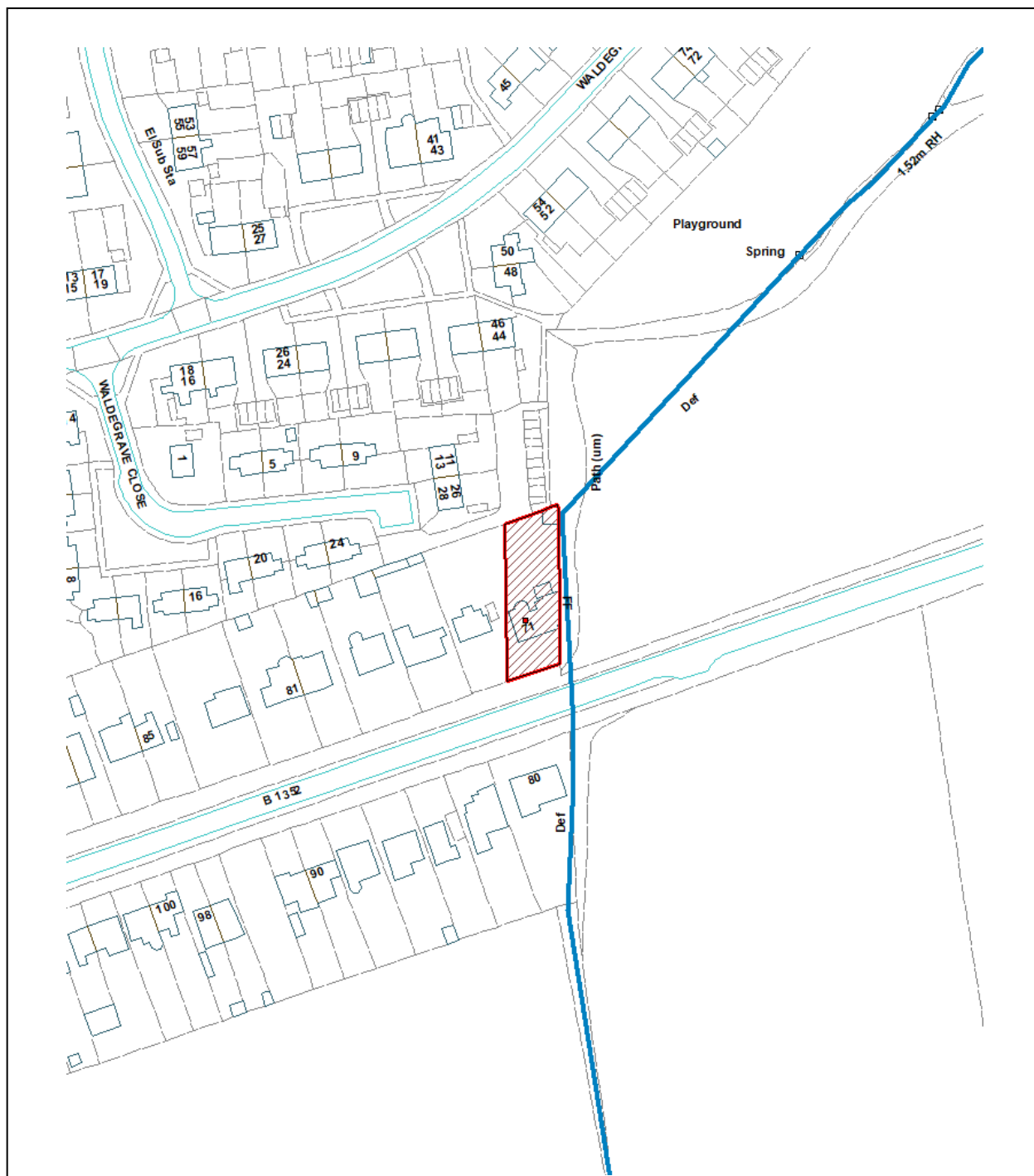


PLANNING COMMITTEE

25th October 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 22/01088/FUL – 71 LONG ROAD LAWFORD MANNINGTREE ESSEX CO11 2HR



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Application: 22/01088/FUL

Town / Parish: Lawford Parish Council

Applicant: Kedleston Group Limited

Address: 71 Long Road Lawford Manningtree Essex CO11 2HR

Development: Proposed change of use from a dwellinghouse (C3) to a children's care home (C2).

1. **Executive Summary**

- 1.1 The application is before the Planning Committee following a joint call-in request from Councillor Giancarlo Guglielmi and Councillor Alan Coley due to concerns raised in respect of the impact of the proposal on residential amenities.
- 1.2 The proposal is for the change of use of the existing residential dwelling into Use Class C2 (Residential Institutions) to operate as a children's care home that will provide care for up to five children between the ages of 8 and 18, and will include between one and three members of staff who will rotate on a shift basis.
- 1.3 Policy LP10 provides in principle support for such uses within settlement development boundaries, while the minor external alterations will not adversely impact upon the area's character and appearance. In addition, there are not considered to be significant noise disturbances to warrant recommending a reason for refusal, and the development provides for adequate car parking provision.

