

## SCHEDULE A: Applications with Recommendation

18/0283

Item No: 03

Date of Committee: 08/06/2018

**Appn Ref No:**  
18/0283

**Applicant:**  
Mr Addis

**Parish:**  
Dalston

**Agent:**  
Burnetts

**Ward:**  
Dalston

**Location:** Hazeldean, Orton Grange, Carlisle, CA5 6LA

**Proposal:** Change Of Use From Guest House (Use Class C1) To Dwellinghouse (Use Class C3)

**Date of Receipt:**  
03/04/2018

**Statutory Expiry Date**  
29/05/2018

**26 Week Determination**  
11/06/2018

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### REPORT

**Case Officer:** Barbara Percival

#### 1. Recommendation

- 1.1 It is recommended that this application is approved with conditions.

#### 2. Main Issues

- 2.1 Whether the principle of development is acceptable
- 2.2 Impact of the proposal on the living conditions of the occupiers of neighbouring properties
- 2.3 Safety and fear of crime and anti-social behaviour
- 2.4 Impact of the proposal on highway safety
- 2.5 Other matters

#### 3. Application Details

##### The Site

- 3.1 Hazeldene is a substantial detached dwelling located within extensive grounds at Orton Grange. The property's southern, western and eastern boundaries are flanked by residential properties with the A595 county highway adjacent to its northern boundary.

## **The Proposal**

- 3.2 The application seeks permission for the change of use from a guest house (Use Class C1) to a dwellinghouse (Use Class C3).

## **4. Summary of Representations**

- 4.1 This application has been advertised by the direct notification of seven neighbouring properties and the post of a Site Notice. In response, seventeen representations of objection has been received. A further three were received; however, although signed no address was given.
- 4.2 The representations identifies the following issues:
1. understand the proposed purchaser is a limited company;
  2. the property will be occupied by disturbed children between the ages of 8 to 18 plus;
  3. development will impact on the living conditions of the occupiers of neighbouring retirement park through unacceptable noise and disturbance;
  4. questions suitability of location for such an occupancy due to proximity to highway;
  5. no local facilities for children to access.

## **5. Summary of Consultation Responses**

Cumbria County Council - (Highways & Lead Local Flood Authority): - no objections;  
Dalston Parish Council: - no observations.

## **6. Officer's Report**

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed is the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and Policies SP6 and GI3 of the Carlisle District Local Plan 2015-2030 are relevant.
- 6.3 The proposals raise the following planning issues:

## **1. Whether The Principle Of Development Is Acceptable**

- 6.4 Schedule Part C of The Town and Country (Use Classes) Order 1987 (as amended) categorises the following uses as falling into Use Class C1 (Hotels): hotel; boarding or guest house; or as a hostel where, in each case, no significant element of care is provided. Use Class C3 (Dwellinghouses) identifies dwellinghouses (whether or not as a sole or main residence) as: (a) use by a single person or by people to be regarded as forming a single family; (b) not more than six residents living together as a single household where care is provided for residents; and (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within C4 (house in multiple occupation)).
- 6.5 The application seeks permission for the change of use from a guest house (Use Class C1) to a dwelling house (Use Class C3). By way of background, available planning records indicate that in 1993 (application reference 93/0741) full planning permission was granted for the change of use of Hazeldene from a private dwelling to guest house. The existing and proposed floor plans illustrate that the premises currently has 7no. bedrooms, therefore, should Members approve the application a condition is recommended that no more than 6no. rooms should be occupied as bedrooms, thereby, further controlling it's use to that of a dwellinghouse.
- 6.6 Given the application now seeks to revert back to its original use and given that the application site is within an area which is predominantly residential, the principle of development is acceptable subject to the imposition of the recommended condition.

## **2. Impact Of The Proposal On The Living Conditions Of The Occupiers Of Neighbouring Properties**

- 6.7 The submitted documents indicate that the premises would provide independent residential child care services and would function as a single dwelling house under Use Class C3(b) i.e. not more than six residents living together as a single household where care is provided for residents. The occupiers of neighbouring properties have raised objections to the proposal, one of which centres on the impact of the proposal through unacceptable noise generation. Given that the proposal is for the change of use from a guest house to a dwellinghouse, irrespective of the occupancy of the dwellinghouse, the proposal is unlikely to generate such an intensification of unacceptable noise disturbance sufficient to warrant a refusal of the application. In the event that a statutory noise nuisance is experienced by the occupiers of neighbouring residential properties then this would be dealt with under environmental health legislation.

