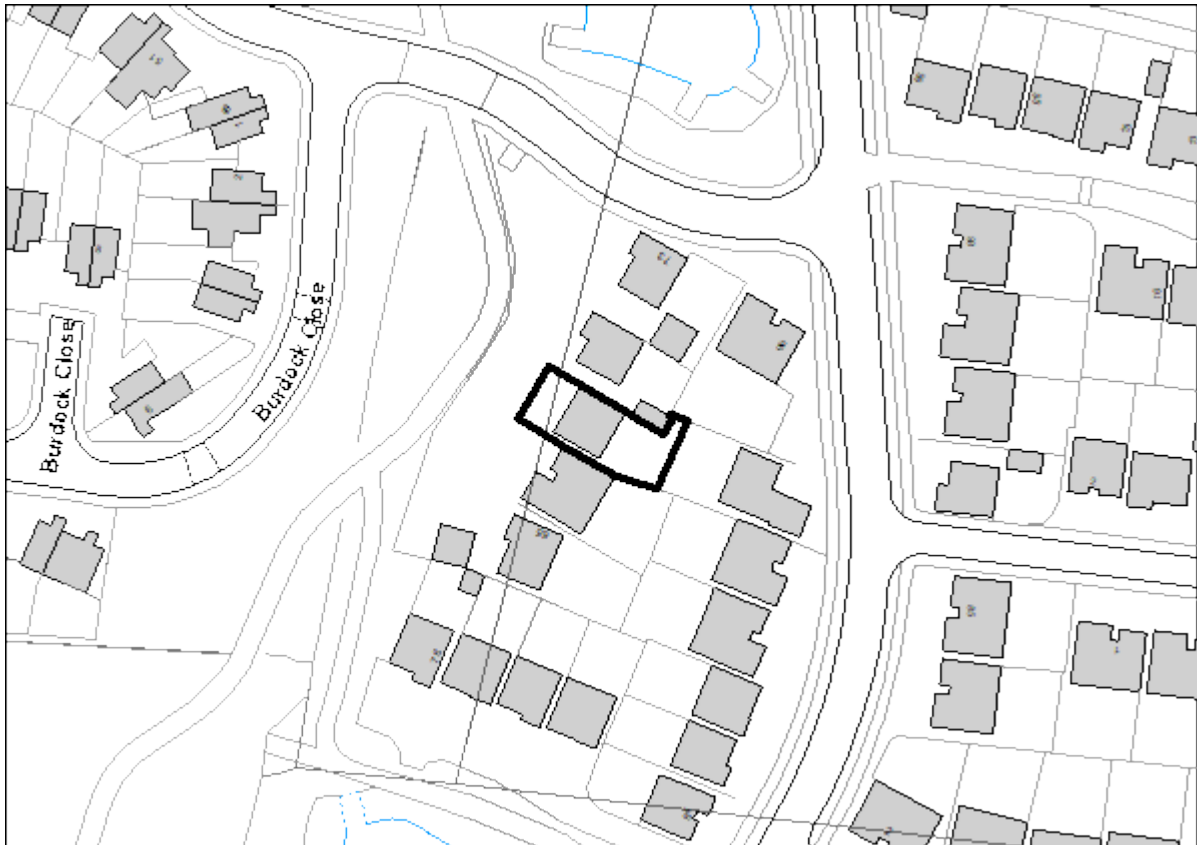


Recommendation: Conditional approval	
20242120	69 Bryony Road
Proposal:	Change of use from dwellinghouse (Use Class C3) to residential children's home (Use Class C2) to accommodate a maximum of three children
Applicant:	Mr Singh
View application and responses:	https://planning.leicester.gov.uk/Planning/Display/20242120
Expiry Date:	6 March 2025
SS1	WARD: Humberstone & Hamilton



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Summary

- The application is brought to committee due to more than 6 objections from different addresses within the city having been received;
- The main issues are: the principle of development & character of the area; amenity of neighbouring residents; living conditions for future occupiers and parking;
- Objections from 22 addresses were received;
- The recommendation is to grant conditional approval.

