



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
15 JULY 2019**

Application Number	FUL/MAL/19/00465
Location	Chartwell, 120 Maldon Road, Burnham-On-Crouch, Essex, CM0 8DB
Proposal	Change of use from Class C3 dwellinghouse to a residential children's home Class C2 (residential institution).
Applicant	Mr Frederik Booyesen - PSS Care Group
Agent	Miss Nichola Brown - PSS Care Group
Target Decision Date	28.06.2019 (Extension of time agreed until 19.07.2019)
Case Officer	Anna Tastsoglou
Parish	BURNHAM NORTH
Reason for Referral to the Committee / Council	Member Call In Cllr Stamp has requested the application to be presented before Members of the South Eastern Area Planning Committee on the grounds of public interest.

1. PURPOSE OF THE REPORT

- 1.1 This application was previously presented at the South Eastern Area Planning Committee and delegated to the Director of Strategy, Performance and Governance to approve as per officers' recommendation, subject to no new material considerations being raised during the remainder of the neighbour consultation period. However, by reason of the short absence of a Member of the Committee during the debate regarding the application and then participating in the vote this decision is considered to be challengeable and it is pertinent that it is presented again before Members.
- 1.2 Since the consideration of the application further representations have been received. These comments are included within this report. However, it is noted that they are not considered to raise any new material planning considerations that have not previously been addressed. As such, the recommendation of the application for approval, subject to conditions stated in section 6 below (and previously in section 8 of the report presented before members on the 17th June 2019), remain unaltered.
- 1.3 This report should also be read in conjunction with the Committee Report published under Agenda Item 8 on the Agenda for the South Eastern Area Planning Committee dated 17th June 2019 (attached at **APPENDIX 1**) and the Members' Update for Agenda Item 8 also dated 17th June 2019 (attached at **APPENDIX 2**).

2. **RECOMMENDATION**

APPROVE subject to conditions as detailed in Section 5.

3. **SITE MAP**

Please see overleaf.



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	Organisation:	Maldon District Council
	Department:	Department
	Comments:	Not Set
	Date:	03/06/2019
	MSA Number:	100018588

4. CONSULTATIONS AND REPRESENTATIONS RECEIVED

4.1 Representations received from Interested Parties

4.1.1 Since the presentation of the application at the South Eastern Area Planning Committee on the 17th June 2019, an additional six letters were received **objecting** to the application and the reasons for objection are summarised in the table below:

Objection Comment	Officer Response
Concerns regarding the young persons not being local.	The placement of young people is made by Essex Placing Authority. The Local Planning Authority has no control over the placements and this is not a material consideration in the determination of this application.
Concerns raised regarding safety and security of the older population living in Burnham-on-Crouch.	The nature of the proposed development, although not a C3 (dwelling houses) use, is similar to a household. In any event, the members of staff would be responsible of caring for and supervising the young people that would reside in the property. It is also advised that the Police and Host Authority would be informed for new placements.
Concerns regarding unsupervised children putting themselves and public at risk, due to the proximity to a congested road.	As noted within the officer report presented that the South Eastern Area Planning Committee on 17 th June, there would be a minimum of three members of staff present at all times. Thus, the young children would not be unsupervised. This consideration is not different to a traditional family residence by a congested road.
Concerns regarding capacity of the school to accept the children that would reside on site.	Given the limited number of young people (five) residing on site, it is considered that any impact on the nearby schools would be minimal and not such that to warrant refusal of the application on those grounds.
Various matters of concerns in relation to the neighbours' safety and security are raised.	These matters have been addressed in the officer responses in both the committee report and Members Update presented at the Committee meeting on 17 th June 2019.
Concerns regarding the planning process not being transparent.	It is noted that the application was publicised in accordance with the statutory requirements and all information in relation to the application was available at the Council's website. On that basis, it is considered the Council has been transparent throughout the

