

**DEPARTMENT OF GROWTH & DEVELOPMENT**  
**ORIGINATING SECTION: PLANNING SERVICE (DEVELOPMENT**  
**MANAGEMENT)**

**REPORT TO:** Planning & Highways Committee

**DATE:** 17<sup>th</sup> December 2020

**TITLE:** Planning Advisory Note - Approach for determining applications relating to properties being used as Children's residential and supported accommodation.

**WARDS:** All                      **COUNCILLORS:** All

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## **1. PURPOSE OF THE REPORT**

- 1.1 To set out the intended approach for the determination of planning applications relating to the proposed change of use of properties as residential children's homes.
- 1.2 To explain the reasoning behind the intended approach and invite the comments of the committee.

## **2. BACKGROUND**

- 2.1 Members will be aware that there have been an increasing number of Certificate of Lawfulness applications to use properties as residential children's homes. Where a certificate is granted, the Council has no control over the occupancy of that home. As a result, many such homes have the potential of being used to accommodate children from outside of the Blackburn With Darwen area. This is placing a strain on local public sector resources to the detriment of local service delivery, and can make it more difficult for the Council to accommodate local, looked-after children within Blackburn With Darwen.
- 2.2 The majority of the Certificate of Lawfulness applications received all relate to residential properties falling within Use Class C3 "Dwellinghouses" of the Town and Country Planning (Use Classes Order) 1987 (as amended). Case law has established that a residential children's home falls within Class C2 "Residential Institutions" of the same Order. Section 55 of the 1990 Town and Country Planning Act, states that a material change of use constitutes development. There is no provision in the Town and Country Planning (General Permitted Development) Order 2015 (as amended) to permit a change from C3 to C2.

- 2.3 The Development Management Team have recently dealt with Certificate of Lawfulness applications at properties on Eden Park, Vincent Court and Aintree Drive in the borough. Until recently, officers have judged that the change of use from a house to a children's home is not material, which in nature does not constitute development, and therefore does not require planning permission. However, in recent months new information has come to light, with the approach being taken by Blackpool Borough Council, in the form of case law, and the advice they received from Counsel. In addition, the Development Management Team has been working closely with Children's Services to better understand the nature of a children's home use.
- 2.4. It is now considered that the change of use from a house to a children's home is material and is therefore development requiring planning permission for the following reasons:
- Change in the character of the use based on the day-to-day activity, operations and physical layout;
  - Impact of the proposal – the uncontrolled loss of family homes is a material planning consideration; case law has established that increased strain on local public sector resources can be accepted as an indicator of a material change of use;
- 2.5 It is accepted that not all looked-after children will place strains on the Council's services, however because the Council cannot place any controls on a Certificate of Lawfulness, these factors must all be taken into account when assessing such applications.
- 2.6. The Development Management Team following consultation with Children's Services have produced a Planning Advisory Note, which is intended to inform and assist applicants seeking planning permission for the development of or the change of use of an existing building to a children's care home. A draft copy of the Note is attached to this report.

### **3. RATIONALE**

- 3.1 The Council's aim is to ensure that good quality accommodation is available in appropriate premises and locations within the borough to meet the needs of looked-after children within the care of the Council. At the same time, it is imperative that there is no undue harmful impact towards the character and amenities of local neighbourhoods.
- 3.2 Policy 47 "The Effect of Development on Public Services" of the adopted Blackburn With Darwen Borough Local Plan (Site Allocations and Development Management Policies) (December 2015), sets out how the local planning authority will manage development in line with the following objectives:

- To ensure that planning decisions as far as possible support the commissioning strategy for facilities and services;
- To assist in managing demand for support services so as to ensure that appropriate levels of service to existing users within Blackburn With Darwen can be maintained; and
- To assist in improving Blackburn With Darwen's overall offer, and perceptions of its offer, by reducing levels of crime, anti-social behaviour and the perceived threat of these.

3.3 The Planning Advisory Note whilst not being a formal Supplementary Planning Document, is still a material planning consideration linked with Policy 47. The Note will provide clarification and information on the Council's approach to dealing with planning applications for children's care homes.

#### **4. KEY ISSUES**

4.1 The fundamental issues that the Note is focussed on with regards to new children's care homes are:

- Ensure that new homes are established in appropriate premises and in suitable locations;
- Establish a priority for local children to ensure that the Council can meet the needs of the local community within the local area;
- Reduce the concentration of specialist uses within any particular area of the borough;
- Safeguard the children in care and at same time ensuring the amenities of local communities are not affected by ensuring premises adhere to the provisions of a robust Management Plan.

4.2 The Note focusses on the main planning considerations and process with regards to new children's care homes. These are set out as follows:

- What are the material planning considerations?
- Relevant planning policy, guidance and information
- Specific advice – what properties are considered appropriate; car parking; how to demonstrate local need; what to include in the Management Plan; what changes can you expect to make to the property; mechanism to meet local need e.g. Section 106 Agreements;
- Details of the pre-application advisory service.

#### **5. POLICY IMPLICATIONS**

5.1 The Planning Advisory Notice is an informal planning document linked to Policy 47 of the Local Plan Part 2.

## **6. FINANCIAL IMPLICATIONS**

6.1 None.

## **7. LEGAL IMPLICATIONS**

7.1 None.

## **8. RESOURCE IMPLICATIONS**

8.1 None.

## **9. EQUALITY IMPLICATIONS**

9.1 None.

## **10. CONSULTATIONS**

10.1 The Draft Advice Note has been presented to the Executive Members for Growth & Development and Children's Services.

## **11. RECOMMENDATION**

11.1 (i) That the Committee note the issues described in the report.

(ii) That the Committee endorse and approve the proposed Planning Advisory Note, to be used as a material planning consideration in the determination of any new applications for children's care homes, and the Note to be published on the relevant planning and Children/Young people web pages.

**Contact Officer:** Gavin Prescott, Planning Manager  
(Development Management)  
**Date:** 3<sup>rd</sup> December 2020  
**Background Papers:** None