## **3. Safety and the Fear of Crime and Anti-social Behaviour**

- 6.8 Objection numbers 1 and 2 raised by third parties highlight that; *"1. It is understood that the proposed purchaser is a limited company"* and *"(2) the property will be occupied by disturbed children between the years of 8 to 18 plus"*. No supporting explanation for the foregoing objections have been

provided; however, it appears to allude to the occupiers of residential properties perceived feeling of being unsafe and uncomfortable within their own homes and locality.

- 6.9 In terms of this issue, a judgement has to be made as to the weight to be given to the opposition to this change of use, generated by the fear of crime and anti-social behaviour that could result if the premises is occupied as a dwellinghouse occupied by not more than six residents living together as a single household where care is provided for residents.
- 6.10 Paragraph 69 of the NPPF highlights that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. It expands by outlining that: *"planning policies and decisions should aim to achieve places which promote 'safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion"*. This policy statement and planning case law confirms that people's perceptions, and in this case, the fear of crime or anti-social behaviour is capable of being a material planning consideration but what needs to be considered is the weight to be attached to this matter in this case and whether this is sufficient to justify refusing the proposed change of use. This requires an assessment of the concerns actually experienced, not a subjective and paternalistic view. In order to justify refusal of a planning application therefore, there needs to be some reasonable evidential basis for that fear.
- 6.11 In making this assessment it is necessary to firstly understand the nature of the proposed service. The Agent has provided additional supporting information as to how the dwellinghouse would operate. This additional information details that:
- "Active Ark Limited replicate normal family life for children and young adults in need of care. The age range of the occupants would be between 11 and 18 years old. Sometimes Ofsted will permit as an exception children on either side of this range. Children in their early teens are most common.*
- With regards to how the property functions: there is a manager at the property during the day for between three and five days in any week though this can change subject to occupancy levels. Alongside the manager are the carer's who live and sleep in the house alongside the children - similar to a normal family house. Where possible, the children will attend school or where they are unable to attend school they will enter onto a program of out of school learning. Older children may undertake work experience to help them towards independent living. While the children are at school/out of the house the carer's will undertake typical domestic chores, fill out paperwork etc"*
- 6.12 Whilst the assumed fear of crime and anti-social behaviour expressed by objectors to the proposal is understandable, these fears and perceptions must be considered in the context of the information provided by the applicant. Based on the information supplied, there is no evidence to suggest that residents would be at greater risk from crime and anti-social behaviour if the proposed change of use were to be permitted. It is considered then that

only limited weight can be given to these fears as they cannot be substantiated. Refusal of permission on this basis would be therefore be unreasonable and unjustified.

#### **4. Impact Of The Proposal On Highway Safety**

- 6.13 A further issue raised by third parties is highway safety due to the proximity of the property to the A595 county highway. Hazeldene is a large detached property set back from the A595 with adequate in-curtilage parking and turning provision. Cumbria County Council, as Highway Authority, has been consulted and raise no objections from a highway perspective as the proposal would not have a material affect on existing highway conditions.

#### **5. Other Matters**

- 6.14 Third parties have also questioned the suitability of the premises for its proposed use citing its location and accessibility to services. As highlighted earlier in the report, the application is for the change of use from a guest house to a dwellinghouse, irrespective of the occupancy of the dwellinghouse, in an area which is predominantly residential. It should also be noted that within Orton Grange there is a range of services including a food hall, cafe and hairdressers together with bus stops providing public transport access to Wigton and Carlisle. In such as context, the lack of access to facilities is not sufficient to warrant a refusal of the application.

#### **Conclusion**

- 6.15 The application seeks permission for the change of use from a guest house (Use Class C1) to a dwellinghouse (Use Class C3) in a predominantly residential area, therefore, the principle is acceptable. Objections have been received from third parties in respect of: potential to generate unacceptable noise disturbance, safety and fear of crime and anti-social behaviour; however, these issues cannot be substantiated. Accordingly, refusal of permission on this basis would be therefore be unreasonable and unjustified. The Highway Authority has also raised no objections to the proposal as it is unlikely to have a material affect on existing highway conditions.
- 6.16 In overall terms, the proposal is considered to be compliant under the provisions of the NPPF, PPG and relevant local plan policies. Accordingly, the application is recommended for approval.

#### **7. Planning History**

- 7.1 In 1990, full planning permission was granted for extension to provide additional bedrooms (application reference 90/0958).
- 7.2 In 1992, full planning permission was granted for the partial demolition of existing garage and erection of double garage and porch (application reference 92/0912).