Objection Comment	Officer Response
	process of the application.
Limited information was provided to make an accurate assessment.	It is noted that the information provided with the application was sufficient to make the application valid. During the process of the application further information justifying the need of the proposed use was requested and provided by the applicant, in order to be able to fully assess the application against the policy requirements.
Concerns regarding the consideration of the impacts of the development by the Environmental Health Team.	The application together with its supportive information was available to the Environmental Health Team in order to assess the proposal. There are no concerns about the way Environmental Health dealt with the consultation.
Concerns regarding impact on the highway network and increased parking need.	The matter is address in section 5.5 of the report presented at the previous committee meeting. It is reiterated that the Highway Authority raised no objection to the proposed development.
Support was given to the Burnham Town Council subject to mitigation of the noise impacts. The proposal does not secure that the neighbours' amenities would be protected.	Matters regarding the impact of the development on the neighbouring amenity have been provided in the committee report and Members Update presented to Members on 17 th June 2019.
The proposal would set an unacceptable precedent in the area.	It should be noted that the application was assessed and found to comply with the policies of the Council. Thus, it would not set an unacceptable precedent in the area. Furthermore, each application is assessed on its own merits.
Burnham does not have a need for this type of accommodation.	It is noted that the need is assessed on a County and not Ward level. Thus, it is impossible to identify such a localised need for the proposed development. However, information has been submitted with the application of the need for this type of accommodation and this was assessed against policy H3 for accommodation for specialist needs and found to be acceptable.
Burnham-on-Crouch lacks facilities for children.	Burnham-on-Crouch, according to the LDP is one of the main settlements in Maldon that benefit from a range of facilities and services and is provided with good public transport.

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Concerns have been raised regarding the way that the application was approached and judged by Councillors at the committee meeting on 17 th June 2019.	This comment does not raise a material planning consideration and the planning process is not the right place for these comments to be discussed. Notwithstanding this, the application is going before the Committee again anyway.
Concerns regarding the credentials of the organisation that would run the proposed residential children accommodation.	The applicant has submitted information stating that it is OFSTED registered and thus, the Council cannot reasonably raise an objection with regard to the quality of the services provided.
It is suggested that further consideration is given to the current application.	Comment noted; however, it should be stated that the all statutory planning procedures have been followed for the determination of this application.
Concerns regarding Councillors being unaware that the publication process has not expired at the time of the committee.	Whilst it is acknowledged that the publication expiry date of the application was a day after the presentation of the application at committee, it was confirmed at the meeting by Officers, that no decision would be issued prior to the expiry of the application. It was also confirmed that the issuing of a decision would be subject to further assessment of all additional letters and also the presentation of the report to committee, if new material planning consideration were raised. This report is presented to this committee for the reasons stated in section 1 of the report. This is not considered to be a material consideration in the determination of the application.
No further consultation was carried out by the Burnham Town Council prior to the Planning Committee meeting, despite clear objections raised from neighbours.	This matter does not affect the decision making of the application by Maldon District Council acting as the Local Planning Authority.
Concerns regarding lack knowledge of the application by Officers.	It is noted that Officers had full understanding of the proposed development and assessed in detail the application against the Council's policies at the Officer report presented at committee on 17 th June 2019.
Concerns regarding the reference of the applicant to unreliable support comments during the committee meeting.	It should be noted that the Officer's report drafted prior to these comments being received.

Objection Comment	Officer Response
Lack of communication of the applicant with the neighbours.	This is not a material planning consideration.
Contradictory information regarding the use of the site as residential home and provision of employees.	It should be noted that the use of the site is as a residential institution and not residential home; thus, it is expected to provide employment on site.
Misleading information was provided regarding the suggested temporary planning permission.	<p>It should be noted that the imposition of a condition on a grant of planning permission depends on the specifics of the case and each application must be determined on its own merits.</p> <p>The Planning Practice Guidance states that <i>“A condition limiting use to a temporary period only where the proposed development complies with the development plan, or where material considerations indicate otherwise that planning permission should be granted, will rarely pass the test of necessity.”</i> The application was assessed against development plan and found to be acceptable. On that basis, the imposition of a condition restricting the period of the permission would fail to meet the six test of planning conditions as set out in paragraph 55 of the NPPF (necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respect).</p> <p>Furthermore, Government guidance within the PPG states that <i>“Conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness.”</i> It is therefore considered that the financial implications of the imposition of a temporary permission would be disproportionate and thus, not appropriate.</p>
An example of where temporary permission was given for a similar proposal in Chelmsford has been provided.	It is noted that each application is assessed on its own merits and the imposition of a condition on one site does not make it appropriate on another site.
Comments regarding lack of power of the	It is noted that the Planning Committees have the power to make balanced

