

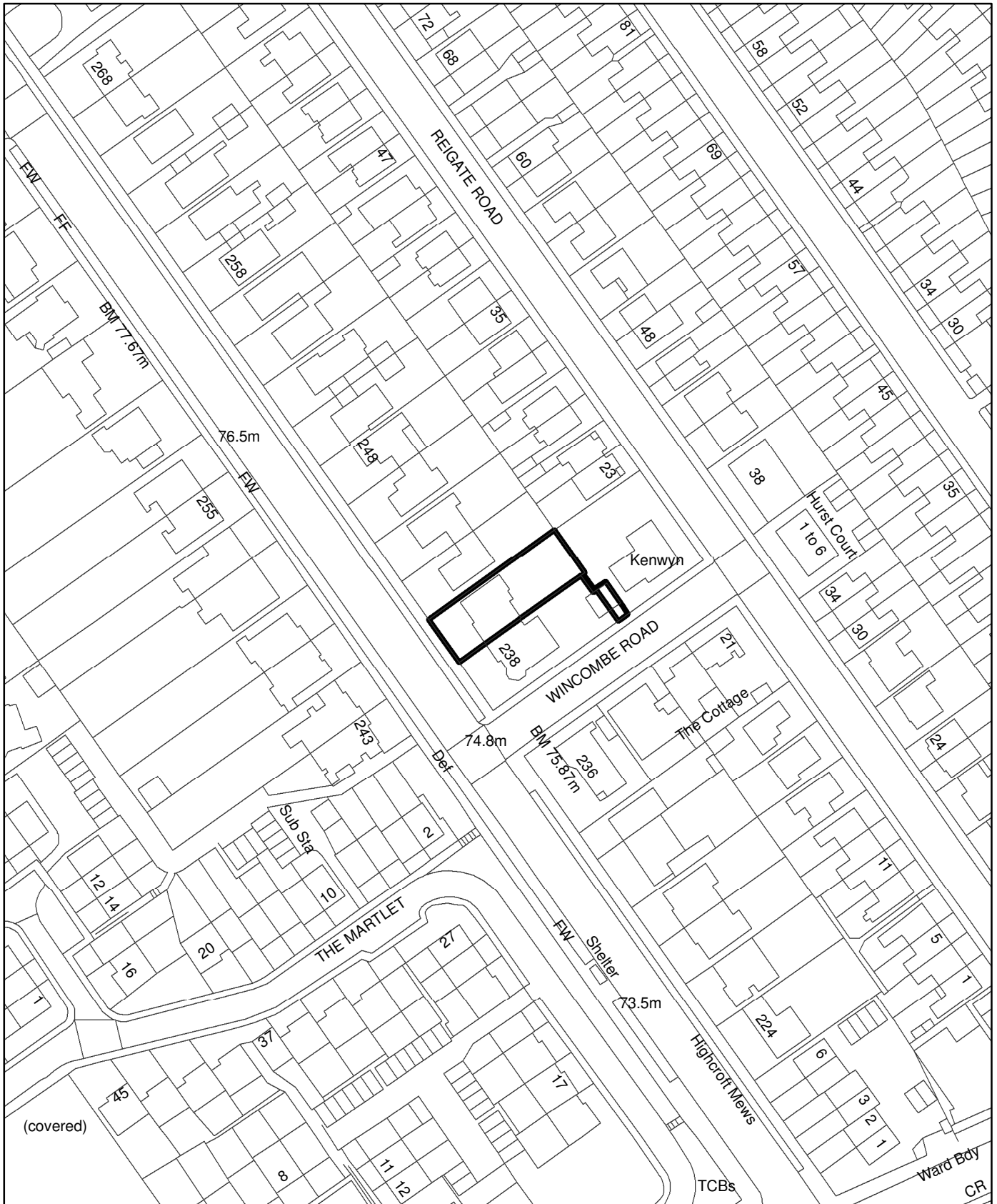
ITEM F

240 Dyke Road, Brighton

BH2014/01236
Full planning

16 JULY 2014

BH2014/01236 240 Dyke Road, Brighton.



**Brighton & Hove
City Council**



Scale: 1:1,250

PLANNING COMMITTEE LIST- 16 JULY 2014

<u>No:</u>	BH2014/01236	<u>Ward:</u>	WITHDEAN
<u>App Type:</u>	Full Planning		
<u>Address:</u>	240 Dyke Road Brighton		
<u>Proposal:</u>	Change of use from single dwelling (C3) to children's Home (C2).		
<u>Officer:</u>	Liz Arnold Tel 291709	<u>Valid Date:</u>	17 April 2014
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	12 June 2014
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	IBI Nightingale, Ridgeland House, 165 Dyke Road, Hove BN3 1TL		
<u>Applicant:</u>	The Lioncare Group, Lioncare House, 58A Livingstone Road, Hove BN3 3WL		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application relates to a semi-detached property located on the eastern side of Dyke Road, close to the junction with Wincombe Road. The two storey property is currently in use as a family single dwelling.

3 RELEVANT HISTORY

240 Dyke Road

79.2495 – Change of use from private residents to residential family home for children with learning difficulties. Granted 20/11/1979.

