

1. Application Details

1.1. Address: 38 Prince George Drive, Kingsway, Derby

1.2. Ward: Littleover

1.3. Proposal:

Change of use from dwelling (Use Class C3) to residential care home (Use Class 22C2)

1.4. Further Details:

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/PLAN/22/00861/FUL>

Brief description

The site

The application site is located on the east side of Prince George Drive in Manor Kingsway. It is a corner plot with an integral single garage to the side and a walled curtilage boundary adjacent to the public highway. A driveway is located to the right hand of the dwelling with off street parking space for 2 vehicles (including the garage). The property contains 3 floor levels, containing a kitchen/diner at ground floor, then 2 bedrooms and a bathroom at both first floor and second floor level. To the rear the external usable amenity space measures approximately 7.5m by 5m, excluding a shed structure which exists to the rear of the garage.

The immediate surrounding locality is entirely residential with a mix of detached, semi-detached and small groups of terraced properties. The site is part of the Manor Kingsway estate which is newly built and planned in its layout and design. Land levels are generally flat and rectangular shaped grassed/vegetated parcels of land run parallel to the highway. These are drainage attenuation features bordered with low level post and rail means of enclosure.

Proposal

Full planning permission is sought for the change of use of the existing dwelling into a residential care home (Use Class C2) for up to 3 children. The application is accompanied by a supporting statement which explains that the property would be used as a small residential care home for up to three children (children under 16 years old). The property would be used as their permanent residency, replicating a family home environment as much as possible. Up to two care workers would be required at the home at any given time during the day, including overnight, ensuring 24/7 care at all times.

It is understood that for approximately 2-3months the dwelling has been used as a children's care home and through planning enforcement measures the applicant submitted this planning application to retain the use.

2. Relevant Planning History:

No relevant planning history

3. Publicity:

- Neighbour Notification Letters sent to adjoining properties
- Site Notice

This publicity is in accordance with statutory requirements and the requirements of the Council's adopted Statement of Community Involvement.

4. Representations:

In line with the Data Protection Act and associated legislation this appraisal should not include details, or seek to identify through repeating specific comments, the individuals who have objected, supported or made general comments about the application. Therefore, to maintain anonymity, the relevant planning grounds of objection, support or comment have only been included in broad terms. It is important to note that all comments received have been fully considered as part of the application process and included in the overall 'planning balance' exercise.

In total 26 objections, have been received following the consultations undertaken on the application. The material planning issues raised in the objection letters are summarised below

- The property was being used as a care home in January 2022
- Frequent trespassing
- Trust in the company being transparent in who they are or what they do
- No parking provision for additional visitors, causing blocked driveways and on street parking
- No.38 is not very private and close to neighbouring properties. Staff lights and blinds open creates disturbance
- Items thrown over boundary wall causing damage to property
- Residents will suffer adverse noise and anti-social behaviour which will undoubtedly happen given passed records of these young people's behaviour
- Placing children in decent residential areas not the answer
- Attracts undesirables
- Property was previously occupied as a care home for a short period of time and there were acts of anti-social behaviour in the area with the children being poorly supervised by carers leading to threats made to residents and the Police having to be called
- I also understand that if this application is successful there are plans to apply for another one further down the development.

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- Don't believe a children's home would be right for the street
 - The access road outside the property was constantly being used as a parking spot. It is not for parking, it was blocking the access road for other cars and emergency vehicles, and the people who were employed there on different shifts were constantly blocking in the person in the neighbouring property.
 - Occupants have brought anti-social behaviour to the locality
 - Numerous staff change overs
 - Many families and young children live here
 - One carer for three young men?
 - The exterior grounds look a mess and unkempt
 - The noise levels were also not in keeping within the neighbourhood coming from this property.

Regardless of how this children's home is administrated there are going to be problems

- We already have a number of issues on the estate, mostly related to Nottingham Housing Association, police being called on a regular basis

5. Consultations:

5.1. Highways Development Control:

Updated highway comments

This response is in addition to that previously made on 20 June 2022.

The application is for the change of use from a dwelling to a residential care home. The proposal states there will be no more than 5 people in total in the property. This includes one daytime carer and one night-time carer. In effect, this is two fulltime staff members and three children, and is a situation not dissimilar to a family dwelling. This road is unadopted and therefore not maintained by Derby City Council and remains the responsibility under the developer concerned. Prince George Drive is subject to waiting restrictions - Permit holder only parking, Mon – Sat 8am – 6pm; the Council can enforce the Traffic Regulation Order.

