional family home.

Furthermore, when considering the impacts arising from the 'fall-back' position, it is considered that the proposed use is likely to generate less significant issues in relation to noise and general disturbances. A care home for adults, which would not require the benefit of planning permission, could and would likely result in emergency vehicles/servicing/staff movements throughout the day and night in a fashion which is considerably more intensive than the current dwelling. Officers do not consider that the proposed occupants would generate additional disturbance above and beyond this.

Taking into account, Officers do not consider that the use of the site as a children's care home would give rise to unacceptable harm to the amenities of neighbouring occupants. On this basis, the proposal is considered to be in accordance with Policy LP17 of the Peterborough Local Plan (2019).

d) Parking and highway implications

It is noted that several of the objections received from local residents have raised concern with regards to parking demand, and the impact that the proposal would have upon the safety of the surrounding highway network to the site.

Given the use proposed, the Council's adopted parking standards state that 1no. parking space is required for each full time member of staff within the home. The Applicant has advised that, with 4no. children proposed for care, there would be a maximum of 4no. care staff on site at any one time during the day, and 2no. at night. Within the site frontage, 4no. parking spaces are proposed, alongside turning such that vehicles can enter and exit the site in a forward gear. The site is therefore considered to accommodate sufficient staff parking. The Local Highway Authority (LHA) has raised no objections on this basis, but has advised that the vehicular access into the site is required to be widened to accommodate the arrangement proposed. This may be secured by way of a planning condition.

It is acknowledged that during shift changeover, there will be additional parking requirement for a short period of time, however this would not occur frequently throughout the day, and there is considered to be sufficient space within the surrounding public highway such that inappropriate parking would not result.

In addition to staff parking, the parking standards require that consideration be given to visitor parking, albeit this must be assessed on a case-by-case basis. In this case, given the very small scale of the operation, it is considered that any visitor parking could easily be accommodated within the surrounding road network without unacceptable harm to highway safety. The surrounding roads are not restricted by way of parking restrictions and it is noted that during the Officer's site visit (circa 15:30 hours), there was ample parking availability on-street. Furthermore, when taking into account the fall-back position, it is not considered that the level of visitor parking demand arising from the proposed children's home would be above and beyond the levels which could already arise.

In light of the above it is considered that the proposal will not unacceptably harm highway safety and is in accordance with Policy LP13 of the Peterborough Local Plan (2019).

e) Future occupier amenity

Some objections have been raised in regards to the level of amenity that occupants of the proposed children's home, with some raising that the use proposed would be better suited to a more quiet and less urban area.

The proposed care home would consist of 4no. bedrooms, a kitchen, lounge, lounge/diner and office. The primary habitable rooms and bedrooms would all have acceptable space and fenestration for their purpose, with adequate natural daylight and outlook. It is however acknowledged that the garden area is located to the front/side of the property and is not subject to privacy given its low boundary wall. It is however considered to be of a reasonable size. At approximately 90sqm it is considered that the garden provides an adequate amount of private

amenity space for future occupiers.

To address the privacy matter, the original proposal sought the construction of a 2 metre high fence around this garden area, however it was considered by Officers that this would appear unduly obtrusive and incongruous within the streetscene and accordingly, it was removed from the scheme. Instead, the Applicant seeks to plant hedges and shrubs to improve privacy. Whilst this would not be as effective as a fence, it is considered sufficient to provide some privacy to the garden area. Furthermore, the property is presently lawfully a residential dwellinghouse and affords those occupants with no private outdoor amenity area. It is not considered that the proposed occupiers would be more in need of a private outside space than a family, and accordingly the proposal could not be resisted on these grounds.

In regards to those comments made which advise that the children's home would be better suited within a different location, alternative locations cannot be considered in the determination of this application. The Local Planning Authority must assess the proposal as submitted, against the adopted planning policies and taking into account all relevant material planning considerations and cannot consider whether there are/are not more appropriate sites elsewhere.

In light of the above it is considered that the proposal provides an acceptable level of amenity for future occupants and is therefore in accordance with Policy LP17 of the Peterborough Local Plan (2019).

f) Design and impact upon the character and appearance of the area

Following the removal of the proposed high fence around the front of the dwelling is considered that there will be no material impact upon the character of the area. The Applicant now proposes a natural landscaped boundary which will have a softer less obtrusive impact as compared to a fence and does not constitute development (i.e. no planning permission is required).

The alteration of the use, from C3 to C2 would not result in a material change in character of the site or surrounding area. The site would remain in residential use, albeit with an element of care. The design and access statement states that there will be between 6 and 8 people at the site at any time, half being residents and half being carers. This level of activity and the likely comings and goings to and from the site is commensurate with that of a large residential dwelling of 9 rooms and in themselves are unlikely to result in an unacceptable level of trip generation. This is particularly considered given the fall-back position.

Residents have objected stating that the proposal is not right for the location proposed. However it is considered that care homes such as this should be sited in residential locations, particularly as the use remains residential in nature. The concerns of residents, that the area is broadly occupied by pensioners/the elderly is noted, however the area cannot be considered to be a dedicated retirement area and to resist the proposal on this basis would not be sound in planning-terms.

In light of the above, it is considered that the proposal would not unacceptably harm the character of the area and is in accordance with Policy LP16 of the Peterborough Local Plan (2019).

g) Other matters

In response to those objections received but not addressed above:

- Devaluation of property values: This is not a material consideration in the determination of the application.

- Concerns of drug use by occupants: As detailed above, given the age of children within the children's home, it would have to be registered with Ofsted and would therefore be subject to accordance with those standards. Regular inspections will be made and in the event that serious issues regarding crime and anti-social behaviour, Ofsted would have the power to close the home.

- Inadequate public consultation: The Local Planning Authority fulfilled its statutory duty in regards

to public consultation on the application proposal.

- Previous property extensions without planning permission: Application 18/01956/HHFUL permitted the alterations to the dwelling, however the motive behind the alteration is not a material planning consideration and would not have been taken into account at the time.

- Lack of facilities for occupants: The application site is located within an established residential area which is well-served by facilities and services. The lack, or availability, of specific facilities for children is not a matter for which the proposal could be resisted.

6 **Conclusions**

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- The principle of development is sound and the proposal would not unacceptably harm the character of the area, the amenity of the occupiers of neighbouring dwellings or highway safety; in accordance with policies LP8, LP13, LP16 and LP17 of the Peterborough Local Plan (2019).

