
Delegated report Officer: Sarah Atherton

Application ref. DMPA/2024/1304

Change the use of a (C3a) dwelling to a children's home for up to five children (C2) The Old Vicarage, Marston Lane, Marston On Dove, Derby, DE65 5GB

Valid date: 22/11/2024

Consults expired: 20/12/2024

EIA development? No

Section 106 agreement? Not required

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

Responses to consultations and publicity

Environment Agency - No objection subject to conditions 11/03/2025

Final comments: Comments set out that following review of the revised flood risk information the Environment Agency are able to withdraw their objection to the proposals. The comments further state the proposed development will only meet the requirements of the NPPF in relation to flood risk if planning conditions are included. The conditions requested are summarised as:

- 1) Development to be carried out in accordance with the submitted flood risk assessment;
- 2) Finished Floor Levels to be no lower than 52.3m AOD and, or, in non-sleeping rooms the flood resistant and resilient measures should be employed to provide protection to this level.

The EA further confirms review of the Bespoke Flood Evacuation Plan and confirm it acceptable for the application.

Further comments state that not all points the EA previously raised in their comments of 24/12/2024 have been addressed however that the FRA and FWEP have sufficiently improved with the addition of topographic surveys that they are able to confirm the site specific flood risk and are satisfied that concerns are addressed and the objection can be removed.

Previous comments: The EA comments state that in the absence of an acceptable flood risk assessment (FRA) they object to the application and recommend planning permission is refused. The comments further highlight the failures of the FRA as:

- 1) The FRA fails to assess the risks from all fluvial sources that could affect the site, and on that basis, it doesn't adequately consider how various flooding events (including extreme events) will affect people or how people could be kept safe from flooding hazards.
- 2) The FRA fails to take into account the impacts of climate change and fails to refer to or use the correct climate change allowance for vulnerable development within the 'Dove Management Catchment'
- 3) The FRA fails to include a site specific topographic survey to Ordnance Datum
- 4) It does not confirm if flood risk mitigation measures to address flood risk for the lifetime of the development are required as part of this change of use development
- 5) Inconsistent, incomplete or incorrect information is included within page 15.

The comments set out that in order to overcome the objection the FRA should be revised and resubmitted allowing for 21 days for the EA to review. In the absence of such the objection is likely to be maintained. Detailed comments are provided on the additional information required. Object 24/12/2024

Derbyshire County Council - Local Highway Authority - No objection 04/12/2024

The Local Highway Authority confirm review of the application and analysis of the information after which they consider that access and parking arrangements are satisfactory for the proposed use. They

note that any traffic movement increases will not be significant and can be accommodated on the local road network. They conclude that there would not be an unacceptable impact on highway safety or a severe impact on congestion and there are no justifiable grounds on which an objection could be maintained.

South Derbyshire District Council - Environmental Health Officer - No comment - 10/12/2024

The department states they have no comments to make on the application.

South Derbyshire District Council - Local Flood Officer - No comments received

Marston on Dove Parish Meeting - No comments received

Members of the Public

1 comment is received from a member of the public objecting to the application. The objection focusses on the potential for noise and disruption to the nearby church yard and cemetery; the house is a long way from facilities and there will be an absence of facilities for the children; the potential increase in traffic resulting from the development; comments that Hilton would be a better location.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LPP1): S1: Sustainable Growth Strategy; S2: Presumption in Favour of Sustainable Development; S6: Sustainable Access; Policy H1: Settlement Hierarchy; Policy H20: Housing Balance; SD1: Amenity and Environmental Quality; SD2: Flood Risk; SD4: Contaminated Land and Mining Legacy Issues; BNE1: Design Excellence; BNE2: Heritage Assets; BNE3: Biodiversity; INF2: Sustainable Transport.

2017 Local Plan Part 2 (LPP2): SDT1: Settlement Boundaries and Development, BNE5: Development in Rural Areas.

Local Plan Review

On 10 March 2025 the South Derbyshire Local Plan Part 1 Review was published for its period of formal representations under Regulation 19 (of the Local Plan Regulations) prior to submission to the Secretary of State (The Publication Version). This is the version of the Local Plan that the Council intends to submit for examination, and it is a material consideration in the determination of planning applications.