Successive site visits have shown that a vehicle is regularly parked on the frontage private drive serving this and neighbouring properties. However, as previously stated, this is not public highway and I have no direct evidence of what property this is associated with. The application form states that three parking spaces are available. This seems technically incorrect. There is apparently an existing garage serving the site, with a space to park a single further vehicle within the site curtilage (by plan measure 7m is available). No internal garage dimensions are provided to be able to advise whether there is sufficient space to park the second vehicle. In any case it is difficult to see that in practice vehicle parking associated with the proposed use would take place in the same manner as residential parking in respect of the use of the garage. However, issues of parking on a private drive, which in turn is served off

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a private road are not matters which fall within the remit of the Highway Authority and these observations.

As stated, the council can enforce the permit parking restrictions within the vicinity of the site. However, the operators of the site can subsequently apply for permits for the occupiers and their visitors. There will be an on-going charge for the permits (if they are issued), but this would be an operational issue which the applicant/operator would need to consider.

Paragraph 111 of the National Planning Policy Framework states that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe." The Highway Authority does not consider that it could be argued that the proposed change of use would have an unacceptable impact upon highway safety or a severe impact upon the adjacent highway network.

Previous highway comments

This application is for the change of use from a dwelling to a residential care home. The proposal states there will be no more than 5 people in total in the property. This includes one daytime carer and one night-time carer. So, this is two full-time staff members and three children.

A site visit shows that there are provisions for possibly up to two small vehicles on the front drive, one behind the other. The application did state 3 car parking spaces, however I believe the frontage is one of the entrances/exits for the access road leading to several properties.

Prince George Drive is Permit holders (18) parking only area Mon ' Sat 8am ' 6pm.

This road is unadopted highway and therefore not maintained by Derby City Council and remains the responsibility under the developer concerned.

Assuming that that there are two staff on duty at any time; the operational use of the site/dwelling would not be dissimilar to that which would be expected for a regular residential dwelling.

Para 111 of the National Planning Policy Framework states that 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

The Highway Authority does not consider that it could be argued that the proposed change of use would have an unacceptable impact upon highway safety or a severe impact upon the adjacent highway network.

5.2. Police Liaison Officer:

There are no concerns relating to this area, consequently there are no objections to the application.

6. Relevant Policies:**6.1. Relevant Policies:**

The Derby City Local Plan Part 1 - Core Strategy was adopted by the Council on Wednesday 25 January 2017. The Local Plan Part 1 now forms the statutory development plan for the City, alongside the remaining 'saved' policies of the City of Derby Local Plan Review (2006). It provides both the development strategy for the City up to 2028 and the policies which will be used in determining planning applications.

Derby City Local Plan Part 1 - Core Strategy (2017)

CP3	Placemaking Principles
CP4	Character and Context
CP6	Housing Delivery
CP21	Community Facilities
CP23	Delivering a Sustainable Transport Network

Saved CDLPR Policies

GD5	Amenity
H13	Residential Development – General criteria
E24	Community Safety

The above is a list of the main policies that are relevant. The policies of the Derby City Local Plan Part 1 – Core Strategy can be viewed via the following web link:

https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/evidencebase/Core-Strategy_ADOPTED_DEC-2016_V3_WEB.pdf

Members should also refer to their copy of the CDLPR for the full version or access the web-link:

https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/part1/CDLPR_2017.pdf

An interactive Policies Map illustrating how the policies in the Local Plan Part 1 and the City of Derby Local Plan Review affect different parts of the City is also available at – <http://maps.derby.gov.uk/localplan>

Over-arching central government guidance in the NPPF is a material consideration and supersedes earlier guidance outlined in various planning policy guidance notes and planning policy statements.

6.2. Non-housing applications:

The Local Plan (consisting of the policies of the DCLP1 and the saved policies of CDLPR) covers the period 2011 to 2028 and was adopted on 25 January 2017. The policies of the local plan were reviewed in December 2021 in line with Regulation 10a of the Town and Country Planning (Local Planning) (England) Regulations 2017 and paragraph 33 of the NPPF, the provisions of which require Local Plan policies to be reviewed at least every 5 years. The officer led review, endorsed by the Council's Cabinet on 8 December 2021, indicated that all of the policies relevant to the

consideration of this application are still up to date and carry weight in the decision making process as they remain consistent with the NPPF and there have been no changes in local circumstances that render any of the policies out of date. The application is therefore being considered in terms of its accordance with the policies of the Local Plan and any other material considerations, including the National Planning Policy Framework.

7. Officer Opinion:

Key Issues:

In this case the following issues are considered to be the main material considerations which are dealt with in detail in this section.

7.1. The Principle of Development

7.2. Residential Amenity Implications

7.3. Highway Impacts

7.4. Conclusion

7.1. The Principle of Development

The proposal consists of a change of use to an alternative form of residential accommodation within an existing residential area of Manor Kingsway. The site of the proposal is not allocated for any particular use in the Local Plan – Part 1 and in land use policy terms there are no ‘in principle’ concerns with the proposed change of use. There are no specific policies which restrict the overall number of care homes that can or should be provided within the City at a certain time, and separate legislation would ensure that the wider needs of the occupants can be met. The application site is in a sustainable location so that future occupiers would have good access to services and public transport links in the area. Overall, the principle of the proposed use in this location is considered to be acceptable.