The Site

The application relates to a two-storey detached dwellinghouse located in a suburban residential area, with neighbouring dwellings to both sides and rear. The house is on a small cul-de-sac serving 5 properties, all of which have some landscaping and hardstanding to their frontages. The application site has a back garden, roughly 80sqm in size.

Background

The house was approved as part of the wider estate under application 20130582 (plot 51). There were numerous other associated applications for amendments to this scheme.

Application 20232129 was approved on 11/01/2024 for a rear extension but this has not been implemented. The permission has until January 2027 to be implemented.

The Proposal

The proposal is for the change of use of the property at 69 Bryony Road from a dwellinghouse (Class C3) to a residential care home (Class C2). The home would accommodate a maximum of 3 children (8-18 years).

The house would be laid out with a living room, study, kitchen/diner, WC and utility room at ground floor level and 4 bedrooms and a bathroom at first floor level. A Planning Statement has been submitted that advises that bedroom 1 would be used as an office/staff room.

The statement further advises that the property would house a maximum of three children, with one member of staff on duty at all times (with no more than 2 at any one time), working on a 24-hour shift pattern with shift times of 7am-2:30pm; 2`pm-10 pm and 10pm-7 am.

Residents in care are expected to have 1 or 2 planned professional visitor appointments per month. The operation of the care home would be regulated by Ofsted.

The application was accompanied by a Flood Statement showing the site has low flood risk.

The application was also accompanied by a Noise Impact Assessment.

Policy Considerations

National Planning Policy Framework 2024

Paragraph 2 (Primacy of development plan)

Paragraph 11 (Sustainable development)

Paragraph 109 (Transport impacts and patterns)

Paragraph 115 (Assessing transport issues)

Paragraph 116 (Unacceptable highways impact)

Paragraph 117 (Highways requirements for development)

Paragraph 135 (Good design and amenity)

Paragraph 198 (Noise and light pollution)

Paragraph 201 (Planning decisions separate from other regimes)

Local Policies

CLLP policy AM01 (Impact of development on pedestrians)
CLLP policy AM12 (Residential car parking provision)
CLLP policy PS10 (Residential amenity and new development)
CLLP policy PS11 (Protection from pollution)
Policy CS03 (Designing quality places)
Policy CS06 (Housing strategy)
Policy CS14 (Transport network)

Supplementary guidance

Appendix 1 CLLP 2006 - Vehicle Parking Standards.

Representations

Objections were received from 22 separate addresses. One of the objections included a petition with 9 signatures.

Issues raised were:

Principle of Development/Character of the Area

- The residential area should not be for any commercial/business use;
- The proposal would alter the residential character of the neighbourhood;

Neighbouring Residential Amenity

- An increase in noise and disturbance in the area would harm the currently quiet neighbourhood;
- The use could result in noise/disturbance to neighbours if windows are open;
- Lack of soundproofing from the room that has already been converted from a garage;
- There is already noise/disturbance from the property and this would increase;
- Concern regarding safety/security/anti-social behaviour impacts to the area;

Parking/Traffic

- Increased traffic congestion in the area;
- Although there is parking at the front of the property, the two off-street spaces referred to in the application are not legally the application site owner's to use (a letter from the land manager of the area was attached regarding this);
- Parking congestion could result in damage/nuisance to neighbouring property/land, and impede parking/turning on the cul-de-sac;
- Additional maintenance costs for the cul-de-sac from the extra use;

Other Issues

- Impacts on neighbouring house prices;
- Pressure on local services including schools;
- Affect investment from developers/investors in the local area;
- Set a precedent for further care homes in the area;

- Concerned regarding privacy;
- Applicant has not engaged with the neighbours regarding this application;
- Concerns regarding suitability of proposed care facilities for the children, including fire safety;
- Concerned regarding publicity of application;
- Due diligence required for the service provider;
- Objector requires accountability for the care home.