Recommendation:

That the Assistant Director for Planning be authorised to Grant Planning Permission subject to conditions as stated in section 7.2 (or as need to be varied*) and those as may be deemed necessary by the Assistant Director for Planning

*To account for any errors, legal and necessary updates

2. **Planning Policy**

The following Local and National Planning Policies are relevant to this planning application.

National Planning Policy Framework July 2021 (The Framework)

National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021):

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP10 Care, Independent Assisted Living
PPL5 Water Conservation, Drainage and Sewerage
PPL8 Conservation Areas
PPL10 Renewable Energy Generation
CP1 Sustainable Transport and Accessibility

Supplementary Planning Guidance:
Essex Design Guide

Local Planning Guidance:
Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

3. Relevant Planning History

07/00411/FUL	Extension	Approved	22.05.2007
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4. Consultations

ECC Highways Dept 13.09.2022	The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated July 2021.
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From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority

Informative:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street

furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Environmental
Protection
22.08.2022

I have reviewed the application and have no adverse comment to make.

ECC Schools Service
14.09.2022

ECC have no comments to make on this consultation as it is below the current threshold.

5. Representations

- 5.1 Within their original comments dated 1st September 2022, Mistley Parish Council recommended approval subject to there being no parking issues with the proposal. However, additional comments were received from Mistley Parish Council dated 7th September 2022 that requested to rescind its previous resolution and to now defer the matter to Lawford Parish Council.
- 5.2 Lawford Parish Council have provided no comments.
- 5.3 Councillor Giancarlo Guglielmi and Councillor Alan Coley object to the proposed development and called for it to be determined by the Planning Committee due to concerns to neighbouring amenities.
- 5.3 There have been two additional letters of objection received, with the following concerns raised:
- Already insufficient school spaces in both local primary schools;
 - Harm to local infrastructure;
 - Harm to neighbouring amenities; and
 - Impacts to highway safety.

6. Assessment

Site Description

- 6.1 The application site is Number 71 Long Road, which is located on the eastern edge of Long Road within the parish of Lawford. The building itself is a two storey residential dwelling served by five bedrooms.
- 6.2 The character of the surrounding area is predominantly urban, with residential properties located immediately to the west and south. However to the immediate east is a large parcel of open grassed land. The site falls within the Settlement Development Boundary for Lawford within the adopted Local Plan, and lies adjacent to, but outside of, the Lawford Conservation Area.

Description of Proposal

- 6.3 This application seeks full planning permission for the change of use from its existing Class C3 (dwelling-houses) use to Class C2 (Residential Institutions). The site is proposed specifically to be operated as a children's care home that will provide care for up to five children between the ages of 8 and 18.
- 6.4 The use will also include for between one and three staff members, with up to three members of staff during the day, reducing to up to two members of staff during the night. No staff will live permanently at the property, and instead will rotate on a shift basis.
- 6.5 The change of use results in only minor external alterations, with the ground floor garage being converted into an office which will see the inclusion of a door and window. Beyond the garage conversion the layout of the building remains nearly identical, with the only change being the first floor bathroom being sub-divided to account for the inclusion of a staff bedroom.

Principle of Development

- 6.6 Paragraph 62 of the National Planning Policy Framework (July, 2021) seeks to ensure that the type and tenure of housing needed for different groups in the community is assessed and reflected in planning policies. This includes, but is not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families and travellers.
- 6.7 Adopted Local Plan Policy LP10 (Care, Independent Assisted Living) confirms that the Council will support the provision of care homes and extra care housing within settlement development boundaries and, in particular, within the mix of accommodation for the residential and mixed-use developments across the District. In addition, the Policy states proposals shall have no significant material adverse impact on the landscape, residential amenity, highway safety, or the form and character of nearby settlements and shall be otherwise appropriate in scale and design for their location, having regard to other policies in this Local Plan.
- 6.8 The application site is located within the Settlement Development Boundary for Lawford, which itself is designated as a 'smaller urban settlement' within Policy SPL1 of the adopted Local Plan. Smaller urban settlements are defined as having large populations relative to rural settlements and benefit from a range of existing infrastructure and facilities. These settlements provide a range of opportunities for the use of public transport, walking and cycling.
- 6.9 Given the sites location within a settlement development boundary, set amongst existing residential development, the proposal aligns with the requirements of Policy LP10. The principle of development is therefore accepted, subject to the more detailed considerations below.

Impact to Neighbouring Amenities

- 6.10 Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions 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.
- 6.11 Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.12 To the immediate west of the application site is Number 73 Long Road, which is also a residential property. In addition there are a series of residential properties located to the rear (north) of the application site along Waldegrave Close. Accordingly, a key consideration of this application is the impacts of the proposed development to their existing amenities.