The weight to be attached to emerging local plans is set out in paragraph 49 of the NPPF.

With regard to paragraph 49a) the plan is at an early stage of preparation having not reached examination. In terms of 49b) there remain unresolved objections to the plan from its Regulation 18 consultation and the period for comments under regulation 19 will not expire until 25 April 2025. Although the plan is in general conformity with the NPPF (paragraph 49c) it has been published to benefit from the transition arrangements set out in paragraph 234 of the NPPF, meaning the Local Plan will be examined under the 2023 version of the NPPF. For all these reasons the weight to be attached to policies in the publication version of the Local Plan is low.

Where there is any conflict between policies in the publication version of the Local Plan and existing adopted Local Plan policies the decision should be taken in line with the adopted Local Plan policies.

Paragraphs 50 and 51 of the NPPF are also relevant which clarify that refusals of permission in line with emerging policies will seldom be justified before a plan has been submitted for examination. The plan is intended to be submitted for examination in Autumn 2025.

The relevant National Guidance is:

2024 National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

The relevant legislation is:

The Town and Country Planning Act 1990

Town and Country Planning (Use Classes) Order 1987

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended)

Planning considerations

The issues relevant to the determination of this application are:

- Policy and principle of the development
- Flood risk and vulnerability
- Residential amenity
- Highways and parking

Planning assessment

The site and location

The application site relates to an existing detached dwelling, The Old Vicarage, the dwelling lies to the north of Marston Lane from which vehicular access is taken. The house, gardens and driveway occupy a plot of around 0.7 acres, with the drive on approach to the eastern elevation and wrap around gardens containing outbuildings to the north, south and west of the house. Outside the site area the surroundings are predominantly rural and the site is isolated from other residential dwellings. At the closest point St Mary's Church, which is a Grade I Listed Building and the Lynch gate which is Grade II Listed lie 146m and 171m south east of the house and the cemetery lies around 90m to the south east. The site and surroundings are broadly level and lie within Flood Zone 3 of the River Dove Flood Plain.

The site is wholly within the Parish of Marston on Dove and the Ward of Hilton.

Settlement boundary	Outside	Flood zone	3 – Highest risk
Neighbourhood Plan Area	Not within	Green belt	No
Conservation area	No	Listed building	No
River Mease SAC Zone of Influence	No	Allocated site	No
Tree preservation order	Individual	Coal Mining risk	None
Agricultural Land Classification	N/A - PDL	National Forest Area	Not within
Great Crested Newt (GCN) risk zone	Amber		

The proposal

The application proposes to change the use of the existing residential dwelling to a children's home providing care for up to 5 children with a manager and seven carers. The carers would work on a rota basis within 2 carers sleeping overnight in the home, children between the ages of 7 and 18 would reside and be supported at the home on a long-term basis and provision would not be for emergency or interim care purposes. The home would provide specialist care specifically for children with emotional or behavioural difficulties or both emotional and behavioural difficulties and would therefore operate within Use Class C2 of Town and Country Planning (Use Classes) Order 1987. Externally the

proposals are limited to the introduction of a covered storage area for a small bicycle rack for 2 bicycles. The manager would attend the site weekdays from 9am to 5pm and the support staff, with up to 7 staff working from 07:30am to 11pm and 2 staff sleeping at the property from 11pm to 07:30am, the home would therefore be staffed 24 hours a day on everyday.

Policy and principle of the development

The National Planning Policy Framework (NPPF) sets out in section 5 *Delivering a sufficient supply of homes* that planning policies should include provision for different groups within the community and specifically includes looked after children within this group. The section refers the reader to the local authority's *Children's Social Care Sufficiency Strategy* for evidence of need for looked after children.