Consultations

Social Care & Education department

Whilst the application is for a children's residential care home the applicant seems to be a property development company and not a care provider. Therefore, it is assumed that the building would be sold or rented to an as yet unknown care provider and, as such, the experience of that provider cannot be assessed. The proposed area for the development of a children's residential home does not raise any immediate concerns. The proposals for shifts, staffing etc seem to be a "boiler plate" proposition rather than based on specific care provider insight or methodology of how care will be provided so a specific profile of children.

Consideration

Principle of Development/Character of the Area

I note the concerns raised by objectors in relation to the proposed use being inappropriate in an existing residential area suitable for families and that objectors consider the proposed care home as being a commercial business. However, the proposed care home will be a managed provision with assisted living provided for the residents, and, as a primarily residential use, its location in a residential area is appropriate in planning policy terms. Given the small scale of the proposal, I consider that the degree to which the managed nature of the site would not be perceptible in the wider area nor would the use be so significant as to have an unacceptable impact upon this suburban locality in terms of general noise and disturbance.

I acknowledge the Social Care department comments in regard to the proposed area for a children's home not raising any specific concerns. In regard to that department's other comments, I note that planning permission runs with the land rather than the applicant and control of the actual provider/their exact care methodologies is not within the scope of planning and is a matter for regulation by Ofsted.

The City Council aims to facilitate the provision of a range of accommodation to meet the special housing needs of all City residents and the Council's Core Strategy Policy CS06 supports the provision of supported housing to meet special needs. As such the principle of the use is in accordance with the aims of this policy and the principle of development is acceptable.

Having reviewed planning history for a 400m radius from the application site, there is one previously approved application recorded for change of use to C2/care home

use (approved in 2024, at 13 Farnley Road, c.260m from the application site – red dot in the below image). I consider that the existence of one other potential care facility in the wider area would not mean that the proposal would contribute to a significant/unacceptable over-concentration of this type of use that would result in significant impacts to the character of the area.