- 7.3 In 1993, full planning permission was granted for conversion of existing double garage to provide 2no. double bedrooms including construction of pitched roof (application reference 93/0696).
- 7.4 Also in 1993, full planning permission was granted for change of use from private dwelling to guest house (application reference 93/0741).
- 7.5 Again in 1993, advertisement consent was granted for the display of a timber sign (application reference 93/0921).

## **8. Recommendation: Grant Permission**

1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.

**Reason:** In accordance 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 shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:

1. the submitted planning application form received 26th March 2018;
2. the site location plan received 26th March 2018;
3. the floor plans - existing and proposed received 3rd April 2018;
4. the Notice of Decision; and
5. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. Notwithstanding the details contained within the proposed floor plans received 3rd April 2018 not more than 6no. rooms shall be used as bedroom accommodation.

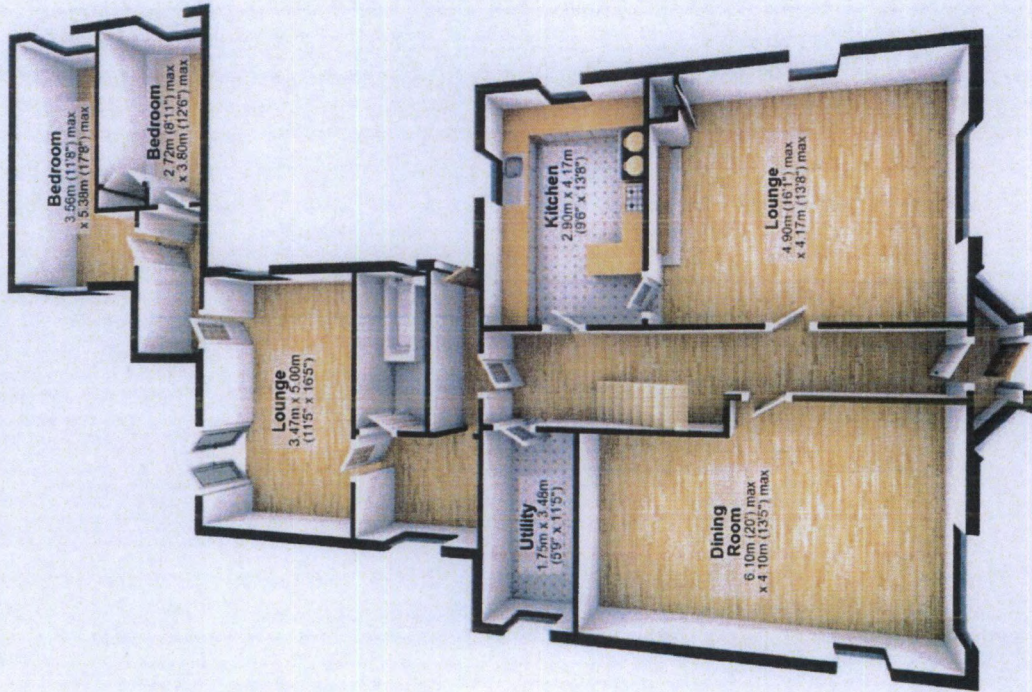
**Reason:** To ensure that the use remains within Use Class C3 of the Town and County Planning (Use Classes) Order 1987 (as amended).

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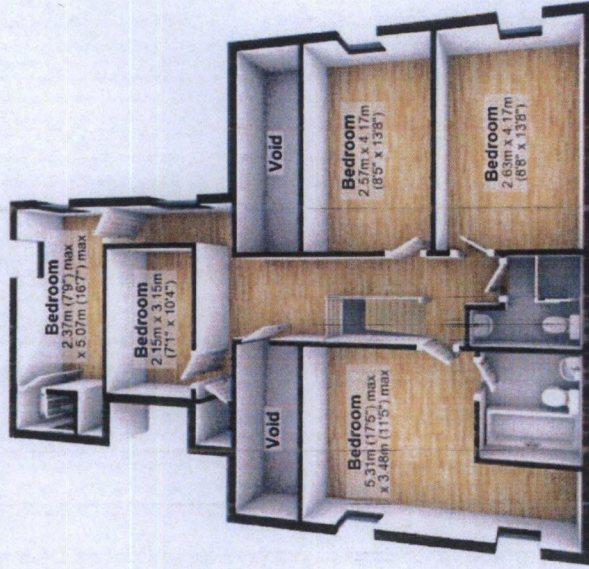
Location/Block Plan



Ground Floor



First Floor



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- 3 APR 2018

18/0283

FLOOR PLANS - EXISTING & PROPOSED