7 **Recommendation**

The Executive Director of Place and Economy recommends that Planning Permission is **GRANTED** subject to the following conditions:

C 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

C 2 The development hereby permitted shall be carried out in accordance with drawings:

- Existing Site Plan (drawing number 1942/PL1);
- Proposed Site Plan (drawing number 1942/PL2 Revision A);
- Existing Plans (drawing number 1942/PL3);
- Elevations (drawing number 1942/PL4);
- Proposed Plans (drawing number 1942/PL05);
- Location Plan (drawing number 1942/PL06); and
- Proposed Elevations (drawing number 1942/PL7 Revision A).

Reason: For the avoidance of doubt and in the interests of proper planning.

C 3 The use hereby permitted shall be a care home for children aged from 8 to 16 years only and for no other use within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking and re-enacting that Order with or without modification).

Reason: Only the impacts arising from the specific use above have been considered and alternative uses within Class C2 may result in additional parking demand which cannot be accommodated within the site and may lead to unacceptable harm to highway safety, in accordance with Policies LP13 and LP16 of the Peterborough Local Plan (2019).

- C 4 No more than 4no. children shall live at the property and receive care at any one time, and no more than 4no. staff shall be present within the site at any one time other than during shift changeover.

Reason: To ensure that no undue pressure for parking results which may pose an unacceptable danger to highway safety and in order to preserve the amenities of neighbouring occupants, in accordance with Policies LP13, LP16 and LP17 of the Peterborough Local Plan (2019).

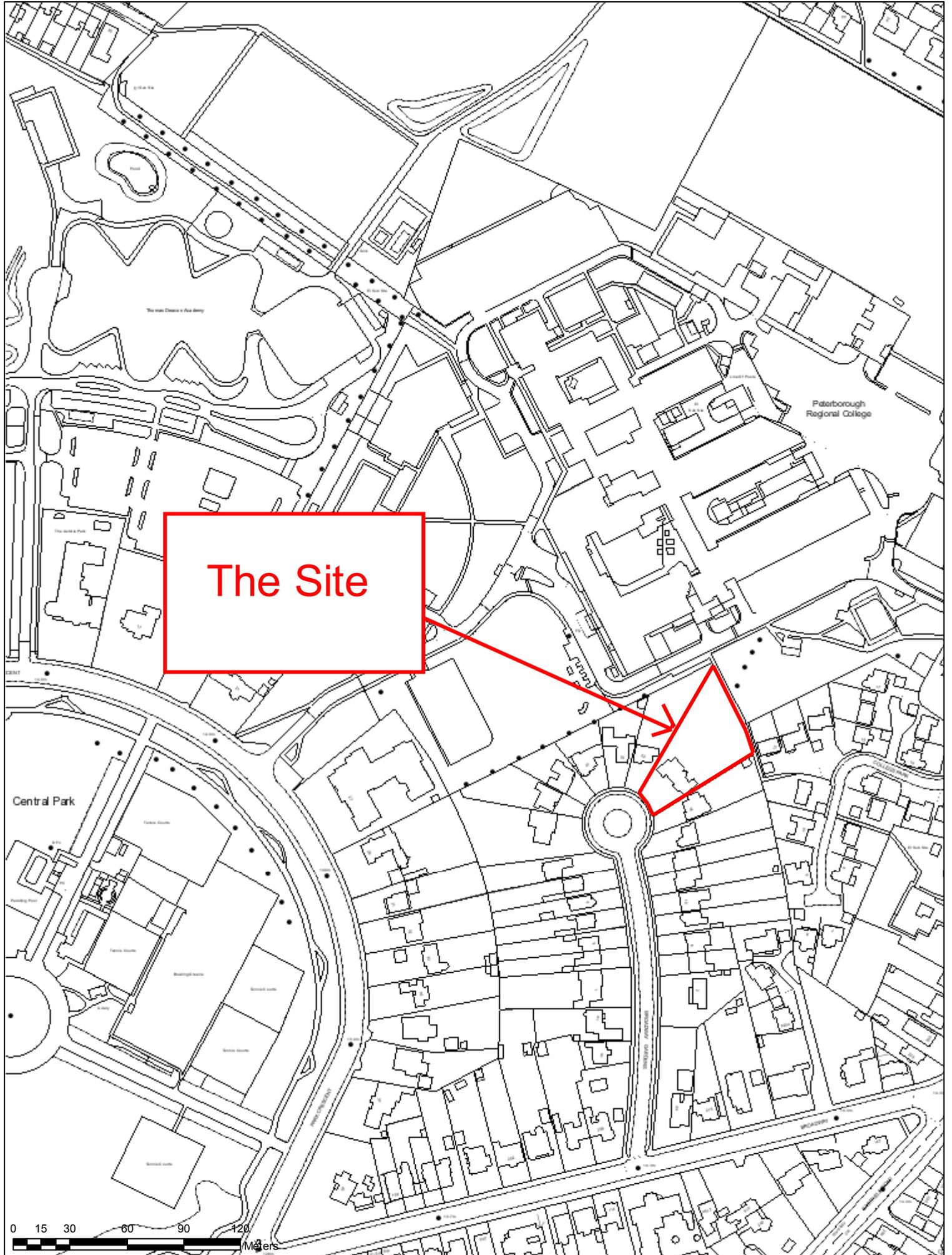
- C 5 Notwithstanding the submitted drawings, the use hereby permitted shall not be begun unless and until the vehicular access to the site has been widened to 5.5 metres in accordance with details first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety, in accordance with Policy LP13 of the Peterborough Local Plan (2019). This is a pre-commencement condition to ensure that the vehicular access is of sufficient size to accommodate the staff parking demand generated by the development.

- C 6 The use hereby permitted shall not be begun unless and until the area shown on drawing number 1942/PL2 Revision A 'Proposed Site Plan' for the parking and turning of vehicles has been laid out and made available for use. Thereafter, the area shall be retained solely for those purposes in connection with the care home use hereby permitted and shall not be used for any other purpose in perpetuity.

Reason: In the interests of highway safety, in accordance with Policy LP13 of the Peterborough Local Plan (2019).

