

DELEGATED FILE NOTE

CASE OFFICER: ...Tom Rea.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
25/01134/FP	Change of use of the existing dwelling from a residential dwelling (Use Class C3) to use as a children's home for up to three children (Use Class C2). Two storey side extension and front porch canopy following the part demolition of the existing garage including bin and cycle stores, installation of additional front hardstanding and provision of three parking spaces.	50 Moss Way Hitchin Hertfordshire SG5 2QP

Submitted Plan Nos

2025/06_PL.001 - 2025/06_PL.002 - 2025/06_PL.003 2025/06_PL.004 - 2025/06_PL.005_
2025/06_PL.006 2025/06_PL.008 2025/06_PL.009 2025/06_PL.010 - 2025/06_PL.011

1.0 Policies

National Planning Policy Framework (2024)

The following paragraphs of the NPPF are considered relevant to the determination of this application:

Paragraphs 7, 8, 10 and 11 - Achieving sustainable development

Paragraphs 39, 48, 56 and 57 - Decision-making

Paragraph 96 - Promoting healthy and safe communities

Paragraphs 109, 115-118 - Promoting sustainable transport

Supplementary Planning Document.

North Herts Parking SPD

Sustainability SPD

North Hertfordshire District Local Plan 2011-2031 Local Plan and Proposals Map

HS3 Housing Mix

HS4 Supported, Sheltered and older persons housing

D3 Protecting Living Conditions

T2 Parking

2.1 None

3.0 **Representations**

3.1 **Statutory Consultees**

3.1 **Herts Highways** – No response

3.2 **Environmental Health (Noise)** – Seeks clarification on selection criteria in order to ensure that there is no disturbance to neighbours. Applicant has responded with details of the rigorous registration process with Ofsted.

3.3 **Crime Prevention Design Advisor – Hertfordshire Constabulary** – Recommends that the developer seeks Secure by Design accreditation and advises that ground floor office door to secure and third party certified as per the building regulations.

3.4 **Neighbour Representations**

No responses have been received.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 No. 50 is a two-storey semi-detached dwelling situated on the west side of Moss Way within a predominately residential area of Hitchin. The application property features an existing single storey detached garage located to the side and front of the property together with a drive in front .

4.1.2 The property currently features three bedrooms and one bathroom at first floor, with general living space on the ground floor. There are front and rear gardens.

4.2 **Proposal**

4.2.1 Planning permission is sought for the change of use of existing residential dwelling (C3) to registered Children's Home (C2) and construct a two storey side extension and front porch canopy following the part demolition of the existing garage including bin and cycle stores, installation of additional front hardstanding and provision of three parking spaces.

4.2.2 The proposed children's care home would operate as such:

- Up to 3 children between 7 and 18 years of age occupying as permanent residents.
- 24-hour care would be provided via a shift pattern – there would be a maximum of 3 full-time carers during the day and 2 carers staying overnight.
- A house manager will be present 3 – 4 days a week between 9 – 5pm
- Parking for 2 cars are required – space for 4 cars on the driveway
- The children's home would be registered with OFSTED as a home for children with emotional & behavioural difficulties and / or learning difficulties
- Each child would have their own bedroom

4.3 Key Issues

4.3.1 In considering a change of use from dwelling house (Use Class C3) to residential institution (Use Class C2) to accommodate up to 3 children in a small children's home, the relevant planning considerations are:

- ☐ Principle of development – definition of use class and material change of use;
- ☐ Impact upon local amenity and character of the area – including noise and safe environment; and
- ☐ Highway and Parking matters.
- ☐ The impact of the proposed extensions on neighbours and the street scene

Principle of Development

4.3.2 The application site is in a residential area within the settlement boundary of Hitchin as defined in Policy SP2 of the adopted Local Plan.

- 4.3.3 The proposal seeks to change the existing use of the residential dwelling to a children's care home, for three children.
- 4.3.3 There is a bus stop close to the outside the property which goes around West Mill and into Hitchin town centre. As such, it is considered that the site is in a location that could be accessed by members of staff via sustainable transport and could be used by the occupiers of the care home if required.
- 4.3.4 In regard to amenities, the property is within a residential area which is within approximately 800 metres from the local shops on John Barker Place and Redhill Road and close proximately to primary and second schools. The property would also have access to public open spaces with play areas e.g. play equipment at Swinburne Avenue.

Use Class C2 – Residential Institutions

- 4.3.5 A change of use from Use Class C3 to Use Class C2 requires planning permission and is considered on a case-by-case basis depending on the nature of the use, intensity and impact.
- 4.3.6 Given the proposal is that the 'staff' are not permanent residents of 25 Milestone Road the use would fall within Use Class C2. The Use Classes Order 1987 (as amended) defines C2 as residential institutions. The full description is use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).
 Use as a hospital or nursing home.
 Use as a boarding school, residential college or residential training centre.
 "care" for Use Class C2 is defined as '*personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment*'. This is within Article 2 of the Use Class Order 1987.