7.2. Residential Amenity Implications

Saved policy GD5 (Amenity) of the CDLPR states that “Planning permission will only be granted for development where it provides a satisfactory level of amenity within the site or building itself and provided it would not cause unacceptable harm to the amenity of nearby areas. In considering harm, the Council will consider the following: a. Loss of privacy; b. Overbearing (massing) effect; c. Loss of sunlight and daylight; d. Noise, vibration, smells, fumes, smoke, soot, ash, dust or grit; e. Air, water, noise and light pollution; f. Hazardous substances and industrial processes; g. Traffic generation, access and car parking”.

The proposal states there will be no more than 5 people in total in the property. This includes one daytime carer and one night-time carer. So, this is two fulltime staff members and three children. Numerous objections have been received by nearby properties raising concerns relating to general noise and disturbance impacts including from comings and goings to and from the property.

Concerns have also been raised which relate to anti-social/criminal behaviour and specific ‘incidents’ from occupants of the application property, prior to the submission

of this planning application. The children's care home is proposed to have one member of staff at the property at any given time and, again, separate legislation would ensure that the wider needs of the occupants are/can be met and ensure the care facility is a suitable location for individual placements. The Police Liaison Officer has also commented on this matter and confirmed that the police have no concerns relating to this area, of the city and consequently no objections are raised in respect to anti-social activity.

Whilst community safety is a material planning matter, it is considered that the use of the building as a small-scale care home would not exacerbate community safety issues in the area. Moreover, as the proposed number of bedrooms at the property would remain unaltered, there would be no substantive intensification of use, rather a minor difference in activity to that which may be anticipated in the normal residential use of a house. It is likely that the house and its curtilage would retain the look and character of neighbouring houses; that of a normal residential dwelling.

The use and associated activity, including comings and goings of care workers would be unlikely to cause a greater level of disturbance or amenity harm than could be expected by a C3 use of this large 4 bedroom family home. Young people and children could reside in any typical residential dwelling and it is considered that the proposal is not likely to result in any additional anti-social behaviour than what could be generated by the existing residential dwelling.

On balance, it is considered that the general noise and disturbance impacts would not be above and beyond what could be achieved at a residential dwelling and the proposal is not considered to result in significant impacts upon surrounding residential amenity that would warrant refusal of planning permission. Subject to the suggested condition, it is considered that the proposal would comply with saved policies H13 and GD5 of the CDLPR.

7.3. Highway Impacts

The Highway Officer has offered further detailed comments as per section 5.1. The application form states that three parking spaces are available. This seems technically incorrect. There is apparently an existing garage serving the site, with a space to park a single further vehicle within the site curtilage (by plan measure 7m is available). In practice, whilst the garage is there, it is unlikely it would be used in the same manner as residential parking. It is also observed that vehicles park immediately outside the premises upon the private drive/footway. Yet the duration and frequency of associated vehicles parked on or around the application site is unknown. Nonetheless, in highway terms, the levels of occupancy associated with the proposed care home are not considered dissimilar to those which could legitimately be accommodated by the current residential use of the dwelling.

Some of the third party objections relate to issues of parking on the private drive, which in turn is served off a private road, but these are matters which cannot be directly controlled by the Council, because of the 'private road' status. Nonetheless, as stated in section 5.1, the council can enforce the permit parking restrictions within the vicinity of the site. However, the operators of the site can subsequently apply for permits for the occupiers and their visitors. There will be an on-going charge for the

permits (if they are issued), but this would be an operational issue which the applicant/operator would need to consider.

Para 109 of the National Planning Framework Policy states that 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.' However, 'severe' does not relate to parking, but the consequences of congestion as a result of the traffic effects arising from the development. Given the above discussion, it would therefore not be possible to argue that the proposed use would lead to 'unacceptable impacts' to highway safety.

7.4. Conclusion

The principle of development is acceptable. No external alterations are proposed as a result of the proposed use of the dwelling house. The proposal is considered to be acceptable in terms of highway safety. On balance, the proposed change of use is not considered to result in significantly detrimental impacts on neighbouring amenity. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the adopted Local Plan and the advice contained within the NPPF. It is therefore recommended that the application be granted permission, subject to the suggested conditions.

8. Recommended decision and summary of reasons:

8.1. Recommendation:

To grant planning permission with conditions.