The most recent assessment Officers have been able to find on the Derbyshire County Council records is the Children in Care Placement Sufficiency Strategy 2017-21, this report cited a rise in the number of children in care between 2018 when there were 719 children in care and 2020 when there were 861 children in care and set out that the aspiration is for children to be placed within 20 miles of home and within Derbyshire, during the report period the number of children placed outside the 20mile range rose from 18.4% in 2018 to 22.2% in 2020. It noted that the population of Derbyshire including the 0 - 18 group was predicted to rise by around 8% to 2041.

The Childrens Commissioning Strategy 2023 -2025 for Derbyshire County Council identified a shortfall in homes within Derbyshire due to the use of Derbyshire homes by other Local Authorities. Government data indicates that from 1st April 2023 to 31st March 2024 the East Midlands region saw an 11% growth in the number of children's homes.

The written ministerial statement *Planning for accommodation for looked after children (23rd May 2023)* set out that the planning system should not be a barrier to providing homes for the most vulnerable children in society. It progresses to state the joint statement is to remind Local Planning Authorities that policies and decisions should *assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions*. It further sets out that *in two tier authorities, we expect local planning authorities to support these vital developments where appropriate, to ensure that children in need of accommodation are provided for in their communities*.

There are no specific development plan policies that guide the development of new children's homes or the change of use of existing residential dwellings specifically to this use. Policy S1 sets out that in bringing forward new development the council will seek to ensure schemes respond to, and address, social issues including to improve access to services and facilities. Policy H20 relates to housing balance and sets out in part E that the Council will also promote a mix of housing that is suitable, and adaptable, for different groups of people.

Policy BNE5 sets out that within rural areas, outside the settlement boundaries, planning permission will only be granted where it is allowed for by one of a collection of exception policies. The existing use as a dwelling house falling within Use Class C3 *Dwellinghouses, used as a sole or main residence* is established within the planning unit. The proposed use falls within Use Class C2, *Residential institutions* is a different class of residential use. The supporting information indicates that the home seeks to replicate family life as closely as possible, on that basis, it is considered that residential use is established and the development can be considered to accord with the development plan in terms of its location outside the settlement boundary as it would continue use of the building as a residential use.

It is noted that there is increasing need for smaller care homes across the District and the supporting information sets out that the scale of the development seeks to offer an environment close to a family home for the children who will be looked after. The development proposes the change of use and internal alterations to meet this need and provide for the future residents. The application is considered to be acceptable in principle.

Flood risk and vulnerability

The NPPF requires that in determining applications LPAs should ensure that inappropriate development in areas at risk of flooding is avoided and where development in these areas is necessary

the development should be made safe without increasing risk elsewhere. Where appropriate applications should be supported by a site specific flood-risk assessment. The NPPF also sets out the requirements for the sequential test and identifies that *Applications for some minor development and changes of use should also not be subject to the sequential test, nor the exception test set out below, but should still meet the requirements for site-specific flood risk assessments set out in footnote 63.* Footnote 62 sets out the types of development exempt from the sequential test and footnote 63 provides advice on site-specific Flood Risk Assessments.

Annexe 3 to the NPPF provides flood risk vulnerability classification. *Residential institutions such as residential care homes, children's homes, social services homes, prisons and hostels* are included within the **more vulnerable** classification as are dwelling houses.

Local Plan Policy SD2 explains that when considering development proposals the council will follow the sequential approach to flood risk management and restricting the development of sites with a higher risk of flooding to those sites which are essential for development or provide wider sustainability benefits to the community that outweigh risk.

In terms of flood risk the proposals are somewhat unusual given they do not propose further development but a change of use, as noted above the proposed use is a residential use, as is the existing use, and both existing and proposed residential uses share the same vulnerability classification. The application is supported by a Flood Risk Assessment and a Bespoke Flood Evacuation Plan which have been reviewed by the Environment Agency in their role as statutory consultee and have enabled the removal of a previous objection. Conditions are requested and included from the EA, Officers have also included a further condition that requires review of the Flood Risk Evacuation Plan every 3 years as per the recommendation within the plan and the requirement that provision for this be made for review by staff and residents to ensure understanding of emergency actions.