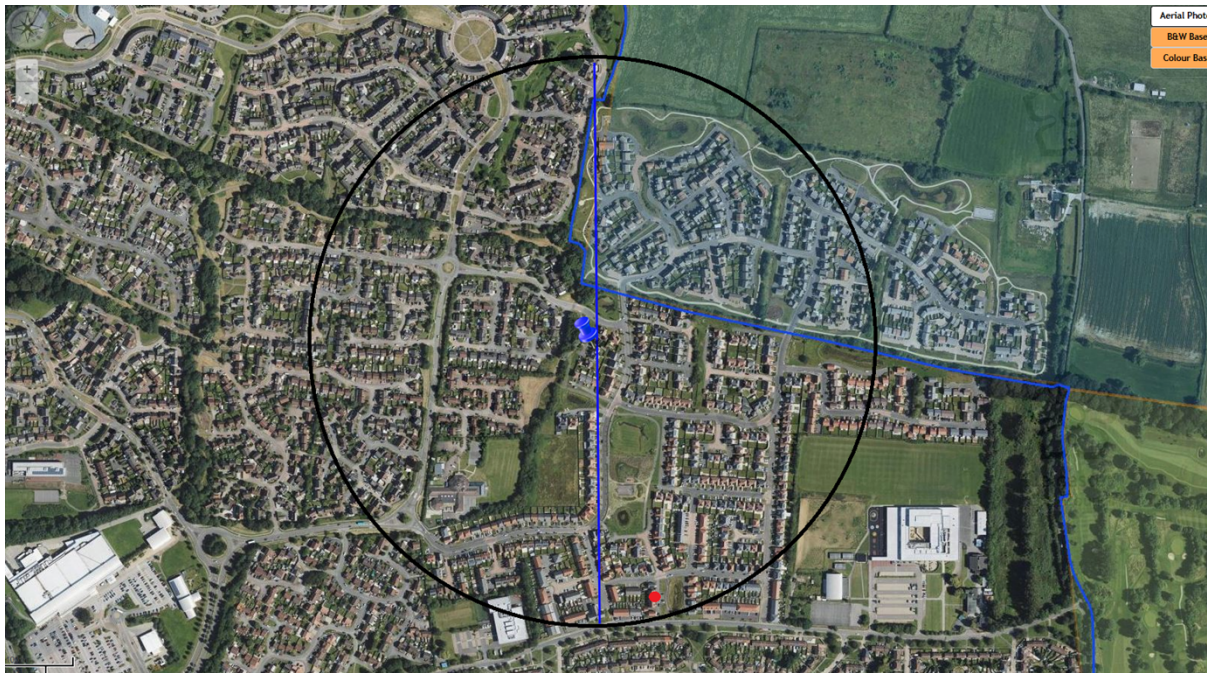


Figure 1: There is 1 other approved care home within 400m of the application site.

Neighbouring Residential Amenity

Taken together, NPPF paragraph 135f & 198, and Local Plan policies PS10 and PS11 require amenity to be retained for neighbouring residents from developments.

The proposal is to provide organized care with carers always present for professional oversight and supervision. Whilst there would be potential for more people to be present in the house regularly during the daytimes than may be expected in a family home, the use is for residential care which is not an inherently noisy use that would be out of character for a residential area (including use of the house and rear garden by the staff and children). Whilst neighbours may experience different activities, such as staff changes and possibly more transient occupiers over the longer term, these differences do not of themselves equate to harm.

I conclude that the proposal would not conflict with NPPF paragraph 135f, and saved Local Plan policies PS10 and PS11, and that the proposal would be acceptable in terms of impact upon amenity.

I note that the concerns raised in objections in relation to current noise impacts from the site, including from the room that was a garage conversion and in relation to the proposed use. However, the house is a detached property with no shared walls with neighbours. The granting of this planning permission does not indemnify against statutory nuisance action being taken should substantiated noise complaints be received but there would be no planning justification to withhold permission on this basis for the reasons given above. Risks of anti-social behaviour are not limited to care home use and can be generated by occupants of houses in any residential area. NPPF paragraph 201 states that: '*The focus of planning policies and decisions*

should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.' As the proposal would be an acceptable use of land, contributing to providing a home for young residents with specific residential needs, there is no planning reason to refuse the application on the grounds of noise/disturbance/anti-social behaviour which would be dealt with by the police or other environmental control regimes.

In reaching the above conclusion I have noted the Noise Impact Assessment, but it does not appear to have been completed by an environmental health professional. I have not given its contents any weight in favour of the application.

Living Conditions for Occupiers

Saved policy PS10 of the Local Plan (2006) applies to the amenity of future as well as existing neighbouring residents. The house has good levels of light to and outlook from its window openings and acceptable floorspace and garden space for 3 residents in care with staff working shift patterns. I note the concerns raised in objections in regard to this issue. However, I consider that the proposal would provide good living conditions for its future occupiers. Detailed considerations of the internal layout/fire safety are not a planning matter and are overseen by other regulatory bodies.

Highways/Parking

Saved Local Plan policies AM01 and AM02, and NPPF paragraphs 109, 115, and 117 require developments to provide suitable facilities for traffic and parking and avoid harm to highway safety. It is also noted that NPPF paragraph 116 states that development should only be prevented on highways grounds in cases of unacceptable impact on highway safety or if cumulative impacts on the road network would be severe. Local Plan Appendix 01 sets out maximum requirements for car parking. The requirement in this case is for one car parking space per 4 bedrooms for Class C2 residential institutions, and as such the application proposal generates a standard requirement for 1 space.

There is space for 2 cars on the front drive and the other dwellings in the cul-de-sac also have 2 parking spaces in front/to the side of their curtilages. As such, the cul-de-sac is considered to provide enough spaces for the residents and the existing situation should not be inherently likely to cause any parking or traffic congestion.