8.2. Summary of reasons:

The principle of the use of the dwelling house as a small children's care home, is acceptable in this location. No external alterations are proposed as a result of the development. The proposal is considered to be acceptable in terms of highway safety and would not result in significantly detrimental impacts on neighbouring amenity. There are no other relevant material planning considerations that indicate planning permission should not be granted.

8.1. Conditions:

1. Standard 3 year time limit condition

Reason: As required by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. Standard approved plans condition

Reason: Standard approved plans condition Amended Drawing No. 221-09.02 (Amended red line showing correct location of off-street car parking spaces owned by the applicant).

3. Condition restricting the use of the property as a children's residential care home (Use Class C2) for occupation by three children, with staffing arrangement as specified within the supporting statement

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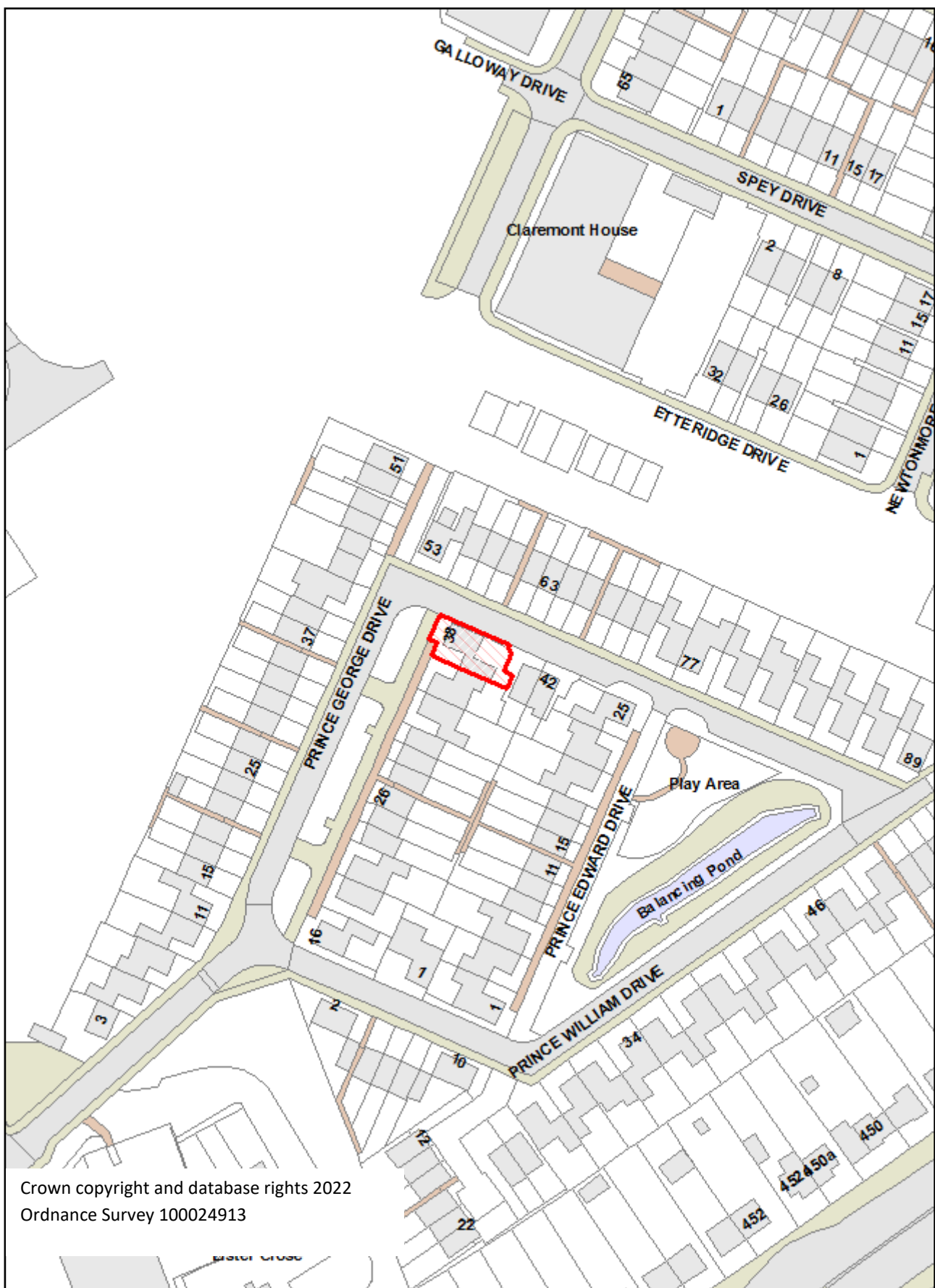
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Reason: To enable the local planning authority to maintain control over the proposed use, to safeguard the amenities of the surrounding area.

8.3. Application timescale:

An extension of time has been agreed on the application until 24 November 2022 to allow the application to be considered by the Planning Control Committee.



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