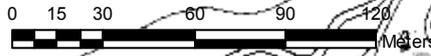
Copies to Councillor. Barkham, Councillor Sandford and Councillor Shaheed



The Site

Peterborough Regional College

Central Park



Planning Committee Location Plan 20/00266/FUL 20 Broadway Gardens PE1 4DU

Scale 1:2,500
Print Date: 17/06/2020

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Item No. 3

Planning and EP Committee

Application Ref: 20/00266/FUL

Proposal: Permanent change of use from dwelling (C3) to residential institution (children's home) (C2)

Site: 20 Broadway Gardens, Peterborough, PE1 4DU,
Applicant: Miss Naidre Werner
Florinee Homes Ltd

Agent:

Referred by: Head of Planning
Reason: Previous application for the development determined by Committee Members

Site visit: 01.04.2020

Case officer: Mr Jack Gandy
Telephone No. 01733 452595
E-Mail: jack.gandy@peterborough.gov.uk

Recommendation: **GRANT** subject to relevant conditions

1 Description of the site and surroundings and Summary of the proposal

Site and Surroundings

The application site comprises a two storey detached property located in a cul-de-sac within a predominantly residential area. The property is set back from the public highway allowing for both on-site parking and soft landscaping. The character of the surrounding area is formed by large detached dwellings within spacious grounds and are set back from the street by approximately the same distance. Its positive setting is recognised as a result of its inclusion within the Park Conservation Area.

Proposal

Planning permission was previously granted on the site (reference 18/00091/FUL) for the change of use from residential dwelling (Use Class C3) to a children's care home (Use Class C2). However this was only granted on a temporary basis, with the permission having expired on 16 March 2020.

This application seeks the above change of use on a permanent basis.

However, the current proposal differs from the 2018 scheme in the following ways:

- It is now proposed for 5no. children from ages 10-18 to reside within the home, whereas the previous temporary permission was for 6no. children aged 16-18 years; and
- The resident to staff ratio has increased from 3:1 to 2:1. However, as the number of children has been reduced, this results in the same number of staff.

2 Planning History

Reference	Proposal	Decision	Date
18/00091/FUL	Change of use from dwelling (C3) to residential institution (C2) - retrospective	Permitted	16/03/2018

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

Peterborough Local Plan 2016 to 2036 (2019)

LP08 - Meeting Housing Needs

LP8a) Housing Mix/Affordable Housing - Promotes a mix of housing, the provision of 30% affordable on sites of 15 or more dwellings, housing for older people, the provision of housing to meet the needs of the most vulnerable, and dwellings with higher access standards

LP8b) Rural Exception Sites- Development for affordable housing outside of but adjacent to village envelopes may be accepted provided that it meets an identified need which cannot be met in the village, is supported locally and there are no fundamental constraints to delivery or harm arising.

LP8c) Homes for Permanent Caravan Dwellers/Park Homes- Permission will be granted for permanent residential caravans (mobile homes) on sites which would be acceptable for permanent dwellings.

LP13 - Transport

LP13a) New development should ensure that appropriate provision is made for the transport needs that it will create including reducing the need to travel by car, prioritisation of bus use, improved walking and cycling routes and facilities.

LP13b) The Transport Implications of Development- Permission will only be granted where appropriate provision has been made for safe access for all user groups and subject to appropriate mitigation.

LP13c) Parking Standards- permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP17 - Amenity Provision

LP17a) Part A Amenity of Existing Occupiers- Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

LP17b) Part B Amenity of Future Occupiers- Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

LP19 - The Historic Environment

Development should protect, conserve and enhance where appropriate the local character and distinctiveness of the area particularly in areas of high heritage value.

Unless it is explicitly demonstrated that a proposal meets the tests of the NPPF permission will only be granted for development affecting a designated heritage asset where the impact would not lead to substantial loss or harm. Where a proposal would result in less than substantial harm this harm will be weighed against the public benefit.

Proposals which fail to preserve or enhance the setting of a designated heritage asset will not be

supported.

4 Consultations/Representations

Police Architectural Liaison Officer (PALO) (20.03.20)

No objections: Since 2018, Police have received 43 incident calls in regards to the property of which 19 were reports of missing people. The Constabulary are supportive of this change of use so that the site will be a registered Ofsted children's home housing children in care aged between 10 and 18 with no more than five young people residing in the property at any one time.

PCC Conservation Officer (08.04.20)

No objection: The site is situated in the Park Conservation Area. The Conservation Area was designated in 1968 and encompasses area laid out by the Peterborough Land Company. The area was developed as a residential estate and the proposal is for permanent change of use from C3 to C2. The proposals will therefore retain the domestic accommodation use for the building, retaining its historical and design use. In addition there are no proposed external alterations to the property which means the works will not impact upon the setting of the Conservation Area.

It should be noted that the above comments reflect the previous comments on the permitted 18/00091/FUL application.

From a heritage consideration there is no substantial objection. It is considered that the work will preserve the character and appearance of the Park Conservation Area in accordance with Section 72(1), of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and is in accordance with the Peterborough Local Plan (2019), and the National Planning Policy Framework (Heritage considerations).

PCC Peterborough Highways Services (02.04.20)

No objections: The Local Highway Authority would raise no highway objections to the proposals on the provision that there shall be no increase in staffing levels as previously stated in planning application reference 18/00091/FUL.

Local Residents/Interested Parties

Initial consultations: 30
Total number of responses: 6
Total number of objections: 3
Total number in support: 0

Six representations were received by the Local Planning Authority. These include three objections and another three set of comments which are provided on a neutral stance. The following matters were raised:

In objection

- For the last two years, the Police have attended to various incidents causing distress to the normal calm.
- On two separate occasions, the Police have contacted neighbouring properties to question neighbouring accounts of disturbances. This caused alarm to my children.
- Residents from No. 20 Broadway Gardens have been seen smoking cannabis and drug deals have occurred in cars, whereby resident have been seen re-entering the home once a deal is complete. It is concerning for the welfare of other neighbouring children.
- Youths have been visiting No. 20 Broadway Gardens and have been speeding down the road in vehicles, which has been reported on numerous occasions.
- Broadway Gardens is within the Park Conservation Area. It is wholly a residential street and Peterborough City Council by their own admission and proudly state on their website that 'it is judged that the character or appearance of the area is worth protecting or enhancing.' and it has its

'own special local character and distinctiveness.'