Objection Comment	Officer Response
<p>Planning Committee to make decisions have been made, due to the fact that some decision made reluctantly.</p>	<p>decisions on planning applications based on the development plan and relevant consideration. These include previous appeal decisions and the planning history of the site and the surrounding area. Just because a committee Member may be 'reluctant' to vote a certain way, for any number of reasons, it does not alter the need for the application to be determined in accordance with the development plan unless material considerations indicate otherwise.</p>
<p>Previously raised objections, including the principle of development; the amount of increased traffic; the proximity to the busiest junction into Burnham; the townscape of Burnham's main entrance; the increased noise over and above that of a normal large family have been reiterated.</p>	<p>All these matters have been addressed in the officer report and Members' Update presented at committee on 17th June 2019.</p>
<p>Comments regarding the financial purposes of the proposed development have been raised.</p>	<p>This is not a material planning consideration. The proposal was assessed against the Council relevant planning policies which are quoted in section 4 of the officer report presented to committee on 17th June.</p>
<p>The limited distance of the proposed development to the neighbouring sites has not been considered.</p>	<p>It is noted that the position of the site in relation to the nearby sites and uses has been taken into consideration to assess the impact of the development on the nearby properties.</p>
<p>Possible antisocial hours of staff changes will create noise and additional vehicle movements</p>	<p>Due to the limited number of employees at night times (three employees) it is not expected that the proposed development would result in additional poise and disturbance including increased vehicle movements at night time to such a degree that would justify the refusal of the application.</p>
<p>Temporary permission to the proposed development is suggested.</p>	<p>This matter is addressed as a response to a similar comment raised above.</p>
<p>Limited consideration of the impact of the development on the nearby neighbours amenities was given during the committee meeting.</p>	<p>It is noted that this matter was assessed both within the Officer report and was debated during the committee meeting.</p>

Objection Comment	Officer Response
<p>The reason for the overrun of the consultation period was that the original consultation period had to be extended due to the failure of the council to follow their own procedures.</p>	<p>This comment is incorrect. The Council has not only followed but went beyond the statutory requirements and procedures regarding public consultation, by sending letters to all adjacent occupiers of the site, as well as posting a site notice on the site (only one of the above is a statutory requirement). The reason for the extended period was due to the required 21 days notice period from the date the site notice is posted on site. The site notice was posted on 25th May and due on 18th June, within the statutory planning period of the application, which was originally expired on 28th June 2019.</p>
<p>Statements by the applicant were taken at face value.</p>	<p>It is noted that an application is assessed on the basis of the information submitted by the applicant. Any development that goes beyond or falls outside the permission granted does not benefit from planning permission.</p>

5. GRANT PLANNING PERMISSION SUBJECT TO THE FOLLOWING CONDITIONS:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out in complete accordance with approved drawings: Location Plan and Block Plan.
REASON To ensure the development is carried out in accordance with the details as approved.
3. The development hereby approved shall only be used as a children’s home and for no other use within Use Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) unless otherwise agreed in writing by the local planning authority.
REASON To protect the amenities of the area in accordance with policy D1 of the approved Maldon District Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.
4. Details of a cycle stores shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The development shall be implemented in accordance with the approved details and be retained as such in perpetuity thereafter.
REASON To ensure that adequate bicycle parking and refuse facilities are proposed in accordance with policies D1 and T2 of the approved Local Development Plan and the guidance contained in the Maldon District Design Guide SPD.

