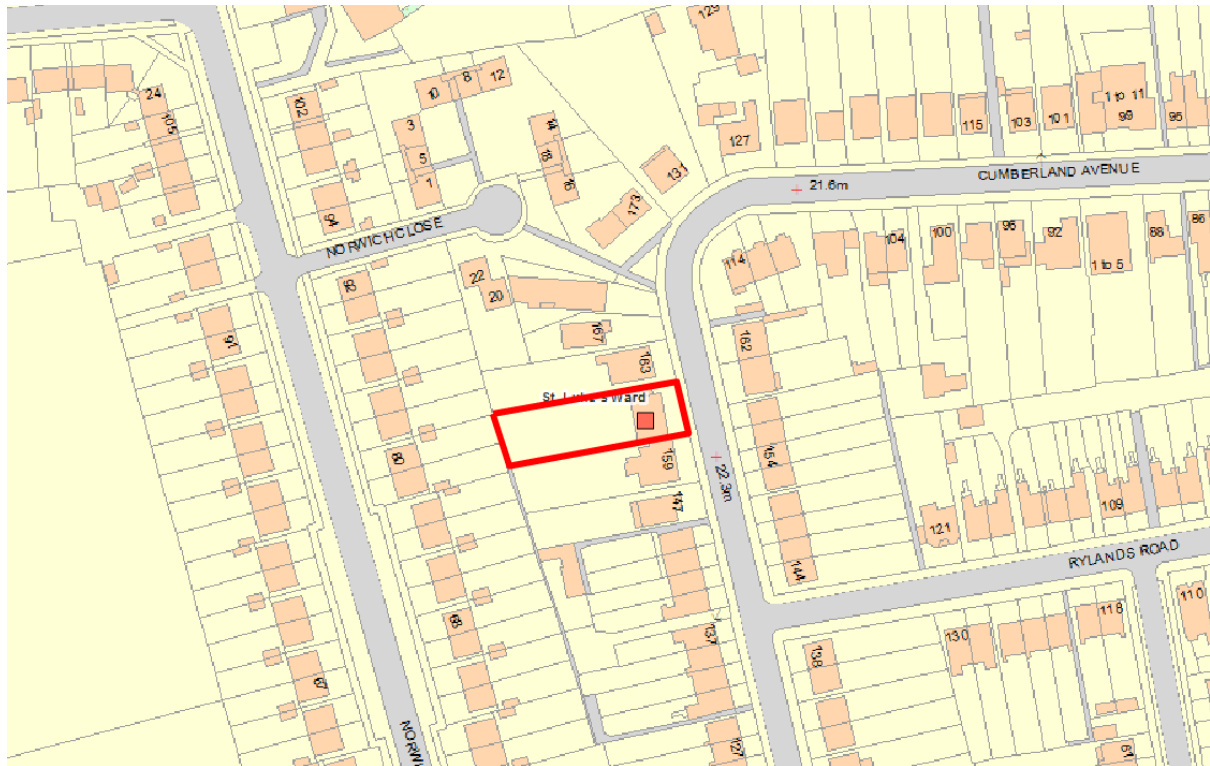


Reference:	15/01828/FUL
Ward:	St Lukes
Proposal:	Use Dwellinghouse (Class C3) as a Day Care Centre (Class D1)(Retrospective)
Address:	161 Westbury Road, Southend-on-Sea, Essex, SS2 4DL
Applicant:	Mr M. Imtiaz
Agent:	
Consultation Expiry:	16/09/16
Expiry Date:	20/10/16
Case Officer:	Ian Harrison
Plan Nos:	16-423-P01 and Location Plan
Recommendation:	GRANT PLANNING PERMISSION



1 The Proposal

- 1.1 Permission is sought to use an existing dwellinghouse (Use Class C3) as a day care centre (Use Class D1).
- 1.2 The applicant's submissions state that the dwelling has been put to use as a day care centre by between 4 and 6 people. The hours of use are between 0900 and 1600 on Monday to Friday. Previous correspondence between the applicant, staff at the site and Officers of the Local Planning Authority has established that the site has been used as follows:
- The use of the building is by up to 12 people, although the number of clients varies on a daily basis.
 - The number of carers ranges from 3 to 4 depending on the number of people using the service.
 - Staff are normally present at the site from 0800 to 1700.
 - Most users of the facility are collected by minibus which is parked at the site.
 - A small number of visitors are dropped off and collected by their relatives.
 - Two carers drive to the site, one of which parks at the site and one parks within walking distance of the site.
 - The building is not occupied at weekends or overnight.
 - There is no signage displayed at the site.
- 1.3 On visiting the site, it is considered that the operation described by the bullet points above is accurate.
- 1.4 No external alterations to the building are proposed.