- There are only 24 residential properties in Broadway Gardens, not one is for any business use or commercial enterprise. Any opening of a residential institution (C2) will dramatically affect the nature of the road.
- There are already several care homes in this Conversation Area. It is strongly believed that the accumulated effect on the amenity of families and local residents is substantial and it is unreasonable to add another such establishment.
- It is not been felt in the last two years, while the house has been used as a care home, that acceptable support and communication from the Directors of Florinee Homes Ltd to address problems has occurred. There is no formal channel of communication.
- There appears to be a greater number of cars parked directly outside the property on the road despite it being permit holders only.
- When the property was first occupied by Florinee Homes Limited, the occupants were made aware that the boundary fence of No. 20 Broadway Gardens adjoining No. 12 College Park needed urgent maintenance. No action was taken and the fence securing the boundary has further deteriorated, with the overgrowing shrubbery from No. 20 Broadway Gardens pulling the fence down.
- In addition, the boundary fence of No. 20 Broadway adjoining the recreation area of the Regional College where the students have their smoking breaks (a very busy crowded area) is also falling down, insecure and in need of urgent maintenance.
- For these reasons, the application cannot be supported at this time, as it is felt that the garden, where play will occur, is insecure for the children at No. 20 Broadway Gardens and the surrounding properties.
- The old fence needs removing, to be replaced by a secure and aesthetically pleasing fence for the area.
- Local residents strongly object to this development on the basis that Broadway Gardens is a quiet residential street completely unsuited to this type of establishment, which has already seen an increase in antisocial behaviour, vandalism (broken trees) and graffiti since the retrospective temporary application was made in 2018.
- This conversion is entirely inappropriate and goes utterly against the wishes of residents in Broadway Gardens and Broadway.

Neither in objection or support

- There was serious concern from many local residents about this development two years ago and at that time temporary permission was granted for a period of two years. Following the temporary approval of the home, Broadway Gardens residents were asked to report any issues directly to the home or to local residents' representatives who would raise concerns with the directors of the home.
- The Chair and Broadway Gardens representative on the Broadway Residents Association Committee have met with the directors of the home on five occasions in the past two years and the directors have appeared positive and open about issues raised.
- Although the two years have not passed without incident, many of the fears previously expressed have not been realised. The following comments are based on our experience of the past two years and a recent request to Broadway Gardens residents for comment on the current application, to which we have had eight responses.
- It appears that the number of residents has not been at the full capacity of six for much of the time and it is noted that the current application limits the numbers to five, which is a positive move. It is suggested that a limit of five residents is included as a condition of the permanent permission if granted.
- General aspects of antisocial behaviour (graffiti, damage to street trees, litter, noise) have been no worse in the past two years than previously. There is no evidence that residents at the home have been involved in any of these issues. One early incident of noise from a motorbike was dealt with quickly by the directors.
- Children were to be discouraged from loitering in the area and this has generally been adhered to. However, in response to the recent request from the Residents Association for comment by Broadway Gardens residents, it was noted that recently children from the home have been sitting

on neighbours' walls smoking in the evenings. More seriously, on a number of occasions a few weeks ago (but not recently) two of the children were seen smoking cannabis behind a tree at the top of Broadway Gardens. The same individuals were also seen getting into a car that pulled up next to them on the street, and after a short time getting out with something they then put in their pockets - almost certainly drug related. Neither of these incidents has yet been raised with the directors as we have only just been informed.

- The number of visits by Police vehicles has been raised as a significant concern by several residents and the perception is that Police visits have increased recently. We do not know the reason for the visits and the incidents have not involved neighbours in Broadway Gardens, but there is concern about what is happening behind closed doors, whether this will impact on the neighbourhood and whether the situation will deteriorate if the planning permission is made permanent. The Police have reported that over the past two years they have received 43 incident calls in regards to the property, of which 19 were reports of missing people.
- Residents feel that traffic and street parking, including on grass verges, has increased in the area in the past two years but it is not known for certain that this is related to 20 Broadway Gardens. There have been several incidents of criminal activity in Broadway Gardens (unrelated to number 20) in recent years and residents are suspicious of unidentified vehicles. It would help if vehicles visiting the home and parking in the street placed a "Visitors" sign in the windscreen.
- A significant change in the current application is the altered age range from 16-18 to 10-18. We would expect that this has been discussed with the Council Children's Services Officers, but several residents noted that these are vulnerable/damaged children and the younger children will possibly be bullied and/or inappropriately influenced by the older (16-18) children. Are the 10-15 year olds expected to be semi-independent, as the home is currently organised, as this is not appropriate for the younger age group? This might be covered by the Ofsted Registration that is noted in the current application.
- Our Residents Association area probably has a greater concentration of residential, nursing and children's home facilities than anywhere else in Peterborough and we remain concerned that the cumulative effect of conversion of multiple private homes into residential care facilities is having a detrimental effect on the character of the Park Conservation Area. However, while there are some concerns as outlined above regarding the home at 20 Broadway Gardens, as long as the directors continue their positive collaboration with local residents, we do not feel there are strong reasons to oppose the granting of permanent permission for the change of use.
- During the past two years since the opening of the service, there have been occasions for Police attendance to the property. Prior to its opening there hadn't been one. What additional measures will the Planning process apply to the Service owners to minimise the anxiety caused resulting from the call-outs?
- During the past two years, there have been occasions for visits from interested parties. In itself, this is not an issue but the frequency of parking on the grass verge and presence of "suspicious cars" has increased. This is anecdotal as this hasn't been measured. What additional measures will the Planning process apply to the service owners to minimise the adverse impact to the grass areas (maintained by PCC) and concerning vehicles? For example could the Service place "Visitors" sign's in the windscreens for those vehicles they expect. If the numbers are low it should not be an inconvenience. If the numbers are high, it is important to help manage the environment.

5 Assessment of the planning issues

The main considerations are

- Background and the fall-back position
- Principle of development
- Parking and highway implications
- Neighbour amenity
- Impact upon designated heritage assets

a) Background and the fall-back position

As detailed in Section 1 above, this current application follows the temporary granting of planning

permission for the use of the application site as a children's care home within Use Class C2. This temporary permission lapsed on 16 March 2020 and the current application seeks for the permanent use of the site as a children's care home.

It should be noted that the use of the site as a children's care home began in November 2011 and, at the time of the first application, much objection was received as to the retrospective nature of the application itself. For the avoidance of doubt, until such time as an Enforcement Notice is served, development without the benefit of planning permission is unauthorised (not unlawful) and any application to regularise unauthorised development is not subject to a penalty. The Local Planning Authority must therefore consider this current application on its own merits and without prejudice in respect of the unauthorised development which precedes it.

Notwithstanding the above, due consideration must also be given to development which could have taken place without the benefit of planning permission – this is known as the 'fall-back' position. Class C3 (residential dwellinghouses) of the Town and Country Planning (Use Classes) Order 1987 (as amended) is the current lawful use of the site (as the previous temporary permission has now lapsed). This class not only includes traditional family homes (i.e. where one family unit resides together) but was also expanded in 2010 to include up to six residents living together as a single household where care is provided. The Order gives an interpretation for 'care' and does not explicitly reference children however nor does it exclude them. Notwithstanding this, it is accepted that children cannot be considered as capable of forming a household without permanent adult residence in addition.