It is noted that the use would require 1/2 staff members on site at all times and it could be expected that other support staff or families may visit the house regularly meaning that there may be some on-street parking required at times. However, the site is close to bus stops on Maidenwell Avenue (bus routes no.58 & orbital 40); therefore, staff & visitors would be able to use public transport or alternative methods to the private vehicle.

I acknowledge that excessive parking on the cul-de-sac would not be appropriate. I note the issue raised by objectors regarding the area opposite the application site house that has been laid with hardstanding and is used for parking, despite the management of the area appearing not to permit this. I accept that area should not be used for parking given the letter by the management, and accordingly the space should not be accounted for as being able to be used by the application site in considering the parking impacts of the application.

Notwithstanding this, I consider that the proposed use would be likely to require to accommodate a maximum of 2 staff during the majority of the use and the additional visitors would be able to park in close proximity to the cul-de-sac without being likely to cause unacceptable or severe highway safety/parking impacts above the existing situation as a C3 house. This would be in accordance with NPPF paragraph 116 and the proposal would not warrant refusal on highways grounds.

I also consider that the proposed use would not cause any material impact to traffic in the area or be inherently likely to cause significant maintenance issues to the cul-de-sac that would amount to a planning issue rather than a private matter.

Other Issues

I note issues raised in objections relating to impact on nearby property values. However, planning decisions are determined in accordance with policies in the development plan for Leicester and private/civil matters are not material considerations.

I note an issue raised in objections requiring diligence to be carried out on the provider. However, planning decisions run with the land, rather than be tied to any specific applicant. The identity of the applicant is not relevant to a planning application which is only concerned with the merit of the use of land. It would not be reasonable or enforceable from a planning legislation perspective to police licences of social care homes.

Objections consider that a precedent would be set for these types of uses; however each application is considered on its own merits against the provisions of the development plan.

An objection refers to the consultation of the planning application. Letters were sent to all adjoining neighbours and a site notice was displayed at the start of the consideration process. The publicity has been carried out in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015, because notice has been served on adjoining occupiers and details of the application have been published on the website. As such, appropriate publicity has been carried out and the level of responses received confirm local public awareness of the proposal.

An objection has raised the issue of privacy as they work in the field of child protection and live in the local area. This is not a planning matter.

The change of use would not be liable to cause material planning impacts in regard to pressure on local services or impacts to investment in the local area.

Conclusion

The application is acceptable in principle, and I recommend approval.

Within Class C2 the property could be used for a residential school, college, training centre or health facility. Further/altered consideration for these types of uses would be necessary, and for this reason I recommend a condition that restricts the uses of the property to a care home.

The proposal is for 3 children in care and I recommend a condition to limit this to 3 as any increase would also require further/altered consideration.

CONDITIONS

1. The development shall be begun within three years from the date of this permission. (To comply with Section 91 of the Town & Country Planning Act 1990.)
2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, or any order amending or revoking and replacing that Order with or without modification, the premises shall not be used for any purpose other than for a care home within Class C2 of the Order, unless otherwise approved in writing by the local planning authority. (To enable consideration of the amenity, parking and highway safety impacts of alternative Class C2 uses, in accordance with policies CS03, CS08 and CS14 of the Leicester Core Strategy (2014) and saved policy PS10 of the Local Plan (2006)).
3. The premises shall not accommodate any more than 3 residents in care at any one time. (To enable consideration of the amenity of residents and parking impacts of a more intensive use, in accordance with Policy CS14 of the Leicester Core Strategy (2014) and saved Policy PS10 of the Local Plan (2006)).
4. Development shall be carried out in accordance with the submitted plans received by the City Council as Local Planning Authority on 02/12/2024. (For the avoidance of doubt).

NOTES FOR APPLICANT

1. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because the following statutory exemption/transitional arrangement is considered to apply:

Development below the de minimis threshold, meaning development which:

- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

2. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material planning considerations, including planning policies and representations that may have been received and subsequently determining

to grant planning permission with appropriate conditions taking account of those material considerations in accordance with the presumption in favour of sustainable development as set out in the NPPF 2024.