2 Site and Surroundings

- 2.1 On 23rd July 2015, an enforcement case was opened as a result of complaints received from local residents in which it was alleged that the building was being used as a day care centre for older persons.
- 2.2 On 31st July 2015, a site inspection was carried out when it was established that the allegation was correct. Staff explained to the case officer that vulnerable older persons were collected from their homes in a minibus, brought to the property for the day and returned home in the late afternoon.
- 2.3 The change of use of the land from residential to day care centre requires planning permission so a letter was sent to the proprietor dated 21st August 2015 inviting the submission of a retrospective application.
- 2.4 As no valid planning application had been received, the matter was presented to the Council's Development Control Committee with a recommendation that no enforcement action is taken in relation to the use. The committee determined that the matter should be deferred to give the applicant an opportunity to submit a planning application.

- 2.5 Following the committee meeting the applicant has submitted the necessary documentation for the planning application, which was first submitted in October 2015, to be validated.
- 2.6 The application site currently contains a single storey building that was formerly used as a dwelling. The site is located within a residential area and is not the subject of any site specific policy designations.

3 Planning Considerations

- 3.1 The main considerations in the determination of this application are the principle of the development, impact on residential amenity of neighbouring residents and traffic and highways issues.

4 Appraisal

Principle of Development

National Planning Policy Framework; DPD1 (Core Strategy) policies KP2, CP4, CP8; Development Management DPD Policies DM1 and DM15 and the Design and Townscape Guide SPD1 (2009)

- 4.1 The National Planning Policy Framework states that one of the key roles of sustainability is its social role which states that development should create “a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being.” It is also noted that one of the core principles of the NPPF is to *“take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.”*
- 4.2 Moreover, policy CP6 states that *“new development should provide for health and social care facilities”* and that the Local Planning Authority should safeguard existing and provide for new leisure, cultural, recreation and community facilities. It is considered that the day centre use can legitimately be considered to be a community use given that it is providing care for people of the local community. It is therefore considered that the proposed use accords with the abovementioned national and local planning policies.
- 4.3 Conversely, policy CP8 states that the Council will *“resist development proposals that involve the loss of existing valuable residential resources, having regard to the limited land resources in the Borough, the need to safeguard an adequate stock of single family dwellinghouse, and to protect the character of residential areas.”*
- 4.4 By causing the loss of a residential property, the proposal is having a negative effect in terms of the Council meeting its housing targets, contrary to policy CP8 of the Development Plan.
- 4.5 There is a conflict between the above policies in this case. In this instance, noting that only one dwelling would be lost but the community facility serves and provides care for up to 12 older residents of the local community, it is considered that, on balance, the principle of the proposed development can be found acceptable.

- 4.6 In reaching this conclusion weight is afforded to the comments of the Council's Contracts Team (Department for People) who advised the Council's Enforcement Officer that:

"Westbury Day Centre is providing a valuable service to us in Southend and there are now 28 vulnerable older adults attending the services across the week and this accounts for 48 attendances as some go there more than once a week. This number has obviously built up since the centre open back in June last year.

The centre is providing a valuable service to these individuals which we could not commission elsewhere if the centre was unable to continue to operate. A day service provides much needed respite for carers and a social outlet for people who are isolated and not normally able to access the community. The people attending have an enjoyable time and the activities on offer are geared to meet their needs.

The home itself is registered with CQC although there is no requirement for a day centre to be registered with them"

Design and Impact on the Character of the Area

The National Planning Policy Framework; DPD1 (Core Strategy) policies KP2 and CP4; DPD2 (Development Management) policies DM1 and DM3 and the Design and Townscape Guide.

- 4.7 The proposed development is not dependent on any external alterations to the site and it is therefore considered that no objection should be raised to the proposal on visual grounds.

Impact on Residential Amenity.

National Planning Policy Framework, Policy CP4 of the Core Strategy, Development Management DPD Policy DM1 and Design and Townscape Guide.

- 4.8 Policy DM1 of the Development Management DPD also states that development should "Protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight."
- 4.9 As the proposed development would not be dependent on any external alterations, it is considered that the change of use would not cause any harmful impacts on residential amenity in terms of light, privacy or outlook.
- 4.10 It is noted that objections have been raised in relation to the use of the building on the grounds that movement of people to and from the site and the activities that occur within the site cause unacceptable noise and disturbance.
- 4.11 It is considered that conditions can be imposed to limit the hours of use of the facility and the number of people that can be at the site. The restriction of hours would mean that any noise would be limited to day time and only during week days. It is noted that established criteria for noise assessments allows for greater noise levels to be created during the day than at night..

- 4.12 It is acknowledged that vehicle movements and activities can cause noise, but noise can also reasonably be caused within residential properties. In this instance it is considered that the noise generated would not be materially different, subject to conditions, to what could reasonably be created within a residential setting by the occupants of residential properties. It is therefore considered that the use of the property as a day care centre should not be objected to on noise grounds, subject to the imposition of conditions related to the use of the property.

Highways and Transport Issues:

National Planning Policy Framework, Policy KP2, CP3 and CP4 of the Core Strategy, Development Management DPD Policies DM1 and DM15 and the Design and Townscape Guide.