In light of this, it should be noted that were the site being used for the care of adults (the definition of which includes people in need by reason of old age, disablement, past/present dependence on alcohol or drugs or past/present mental disorder) planning permission would not have been required and indeed this use could begin at any point without any control by the Local Planning Authority.

Similarly, the Town and Country Planning (General Permitted Development) Order 2015 (as amended) allows for the change of use from Class C3 to Class C4 (small-scale house in multiple occupation) without the need for a planning application. Class C4 would therefore allow for up to 6 unrelated persons to live together with shared communal facilities (which may only include a bathroom or kitchen).

The proposal must therefore be considered against the impacts arising from the above permitted development.

b) Principle of development

Policy LP8 of the Peterborough Local Plan highlights the importance and emphasises the need to provide housing to meet the needs of all sectors of society, particularly those who are vulnerable and/or have special requirements. This includes those young people who are within the care system and require a safe home in which to live. The policy states such support is granted providing that it:

- Meets an identified need and is supported by Adult Social Care Commissioning;
- Will be suitable for the intended occupiers in terms of standard of facilities, the level of independence and the provision of support and/or care;
- Will be accessible by non-car means to essential services and community facilities as appropriate to the needs of the intended occupiers; and
- Does not conflict with any strategic policy of this plan and does not have any fundamental constraint.

Given that the proposal seeks a children's care home, establishing need and support is more appropriate from the Council's Children's Commissioning Resource Team. They have advised that they currently work with the Applicant and indeed, children from Peterborough have been placed

within the care home until recently. As such, it is considered that there is an identified need which is supported by the Council's Commissioning Team.

In terms of suitability for the intended occupiers, and although the age range is increasing, no objections from the Commissioning Team have been raised on this matter. The concerns of the Residents Association are noted in terms of the broad range of ages of children proposed, however adequate staff ratios are proposed, staff will be present within the site on a 24/7 basis, and the home will be subject to review from Ofsted. Further, the submitted design statement indicates that referred children will be able to live normal lives, such attend school, utilise enjoyment within the curtilage of the property whilst adapting to life ready for adulthood. The sizable internal layout, rear garden and front parking area are considered to positively impact upon occupier welfare.

The site is well-located in terms of services and facilities, set within an established residential area that is well-served by public transport and in relatively close proximity to the City Centre.

Assessment as to the other relevant policies of the Local Plan are considered below, however it is not felt that there is any significant conflict with the City's strategic policies, and the site does not have any fundamental constraints in terms of the use proposed.

On the basis of the above, Officers consider that the proposed change of use, on a permanent basis, would provide much needed housing for children within care in accordance with Policy LP8 of the Peterborough Local Plan (2019), and the benefit arising from this should be afforded a significant amount of weight.

c) Highway safety and parking provision

At present, the site benefits from on-site parking – approximately 5no. spaces which includes tandem spaces. The Local Highway Authority (LHA) has raised no objections on this basis, as this amount of parking is considered sufficient to meet the needs of the care home use. However this is strictly on the basis that staff levels do not exceed the levels permitted under 18/00091/FUL.

As detailed in Section 1 above, the current proposal seeks a higher staff to occupant ratio from that previously approved, with 2 children to one member of staff (previously 3:1). This is owing to the request to house younger children. However, as less children are proposed to reside in the care home, staff levels are not proposed to be increase. There would remain 3no. staff to cater for the occupants and maintain the building, generating demand for 3no. parking spaces under the adopted parking standards, which can clearly be accommodated.

Officers accept that during the changeover in shifts, additional parking demand would be generated which may result in some parking on-street whilst cars are moved. Whilst this would, for a temporary and relatively short period each day, result in increased on-street parking demand, such an arrangement would be likely to occur if the site were occupied by a single family (with a large number of children of driving age) and similarly, if the fall-back position were implemented.

The number of staff and children permitted within the site can readily be restricted by way of a condition to ensure that this is not exceeded as can the specific use within Class C2. Such a restriction would ensure that any alternative uses which create additional parking demand can be subject to further assessment through a new planning application. Furthermore, the retention of parking within the curtilage of the site shall also be conditioned solely for that purpose, to ensure that it remains available for use.

It is noted that concern has been raised from local residents regarding increased on-street parking within Broadway Gardens. Further, the Residents Association has highlighted this concern in particular and requested that visiting vehicles to the site display some form of badge to indicate this.

As set out above, the parking demand arising from staff can be accommodated within the site, and accords with the Council's adopted parking standards. With regards to the intended occupants, the children/young adults would be living together within the property akin to a single household. They would be cared for as if they were within a traditional family home, with only those aged 17 and 18 old enough to drive albeit they will not have access to their own vehicles. With regards to visitor traffic, when taking into account the fall-back position, it is not considered that the level of visitor parking demand arising from the proposed care home would be above and beyond the levels which could already arise.

In light of this, Officers do not consider that the proposed permanent use generates parking demand above and beyond that which could lawfully already exist and therefore, any additional restrictions or requirements cannot be secured under the planning process.

In light of the above, the proposal is considered to be in accordance with Policy LP13 of the Peterborough Local Plan (2019).

d) Neighbour amenity

The Applicant previously applied for permanent use of the site as a children's care home under application reference 18/00091/FUL. However, in light of the level of concern expressed at the time by local residents, Members determined to grant permission on a temporary basis of 2 years to see if the use did generate harm.

From the objections received as part of this application, concerns predominantly relate to nuisances and potential crimes committed. As such, the views of the Cambridgeshire Constabulary have been sought.

The Police have reviewed reported incidents since the start of 2018 and advised that in total, 43 calls relate to the application site. Of these, 28 relate to incidents of missing persons owing to children absconding from care (19no. calls reports and a further 9no. calls relating to the children returning). Other reports include: 1 x violence; 1x suspicious circumstances; 1 x malicious nuisance; 2 x domestic incidents; and 1 x concerned behaviour. However it is not clear from the information provided by the Police how many of these calls were substantiated and action taken.

Nonetheless, Officers acknowledge that the care home has not operated without incident over the past two years. However, in response to this, the Applicant is seeking to alter the operating model of the care home such that a broader range of children will be cared for (10-18 years as opposed to 16-18 years), the ratio of staff shall be increased, and the number of children living within the home reduced to 5. In addition, caring for children below the age of 16 shall result in the need for the home to be Ofsted registered, with regular inspections taking place. On this basis, the Police have offered their support to the proposal as there will be far more regulation of the care home, with Ofsted having more regulatory powers. Therefore, if further incidents occur on site which require the Police, the Police can 'log' the call-outs with the Ofsted boards, who would monitor and consider further actions against the care home if necessary. It would also provide the Police with additional leverage if the care home is failing to protect its young and vulnerable residents.