- 6.13 It must initially be acknowledged that the proposed development will result in use of the property by no more than five children, as well as between one and three staff members – so up to eight people in total. Given that the property is currently a five bedroom dwelling, it is perfectly reasonable to expect that a similar number of people could occupy the property, although it is acknowledged this would likely be less than the maximum eight potential persons that could use the site as part of this planning application.
- 6.14 In respect of potential noise disturbances, there is a large rear garden area where it is acknowledged a degree of noise may be generated. However, there is no evidence to suggest that this noise would be a significant increase to that which could be generated from the existing residential use of the property, and given that there will always be specialist on-site carers to aid in the event of any noise-related incident, Officers do not consider the potential harm to be significant enough that it would warrant recommending a reason for refusal on this basis.
- 6.15 Furthermore, the noise disturbances associated with the vehicular movements will predominantly be dictated by the shift patterns of staff members, but will also include any visitors. Given the low number of staff members and children being cared for, Officers do not consider that the comings and goings associated with the proposal would significantly increase from what would be reasonably expected from the existing large family house, and therefore raise no objections in this regard.
- 6.16 In addition, there are only minor internal and external alteration works being proposed, and these would result in no impacts to existing amenities of any neighbouring properties. A planning condition is however recommended to restrict the level of use to a maximum of five children.

Highway Safety

- 6.17 Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 111 of the 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.
- 6.18 Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.
- 6.19 Essex Highways Authority have been consulted on the proposed development and have stated that they have no objections.
- 6.20 Furthermore, Essex Car Parking Standards (2009) state that for such a use there should be provision for one parking space per full time equivalent member of staff, as well as one visitor space per three beds. Given that there are to be a maximum of three full time equivalent members of staff and a total of five children, this means there is a maximum requirement for a total of five parking spaces. The site has a parking area to the front of the property which is currently able to accommodate four parking spaces, and this arrangement will remain unaltered. While this provision falls slightly below standards, it is also acknowledged that the site is within a highly sustainable location within 300 metres of a bus stop, and Essex Highways Authority have offered no objections, and therefore on balance Officers do not consider the minor shortfall in parking provision to be harmful enough to recommend a reason for refusal.

Visual Impacts

- 6.21 Paragraph 130 of the National Planning Policy Framework (NPPF) (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 6.22 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials.
- 6.23 The proposed development is predominantly a change of use, but to facilitate this change it is acknowledged that the existing garage is to be converted into an ancillary office. This will result in the addition of a door and window to the front elevation. While these changes will be publicly visible from the street scene along Long Road, Officers do not consider the changes to be harmful to the area's character and appearance, and accordingly do not offer any objections on these grounds.

Heritage Impacts

- 6.24 Adopted Policy PPL8 (Conservation Areas) states new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area.
- 6.25 While the application site falls outside of the Lawford Conservation Area, it is acknowledged that it does lay adjacent to the west, and as such the impacts of the development to the setting of Conservation Area need to be considered.
- 6.26 However, as discussed above, the proposal results in only minimal external alterations to the property. Given the minor nature of these changes and that the site itself does not fall within the Lawford Conservation Area, Officers are content that there will not be any harm to the areas character and appearance, and do not object on heritage impact grounds.

Other Considerations

- 6.27 Within the call-in request and neighbour objection letters, it is acknowledged that reference has been made that currently existing residents sited closer to local schools have had to lodge appeals to get their own children into these schools, and concerns are raised that the proposed development would exacerbate the situation. However, in response to this, the agent for the application has confirmed that the children who will occupy the property will require a specialist school environment and will not attend mainstream schools. Therefore this will not impact upon the existing provisions. In addition, Essex County Council (Schools) have been consulted and have offered no comments.

Conclusion

- 6.28 Local Plan Policy LP10 supports the provision of care homes and extra care housing within settlement development boundaries, and accordingly the principle of development in this location is accepted. Given the low number of users as a result of the proposal there is not considered to be significant harm to neighbouring amenities, both through potential noise disturbances or through the external alterations. The site is adjacent to the Lawford Conservation Area but the minimal alterations to the building will not harm its setting, while Essex Highways Authority also offer no objections. The site falls slightly below the car parking provision, however given the highly sustainable location it is not considered, on balance, that this minor shortfall warrants recommending a reason for refusal. Accordingly, the planning application is recommended for approval.

7. Recommendation

7.1 The following conditions are recommended.

7.2 Conditions and Reasons

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

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

Drawing Numbers 443-01 Rev A (Site Location and Block Plan), 443-11 Rev A (Proposed Ground/First Floor Plans, Proposed Elevation & Site Plan', the document titled 'Planning Statement', and the letter received from the agent for the application dated 29th September 2022 with a reference of 36088.

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

- 3 The use hereby permitted shall operate with a maximum of five children to reside at the property at any time.

Reason – The proposal has been assessed on this basis, to ensure that the use is appropriate within this residential location, and to protect neighbouring amenities.

7.3 Informatives

Positive and Proactive Statement:

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.

Highways Informatives:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

8. Additional Considerations

Public Sector Equality Duty (PSED)

- 8.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 8.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 8.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 8.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 8.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 8.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 8.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 8.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 8.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 8.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 8.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 8.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB

is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

9. Background Papers

- 9.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.