Subject to compliance with the conditions attached the proposed use is considered to accord with the development plan

Residential amenity

The National Planning Policy Framework sets out in paragraph 135 f that planning decisions should ensure that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Footnote 51 refers to the Nationally Described Space Standards and the inclusion within policy of these where the use of an internal space standard can be justified.

Policy SD1 of the Local Plan part 1 sets out that the Council will support development that does not lead to adverse impacts in the environment or amenity of existing and future occupiers within or around proposed development.

The application site occupies a position distant from other residential dwellings or conflicting uses and as such no concerns regarding the change of use are raised, the Council's Environmental Health Team have been consulted and offer no objection to the proposed plans.

Officers have reviewed the plans and note that the proposed layout offers 5 larger and two smaller bedrooms with proposed bedroom 3 falling below the width and area required for a single bedroom by the Technical Space Standards. Given the application proposes that 5 of the 7 bedrooms would be occupied by the resident children and the other 2 bedrooms would be used by the staff on night shifts sleeping at the property it is considered appropriate to include a condition that bedrooms 3 and 6 be used by staff and bedrooms 1, 2, 4, 5 and 7 be used by children living at the home on a more permanent basis, and thus accordingly the proposal is considered to be acceptable on amenity grounds.

Highways and parking

The National Planning Policy Framework requires that during the consideration of development proposals it should be ensured that safe and suitable access to the site can be achieved for all users.

Development should only be refused in cases where the impact upon the highway in terms of either safety or capacity is severe.

Policy S6 of the Local Plan seeks to minimise the need to travel and make efficient use of transport infrastructure and services as well as encouraging use of sustainable transport modes. Policy INF2 outlines the Council's aspirations in respect of sustainable transport and looks to work with developers to secure developments which provide for the needs of users of all transport modes and to minimise the car travel generated by developments in a manner relative to its needs. In respect of parking it requires that appropriate provision is integrated into development alongside the need to encourage travel on foot, cycle and public transport in preference to private car by minimising parking provision.

The Local Highway Authority confirm in their review of the application that the site benefits from sufficient parking to accommodate the proposed change of use and that there will not be an undue impact on the capacity of the surrounding network arising from the increased vehicle movements associated with the use. The development is within a relatively isolated location however it is considered that the existing use as a residential dwelling would also generate vehicle trips for the purposes of accessing services and facilities and as such the use is comparable in this regard and does not present significantly different impacts such that would warrant refusal of the application in this instance. The proposals are therefore considered not to conflict with policy in this regard.

Other matters

Historic environment - the application site lies circa 190m north west of 2 heritage assets as described in the site location. The application seeks permission for a change of use and the curtilage is sufficiently distant that there is not considered to be a need for heritage assessment as the permission would not alter the setting of or the listed buildings themselves.

Public comment - it is noted that the site is in a rural location and close to a cemetery, however the residential use is consistent between existing and proposed uses and as such does not raise material concerns that disruption to noise, highway or other characteristics would occur.

Conclusion and planning balance

The NPPF identifies three dimensions to sustainable development which must be considered in making planning decisions and the benefits and harms of a scheme weighed in the planning balance.

The application proposes the use of an existing dwelling house as a residential care home for children in care. There are no defined policies within the development plan that specifically discuss this form of development or use, overarching policies set out the need to provide a diverse range of housing to meet different needs. The NPPF identifies the need for children's homes and the written ministerial statement sets out that planning decisions or the planning system should not be a barrier to the provision of these homes. The social benefits of the application are considered established in the provision of care for children which are afforded substantial weight in the balance.

The site is located within an area at higher risk of flooding, however the application is supported by measures to ensure the use would be safe for its lifetime, thus neutralising the matter of flood risk in the planning balance. The site would in addition to children's home provide employment locally affording, due to the smaller numbers of jobs moderate weight in the planning balance.

It is considered that, in the absence of technical objection to the application, and having regard for need for this type of housing in the County and the national policy and ministerial support for this use, together with the social and economic benefits of the scheme the application delivers sufficient benefits in the planning balance to merit approval.

Recommendation

Approve with Conditions

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation made:	28/03/2025
Report agreed:	31/03/2025
Authorised officer:	Sarah Beeby