It is proposed that the use operates in a use similar to a single family dwellinghouse, utilising shared communal facilities including living room, kitchen and dining room. The occupants will live semi-independent lives but will all likely be in full time education. It is not considered that children living together and receiving care in the manner proposed would significantly intensify the use of the site above and beyond a traditional family home.

Furthermore, when considering the impacts arising from the 'fall-back' position, it is considered that the proposed use is likely to generate less significant issues in relation to noise and general disturbances. A care home for adults, which would not require the benefit of planning permission, could and would likely result in emergency vehicles/servicing/staff movements throughout the day and night in a fashion which is considerably more intensive than the current dwelling. The

proposed occupants relating to the use subject to this application will not require intensive care and, during the night-time, will use the property much like any other family home.

Taking into account the changes proposed, and notwithstanding the issues that have arisen over the preceding 2 years, Officers do not consider that the permanent use of the site as a children's care home would give rise to unacceptable harm to the amenities of neighbouring occupants. On this basis, the proposal is considered to be in accordance with Policy LP17 of the Peterborough Local Plan (2019).

e) Impact upon designated heritage assets

The application site lies within the Park Conservation Area. Under Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), special regard should be paid to the requirement for all new development to preserve or enhance the character and appearance of conservation areas such as the Park Conservation Area.

The City Council's Conservation Officer has advised that the Park Conservation Area was designated in 1968, and that the area was developed as a residential estate of planned form. The Conservation Officer considers that a permanent change of use from C3 to C2 would retain the domestic accommodation use of the building, and therefore retain its historical and designed use. Furthermore, no external alterations are proposed to the property. As such, the Conservation Officer does not consider that the proposal would unacceptably impact upon the character, appearance and setting of the Park Conservation Area.

To additionally advise, in terms of any future changes to the building (i.e. extensions or alterations to windows/doors etc.), residential institutions (Class C2) have no 'permitted development' rights. Therefore, any such future changes would require the benefit of planning permission and would be thoroughly assessed in terms of impact to the Park Conservation Area.

In light of the above, the proposal is considered to be in accordance with Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and Policies LP16 and LP19 of the Peterborough Local Plan (2019).

f) Other matters

In response to those matters raised by objectors/contributors but not dealt with above:

- Saturation of care homes in the surrounding area - Officers understand that some local residents feel that the surrounding area has become 'saturated' with care homes. However this has, to some extent, resulted from changes made by the Government to the Use Classes Order. The creation of small-scale care homes of up to 6 persons has been considered appropriate within local communities and to not result in a significant additional impact above and beyond 'traditional' family homes. It may therefore take place without the need for planning permission.

The proposal would provide differing care to those properties within the surrounding area and would operate much in the same way as a single family unit. Furthermore, the Council has no adopted planning policies which place a limit on such uses and it is not considered that the cumulative impact results in unacceptable harm to the amenities of surrounding occupants or the general area.

- Specific Police incidents - The Cambridgeshire Constabulary have provided details of the incident calls received relating to the application premises, and provided their own professional views on the application.

- Boundary fence deterioration - This is a civil matter between the Applicants and the neighbours, and is not a material planning consideration.

6 Conclusions

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- The principle of development is acceptable and the proposal would provide specialist housing for children in care which should be afforded considerable weight, in accordance with Policy LP8 of the Peterborough Local Plan (2019);
- The proposal allows for adequate parking and the proposal would not adversely impact upon the safety of the surrounding highways, in accordance with Policy LP13 of the Peterborough Local Plan (2019);
- The amenity of surrounding neighbours would be retained to an acceptable level, in accordance with Policy LP17 of the Peterborough Local Plan (2019); and
- The character and appearance of the site and the surrounding Park Conservation Area would not unacceptably impacted upon by the proposal, in accordance with Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and Policies LP16 and LP19 of the Peterborough Local Plan (2019).

7 Recommendation

The case officer recommends that Planning Permission is **GRANTED** subject to the following conditions:

C 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

- Location Plan 1:1250
- Block Plan 1:500
- Ground Floor Plan (Drawing number FHL01)
- First Floor Plan (Drawing number FLH01)

Reason: For the avoidance of doubt and in the interests of proper planning.

C 2 The use hereby permitted shall be a care home for children aged from 10 and up to 18 years only and for no other use within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking and re-enacting that Order with or without modification).

Reason: Only the impacts arising from the specific use above have been considered and alternative uses within Class C2 may result in additional parking demand which cannot be accommodated within the site and may lead to unacceptable harm to highway safety, in accordance with Policies LP13 and LP16 of the Peterborough Local Plan (2019).

C 3 No more than 5no. children shall live at the property and receive care at any one time, and no more than 3no. staff shall be present within the site at any one time other than during shift changeover.