Case Law – C3/C2

- 4.3.7 Established case law provided for by the North Devon judgement in respect of a house used to care for children provides understanding of the use of a Children's Care Home which is a fundamental basis of determining the application. This case considered whether a dwellinghouse used to provide residential care for two children fell within Class C2 or C3(b). Only the children would live permanently on the premises; the carers being resident elsewhere and providing care on a shift rota system. In the North Devon case, the property was being used as a home for two children. Two non-resident staff were always at the property with a shift system operated by 6 to 7 carers to maintain the requisite cover. The application was based on the premise that the children by themselves would constitute a single household with the use falling within Class C3(b). Crucially, the Judge found that the children could not be regarded as constituting a household by themselves. The question also arose as to whether carers who do not live on the premises but who, between them, provide 24-hour care can be regarded as living together as part of the household. The court held that the concept of living together as a

household means that a proper functioning household must exist and thus, for the use to fall within Class C3(b), the children and carers must reside in the premises. Otherwise, the use falls within Class C2.

Impact upon local amenity and character of the area

- 4.3.8 Although no comments have been raised by neighbours the main issue for consideration would be the potential for general noise and disturbance impacts particularly from 'comings and goings' to and from the property. In the proposal, the number of bedrooms at the property would be increased 5 from 3 although only 3 children and two / three carers would be resident at the property at any one time – equivalent to the operation and use of a normal family dwelling. On this basis I conclude that there will not be a significantly detrimental impact on the neighbouring properties amenities from general activity to and from the property.
- 4.3.9 Furthermore, the applicant has confirmed that no more than 3 children would be permanent residents of the property at any given time. The application includes staff numbers and rota / shift patterns.
- 4.3.10 It is my opinion that this shift pattern is not considered to result in any significantly detrimental noise and disturbance impacts on neighbouring properties amenities as these would coincide with typical movements for the working day and school and would not be significantly difference from the normal patterns of movement from and to a typical family home.
- 4.3.11 Following a request for more information on the selection process the applicants have provided the following information:

Before occupation, private children's homes of this nature go through a rigorous registration process with Ofsted. This includes a robust risk assessment of the location, the property and whether the context is appropriate. Following this, children are placed based on their suitability for the home. However, where planning permissions are required, it is always the case that relevant permissions must be granted before Ofsted registration takes place. As such, at this stage, it is not possible to be sure as to the specific children that would be accommodated within this care home (if approved).

In terms of Alan's specific queries, I would say that it is potentially a little bit of an inappropriate comment or generalisation that children accommodated at a children's home will make unusual noises and that this would be harmful in the context of a residential environment. Indeed, we have dealt with somewhere in the region of 25 of planning applications for these types of homes at this point and I think this is the first time that this particular issue has been raised. Ultimately, any residential setting could cause disturbance whether that be noise from pets, noise from children, loud music being played, machinery being operated, or DIY being carried out and we don't consider that this is any more likely in the case of a children's home. Indeed, a private children's home such as this is liable to be more closely monitored given the 24-7 care provided and thus each child's behaviour is likely to be given much closer scrutiny than would perhaps be the case in a typical family setting. Accordingly, whilst there is a small

chance that one or more of the children do, on occasion, make noise, overall, our clients experience is that this will be an extremely rare occurrence and that a children's home of this nature will typically operate with less fuss than a typical dwelling.

Alan mentions that there are cases where a more remote setting might be more appropriate. Children's homes are generally designed to be indistinguishable from typical family dwellings the aim being to provide as close to a typical family setting as possible. Accordingly, whilst there may be some instances where a remote setting is more appropriate, this would be antithetical to the entire premise of a children's home such as this which is designed to help the children integrate with and otherwise learn to play a role in society.

Ultimately, we cannot be absolutely sure that there won't be noise arising from any of the children that reside at the home. However, there is nothing intrinsic in a private children's home that indicates that noise impacts are likely, albeit even in the event that there is significant disturbance, this can probably be dealt with more efficiently through the Environmental Protection Act. Some authorities approve these types of application subject to the submission of an Operational Management Plan. This sets out the operations of the home, including setting out procedures by which neighbours can register complaints with the home manager in the rare event of a disturbance. We are happy to agree to something along these lines if this provides additional comfort regarding the operation of the home.

- 4.3.12 On balance, it is considered that the general noise and disturbance impacts would not be significantly different from that at a family dwelling and therefore refusal of planning permission is not justified for this reason.
- 4.3.13 It is considered that the proposal is not likely to result in any additional anti-social/criminal behaviour than what could be generated by the existing residential dwelling. Furthermore, the children's care home is proposed to have 24 hr care with the children not being left unsupervised for any period, unlike a family home where children of this age group may be left at home unaccompanied some of the time. In coming to a recommendation of approval, it is noted that the Council's Environmental Health department have raised no specific objections to the application. A condition is recommended to request the submission of a Selection Process and Noise Management Policy
- 4.3.14 It is considered that the proposal would not result in significant impacts upon surrounding residential amenity that would warrant refusal of planning permission and on this basis the proposal accords with the general policy aims of Local Plan Policy D3.