- 4.13 Policy DM15 states that the maximum parking standard for a D1 use is 1 space per member of staff and waiting facilities where appropriate. It appears that a parking space for one vehicle exists at the site and this is supported by the applicant's submissions.
- 4.14 It is known that a mini-bus collects the majority of visitors to the property and as this vehicle can be parked within the site, it is considered that the necessity of parking in the form of waiting spaces is reduced. On the basis that the minibus parks off-road at the site, all members of staff park on the highway the proposal would remain acceptable. The number of people (visitors or staff) can be controlled by condition but it would be almost impossible to control the manner in which they arrive at the site as any condition requiring the continued use of the bus or a certain number of people to walk could not be realistically monitored. However, noting that the parking standards are a maximum standard it is considered that the proposal is not contrary to the policies of the development plan. Visits to the site suggests that Westbury Road and Cumberland Avenue are not areas of significant parking stress and as such it is considered that the proposal, with limited off-street parking, would not pose a threat to highway safety or in any other relevant regard.

Community Infrastructure Levy.

- 4.15 The change of use is not CIL liable.

5 Planning Policy Summary

- 5.1 National Planning Policy Framework
- 5.2 DPD1 Core Strategy Policies CP3 (Transport and Accessibility), CP4 (Environment & Urban Renaissance) CP6 (Community Infrastructure) and KP2 (Development Principles), KP3 (Implementation and Resources) CP8 (Dwelling Provision)
- 5.3 Development Management DPD Policies DM1, DM2, DM3, and DM15 including Housing Standards Transition Policy Statement dated 01/10/15.
- 5.4 Community Infrastructure Levy Charging Schedule
- 5.5 Design & Townscape Guide 2009 (SPD1).

6 Representation Summary

Traffic & Highways Network

- 6.1 Consideration has been given to the number of staff and users that will be at the facility and the traffic movements associated with change of use. The applicant has stated that up to 12 people will be using the facility and will be transported via a mini-bus which can transport 8 people and 1 wheelchair. The facility will not be operational Saturdays/Sundays. Alterations have been made to the frontage of the property to allow a mini bus to park off street. This will help reduce the impact on on-street parking within the area. Consideration has also been given to the 4 members of staff 2 of which drive and others live locally. The site is considered to be in a sustainable location with regard to public transport with bus links nearby which include North, South & Central avenue and the St. Lukes area. An additional 2 vehicles will not have a detrimental impact on the availability of on street parking within the local area.

The facility is already in operation, having checked with other highway colleagues no complaints have been made relating to any transport concerns relating to the current operation.

Therefore given the above information there are no highway objections to this proposal

Public Consultation

- 6.2 Notification letters were sent to 7 neighbouring residents. Three objections have been received from the residents of two properties which object on the following grounds:

- Noise created at the site is excessive, with a barking dog, singing, music and the playing of instruments at the site.
- Associated parking and access to the site obscures views on a dangerous bend. As many as five vehicles are parked at or near the site.
- The creates several vehicle movements.
- The parking situation is worsened by another care home “next door but one.”
- The fence at the site is not secure (Officer Note – Not a planning matter)
- The minibus is causing damage to the path and the roadway (Officer Note – Not a planning matter and this has been reported to the Council’s Highways Team).
- CCTV cameras overlook the neighbouring property (Officer Note – Not a planning matter).
- A tree within the site is overshadowing the neighbouring property (Officer Note – Not a planning matter).
- The property is relying on the domestic waste services of Southend-on-Sea Borough Council and not commercial waste services. (Officer Note – Not a planning matter)
- The number of visitors exceeds the amount shown on the CQC licence. (Officer Note – Not a planning matter).
- The application form has been completed incorrectly.
- The carers make noise when they are helping people from the minibus to the site, including shouting to each other and slamming the doors of the vehicle.

The application has been called-in to the Council's Development Control Committee by Councillor Ayling

7 Relevant Planning History

7.1 None

8 Recommendation

GRANT PLANNING PERMISSION subject to the following conditions:

01 The use of the building shall only occur between the hours of 0900 and 1700 on Monday to Friday and no carers, staff or other people shall be at the site outside the hours of 0800 and 1800 on Monday to Friday. The site shall not be used on Saturdays or Sundays.

Reason: To protect the amenities of neighbouring residents in accordance with the National Planning Policy Framework and policy DM1 of the Development Management DPD.

02 The building shall not be used by more than 12 people in need of care and shall not be served by more than 4 carers at any one time.

Reason: To protect the amenities of neighbouring residents in accordance with the National Planning Policy Framework and policy DM1 of the Development Management DPD.

03 Notwithstanding the terms of the Town and Country Planning (Use Classes) Order 1987 (as amended) the building shall only be used as a Day Care Centre and for no other purposed falling within Use Class D1.

Reason: To control the use of the premises and protect the amenities of neighbouring residents in accordance with the National Planning Policy Framework and policy DM1 of the Development Management DPD.

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.