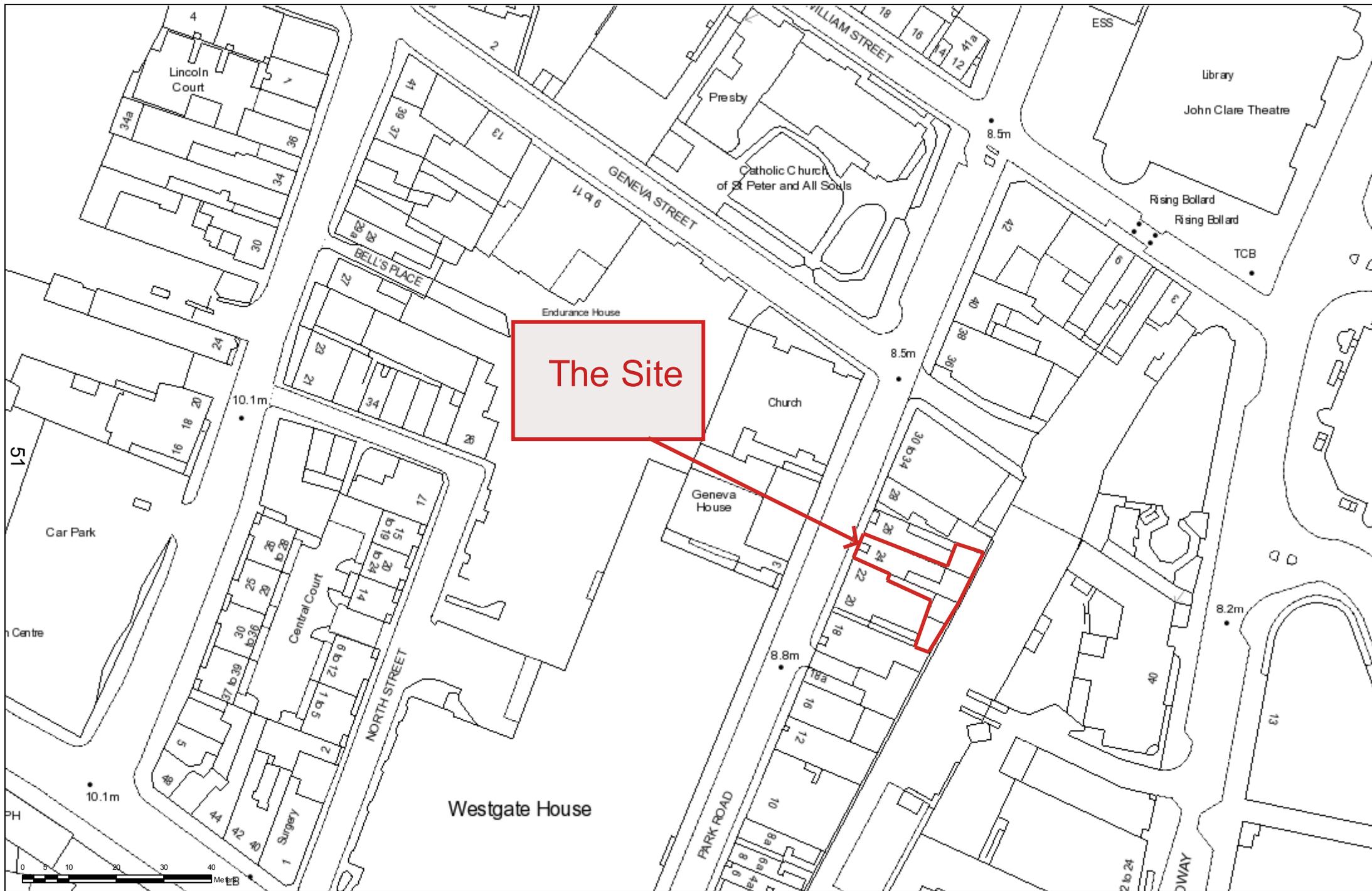
Reason: To ensure that no undue pressure for parking results which may pose an unacceptable danger to highway safety and in order to preserve the amenities of neighbouring occupants, in accordance with Policies LP13, LP16 and LP17 of the Peterborough Local Plan (2019).

C 4 The area shown on the submitted 'Block Plan' for the parking and turning of vehicles shall be retained solely for those purposes in connection with the care home use hereby permitted and shall not be used for any other purpose in perpetuity.

Reason: In the interests of highway safety, in accordance with Policy LP13 of the Peterborough Local Plan (2019).

Copies to Ward Cllrs Joseph, Nawaz and Yasin.

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Planning Committee Location Plan- 20/00206/FUL- 24 Park Road

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Item No. 4

Planning and EP Committee 30 June 2020

Application Ref: 20/00206/FUL

Proposal: Construction of timber-framed outbuilding to rear for use as Shisha lounge, single storey side extension, increase height of rear wall to 2.5m and relocation of external staircase - resubmission

Site: 24 Park Road, Peterborough, PE1 2TD,
Applicant: E Elmahi

Referred by: Councillor Bashir
Reason: Site is in an ideal location and more suitable than other locations permitted for shisha

Agent: Mr Iqbal

Site visit: 04.03.2020

Case officer: Mr D Jolley
Telephone No. 01733 4501733 453414
E-Mail: david.jolley@peterborough.gov.uk

Recommendation: **REFUSE**

1 Description of the site and surroundings and Summary of the proposal

Site and surroundings

The application site is currently a small cafe/restaurant unit within terrace of shops. The application site has a yard area to the rear accessed via the kitchen to the rear of the unit. The site is located within the City Centre Conservation Area. The car park of the Bull Hotel a Grade II Listed Building) lies to the rear of the site. There appears to be flats and storage areas at first floor in the surrounding units. The site lies within the designated City Centre boundary.

Proposal

Permission is sought for: the construction of timber-framed outbuilding to the rear for use as Shisha lounge (this also extends across the rear of Nos20-26); construction of a single storey side extension located to the rear; an increase in height of the site's rear boundary wall to 2.5 metres; and relocation of an existing external staircase, also to the rear.

This application is a re-submission of a previous application, 19/00786/FUL, which was withdrawn.

2 Planning History

Reference	Proposal	Decision	Date
19/00786/FUL	Construction of timber framed outbuilding to rear for use as shisha lounge, and single storey side extension	Withdrawn by Applicant	08/07/2019

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

Planning (Listed Building and Conservation Areas) Act 1990

Section 66 - General duty as respects listed buildings in exercise of planning functions

The Local Planning Authority has a statutory duty to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

Section 72 – Conservation Areas

Peterborough Local Plan 2016 to 2036 (2019)

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP17 - Amenity Provision

LP17a) Part A Amenity of Existing Occupiers- Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

LP17b) Part B Amenity of Future Occupiers- Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

LP19 - The Historic Environment

Development should protect, conserve and enhance where appropriate the local character and distinctiveness of the area particularly in areas of high heritage value.

Unless it is explicitly demonstrated that a proposal meets the tests of the NPPF permission will only be granted for development affecting a designated heritage asset where the impact would not lead to substantial loss or harm. Where a proposal would result in less than substantial harm this harm will be weighed against the public benefit.

Proposals which fail to preserve or enhance the setting of a designated heritage asset will not be supported.

4 Consultations/Representations

PCC Pollution Team (26.02.20)

Objection - In consideration of the close proximity to residents, and the inevitable loss of amenity to the current, and any future, occupiers of the nearby premises, it remains the opinion of this section that such a development is unsuitable.

PCC Wildlife Officer (12.02.20)

No objection to the proposal subject to the use of appropriate conditions.

PCC Conservation Officer (03.03.20)

Objection

Local Residents/Interested Parties

Initial consultations: 49
Total number of responses: 1
Total number of objections: 1
Total number in support: 0

A single objection has been received in relation to the proposal stating:

Opening Shisha lounge is most unsuitable and offers no benefit to the City.

5 **Assessment of the planning issues**

The main considerations are:

- Principle of development
- Impact of the proposal on the character of the area, including impact to heritage assets
- Impact of the proposal on the amenity of the occupiers of neighbouring dwellings

a) Principle of development

The application proposes, amongst other things, use of the rear yard of the establishment for the purpose of shisha smoking. Whilst the use is likely to be ancillary to the main use of the site, as a cafe, it is considered that the proposed use does require planning permission as the shisha area will result in a material increase in the intensity of the use of the site and a material change to the character of the use of the site. Internal works are required to facilitate the use of the yard area, further supporting the view that the site does require planning permission for shisha use.