Highway and Parking matters

- 4.3.15 In assessing the parking and access matters the following is noted:

Vehicle access

Moss Way is an unclassified Road. There are no alterations to the existing access point

Traffic generation

The use of the property by 3 children and 2 – 3 carers will not significantly alter the traffic generation.

Visibility

Visibility will be improved by the removal of the front hedgerow.

Accessibility

The site lies within easy reach of the estate bus route and centre and within commuting distance by a frequent bus service to other towns and the local railway station at Hitchin

Refuse and cycle storage

Provision is made for secure cycle and refuse storage in a discreet location at the rear of the property.

It is concluded that the development is of a low scale would not have an unreasonable impact on the safety and operation of the adjoining highway

- 4.3.16 As a result of the proposed development, the number of bedrooms increase to 5. The proposed use would see three bedrooms for the children and one room for staff. The Parking SPD states that Use Class C2 – Residential institutions Institutions/homes with care staff on premises at all times (excluding nursing homes, hospitals, residential schools, colleges or training centres) 1 space per 5 residents' bed spaces plus 1 space per 2 staff (non-resident).
- 4.3.17 There are no specific parking standards for children's care homes in the Local Plan or Parking SPD. Based on the above. It is considered that given the existing dwelling is required to have a minimum of 2 off-street car parking spaces and the small number of people residing at the property are unlikely to have the use of a vehicle given the age of the residents (under 18), the proposal is not considered to result in an unacceptable impact on highway safety or the wider highway network. A condition would be imposed on any planning permission granted to ensure that three off-street car parking spaces are provided in perpetuity. On balance, the proposal is therefore considered to be acceptable in relation to Policies D1 and T2 adopted Local Plan as well as the Parking SPD.
- 4.3.18 **The impact of the proposed extensions on neighbours and the street scene**
- 4.3.19 The proposed side two storey extension would be sited at least 1 metre from the side boundary and would not project beyond the rear or front elevation of the original property. No. 48 Moss Way is set forward of No. 50 but is separated from the boundary by its own garage and is located to the north therefore this orientation will ensure that there is no loss of light. The small porch extension would have no impact on adjacent property. There would be no terracing effect in the street scene and materials would

match the main dwelling. As such it is considered that the proposal will be in compliance with Policies SP9, D1, D2 and D3 of the North Herts Local Plan.

4.4 Conclusion

- 4.4.1 The principle of development is acceptable and the extensions to the property are sympathetic in terms of design, scale, proportions, materials and fenestration. On balance, it is considered that the proposed change of use and extensions would not be significantly detrimental to the amenities of neighbouring residents or harmful to the character and appearance of the area in general. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal would comply with the relevant policies in the adopted Local Plan and the NPPF. It is therefore recommended that the application be granted subject to conditions as recommended below.

4.5 Alternative Options

None applicable

4.6 Pre-Commencement Conditions

I can confirm that the applicant is in agreement with the pre-commencement conditions that are proposed

4.7 Climate Change and BNG

This application is exempt from the BNG Regulations and is of a scale that is unlikely to have any significant impact on local climate change

5.0 Recommendation

- 5.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. The use hereby permitted shall be for a children's home only and shall not be used for any other purpose falling within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) without the prior written consent of the Local Planning Authority.

Reason: To control the future use of the site and to assess any potential future impacts of alternative C2 uses

4. The premises shall be used for a residential childrens' care home for a maximum of three (3) children under the age of 18 at any one time and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 2020 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To restrict the use and Number of occupiers to safeguard the local amenities of neighbouring properties

5. There shall be no more than two (2) members of staff present on the premises at any one time, excluding emergency circumstances.

Reason: In the interest of residential amenity and to limit potential noise and parking impacts

6. Prior to the occupation of the children's care home hereby permitted, a minimum of three off-street car parking spaces shall be provided for staff members and shall thereafter be kept available solely for the parking of motor vehicles.

Reason: To ensure the provision of satisfactory car parking facilities clear of the public highway to meet the needs of the development.

7. The extension(s) hereby permitted shall be built in external materials to match the existing dwellinghouse unless otherwise agreed in writing by the LPA.

Reason: To protect the visual amenities of the locality and to comply with Policies D1 and D2 of the North Hertfordshire Local Plan 2011 to 2031.

8. Prior to the commencement of the use hereby permitted a detailed Selection Process and Noise Management Policy shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure effective control and management of the premises in the interests of the amenity of neighbouring occupiers and the amenity of the area in general. To comply with Policies SP9 and D1 of the Local Plan.

Biodiversity Net Gain

This development is not subject to the statutory Biodiversity Gain Plan condition because it is considered exempt under the statutory exemptions (<https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>) or transitional arrangements in respect of the biodiversity gain condition.

Proactive Statement:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed  Anne McDonald	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Determining Officer Date: 10 July 2025	