Planning permission for the use of the site is required, and for the reasons stated below, it is considered that the proposal is not acceptable and as such in this instance the principle of development is not sound.

b) Impact of the proposal on the character of the area, including impact to designated heritage assets

As detailed in Section 1 above, the application site is located within the designated City Centre Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires that special regard be paid to ensuring that all new development either preserves or enhances the setting and special character of Conservation Areas. Further, the site is located adjacent to the car park serving the Grade II Bull Hotel. Section 66(1) of the same Act requires that special regard be paid to ensuring that development preserves or enhances the significance of Listed Buildings. This is further emphasised within both national and local planning policies, which require that significant weight be placed upon the need to preserve heritage assets.

The proposal involves some small alterations to the rear of the building to create a small extension and relocate an external staircase. These are considered minor alterations to the site and will not materially alter the character of the area. Of greater concern however, is the proposed alteration to the height of the wall to the rear of the site, in order to make good some areas that are in disrepair and to shield the view of the covered shisha area when viewed from the Bull Hotel car park to the rear.

The City Council's Conservation Officer Objects to the raising of the height of the wall in this location, considering the works unnecessary, as the structure attaches to the rear wall of the buildings of Park Road and not the rear wall of the site. The Conservation Officer has concerns that increasing the height of the wall in this location will result in an incongruous appearance such that one part of the wall would be taller than other sections. Concern has also been expressed in regards to the difficulty in matching the weathered bricks of what is a wall of some age.

With regards to the covered shisha lounge area, this would be sited between the rear boundary wall and rear elevations of Nos.20-26 Park Road. It would stand at a maximum height of 2.5

metres with a flat roof canopy design, supported by posts. As such, save for the roof form, it would be largely screened from the surrounding area. Officers consider that, subject to the use of appropriate materials (which would not include polycarbonate/plastic), the overall appearance of this canopy would not be harmful to the character or appearance of the surrounding area.

In light of the above, it is considered that the proposal would harm the character of the City Centre Conservation Area and fail to preserve the setting of the adjacent Listed Building. Accordingly, the proposal is contrary to Policy LP19 of the Peterborough Local Plan (2019).

c) Impact of the proposal on the amenity of the occupiers of neighbouring dwellings

Officers consider that the proposed use of the site as a shisha lounge/bar would likely result in significant additional noise and smoke that would cause a nuisance to the occupiers of neighbouring residential units. The Applicant states that there are residential flats above Nos.24 and 26 Park Road. Whilst Officers have not confirmed this, there would appear to be residential units in these locations judging by the appearance of the rear facing first floor windows which have signs of residential habitation.

The proposed shisha area would span the rear of Nos.20-26 Park Road, and whilst it would be covered in the form of a canopy, it would be largely open. By virtue of the nature of the use proposed, both smoke and noise would be emitted from the development throughout the day and night-time whilst the site was in use.

The Council's Environmental Health Team have stated that it is highly unlikely that it is possible to sufficiently attenuate noises from sources such as loud voices, laughing, music/singing, tables and chairs being moved, etc. and these would be the main noises resulting from the proposal. Whilst certain controls may have some effect on the duration of each individual's stay in the area, these are unlikely to remove the noise completely and are reliant upon compliance from customers and for the premises management to enforce. As such, the measures would likely be largely unenforceable in planning-terms.

Furthermore, the design/layout of the Shisha lounge are unlikely to prevent smoke drift given the open nature of the structure, which is required in order to comply with current smoking shelter legislation. Accordingly, there would be a strong likelihood of odour nuisance to the occupiers of nearby residential premises. The Environmental Health Team have advised that consequently, it is likely that the proposed development would result in complaints in terms of noise and odour.

When considering such complaints of nuisance under the Environmental Protection Act 1990, it is important to note that planning decisions that alter the character of the area, and therefore affect the acceptability of particular noise and use, impact on whether certain activities would be judged as nuisances. Consequently, should planning permission for the proposal be granted, the Environmental Health Team have advised that any complaints regarding noise or odour resulting from the development would be unlikely to be deemed a statutory nuisance. Accordingly, such matters must be fully considered at the time of determining the application and future compliance under other primary legislation cannot be considered as a mechanism to prevent harm to the amenities of neighbouring occupiers.

On this basis, it is considered that, owing to the close proximity of the proposal to residential occupants, the proposal would result in unacceptable harm to the amenity of those occupiers through noise and smoke nuisance. The proposal is therefore contrary to Policy LP17 of the Peterborough Local Plan (2019).

d) Other matters

Whilst not specifically a material planning consideration, as it is controlled through other legislation. The Council's Smoking Regulatory Officer has stated that outdoor smoking shelters or areas (which would include a shisha lounge as proposed) must not be enclosed or substantially enclosed. The walls must have openings, which are at least half of the total area of the walls including other structures, which serve the purpose of walls. No account can be taken of doors,

windows or other fittings that can be open or shut. It would appear that the structure is acceptable in this regard as it consists of a roof, suspended by posts with a gap between the canopy roof and the rear wall of the site.

They have also stated that it is also not acceptable to have access for customers through a working kitchen due to creating potential food safety and health and safety issues. However upon viewing the proposed plans it would appear that internal alterations will take place in order to create a separate access to the rear, via the toilets.

The above however is a material consideration in so far as other primary legislation prevents any further alterations being made to the design of the proposal that may address the issues of neighbour amenity impact.

6 Conclusions

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below.

7 Recommendation

The Executive Director of Place and Economy recommends that Planning Permission is **REFUSED** for the following reasons:

- R 1 The proposal, by virtue of the increase in height of the rear wall of the site to 2.5 metres, would result in an incongruous, unnecessary addition to a structure located within the City Centre Conservation Area and abutting a Grade II Listed Building. The proposal would therefore have a detrimental impact to the character and setting of those designated heritage assets. This is contrary to Policy LP19 of the Peterborough Local Plan (2019).
- R 2 The proposed shisha smoking area, by way of its open-sided construction and proximity to windows serving residential properties, would result in unacceptable levels of noise and smoke nuisance to the occupiers of those neighbouring residential properties. The proposal would therefore result in unacceptable detriment to their amenity. This is contrary to Policy LP17 of the Peterborough Local Plan (2019).

Copies to Ward Councillor Joseph, Councillor Nawaz and Councillor Yasin

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