238 Dyke Road

BH1997/00988/FP – Change of use from single dwelling to day nursery for children aged 2-5 years. Refused 06/10/97 on grounds of lack of parking, road safety and loss of residential unit.

307 Dyke Road

BH2005/06674 - Change of use from dwelling house to residential Childrens home. Approved 06/04/2006. (Applicant Lioncare Ltd).

4 THE APPLICATION

- 4.1 Planning permission is sought for the change of use from a single dwelling (Use Class C3) to a children's home (Use Class C2).
- 4.2 The proposed children's home would cater for up to 5 young people at any one time. The age of the children on admission would be between 12-16 years old but the home would care for children up to the age of 18. Placements would be

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open to both genders for 52 weeks of the year on a medium to long term basis, between 18 months and 4 years. Referrals to the home would be made by Local Authorities. The majority of the young people referred to the proposed home would already be looked after by The Lioncare Group in one of the other homes and would attend the Lioncare School which provides specialist education for young people with motional and educational needs and difficulties. The proposed C2 facility would provide specialist care, via individual therapeutically informed programmes, to children who have experienced a break down in their own family home and whose needs have not been met in alternative family based or residential care settings. Placements to the home will not be open to young people with severe learning or physical disability, severe mental health disorders, acute drug or alcohol dependence or a propensity for ongoing criminal behaviour in the community.

- 4.3 The applicant, The Lioncare Group, is a long established provider and has been operating in the city since 1991. It currently operates three Residential Therapeutic Children's Homes, Westfields (Hove), Seafields (Dyke Road) and Springfields, an Independent School and two 18+ Supported Accommodation Homes. It is a preferred provider for Brighton & Hove City Council and West Sussex County Council (and a couple of other authorities) and works in partnership with 36 separate Local Authorities in total.

5 PUBLICITY & CONSULTATIONS

External:

- 5.1 **Neighbours: Eleven (11)** letters of representation have been received from **236, 238, 242 and 244 Dyke Road, Glenside and Kenwyn Wincombe Road, 23, 25, 35 and 49 Reigate Road and 2 Clarendon Mansions, 80 East Street** objecting to the application for the following reasons:

- Would remove a family home from the existing housing stock which is in short supply in the area. Introducing a care home here would adversely affect the strong family community as the staff and residents would be from outside the area and transient. Proposal is contrary to policies which maintain Brighton property for local residents and families and to maintain properties locally as single dwellings,
- It is inappropriate for the very special needs of the children that would be brought in from other boroughs,
- Increase in noise and disturbance,
- There is a strong sense of community within the area partly due to the fact that the houses are situated closely together and the gardens too,
- Increased traffic to property and increase parking demand. The accompanying transport document suggests reduced use of cars but does not mandate that staff use other means of transport, suggest that staffing levels could potentially be subsequently further increased at a later date,
- Playing outdoors is one of the most enjoyable and safe activities for children, more so nowadays when playing in the street is unsafe, therefore the gardens in the community have become the safe communal place where children get together and play. Concerned neighbouring children will be exposed to challenging behaviour and conversations, and that

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neighbouring gardens could no longer be used as a safe play area for neighbouring children. The focus if the planning has been on providing a safe place for the children in the care home but does not consider the children of the existing residents. Believe that there are potential safeguarding issues for neighbouring children and that the proximity of neighbouring children may prove an added stress for the children in care,

- The previous C2 designation of the property was over 30 years ago and is not relevant to the application. It is also superseded by a subsequent decision not to award C2 status to the adjoining property at 238,
- Application suggests that the property would be a residential home but also makes it clear that this is a 'therapeutic community' with regular therapy work taking place in the home. This entails a large number of staff, the home is therefore not to be simply a children's home but is also proposed to become a treatment/therapy unit with a high footfall of staff on a daily basis,
- Bringing looked after children into Brighton from other boroughs puts pressure on already overcrowded secondary school system in the City,
- Overlooking and loss of privacy,
- Believe that the children and young people they provide care for would benefit from a detached house with a bigger, more secluded garden, where they can make the most of the therapeutic support they will receive. Disagree that 240 Dyke Road is suitable for the type of provision that Lioncare proposes, do not consider the garden to be big enough for the rather idealised plans,
- This is not an application for integrated or inclusive care but one of a more closed and protective environment suitable for children and young people who exhibit severe behaviour and who are not ready for community living,
- Do not accept the arguments put forward for other properties not being suitable. Suspect that the purchase of 240 Dyke Road is potentially more important to Lioncare as a future commercial asset than as development of their work,
- The plans are incorrect, the garage owned by 240 is not marked correctly on the plans,
- There is no scientific basis for the type of therapeutic approach and it is not recognised by the National Institute for Health and Clinical Excellence, for use by The National Health Service.

5.2 **48 Reigate Road** comments that it is not clear how Lioncare will ensure that residents are not affected by any anti-social or disturbing behaviour in what is a quiet residential area populated by a lot of young families,

5.3 **240 Dyke Road** (current owner) Supports the application as when originally purchased the house it had been successfully operating as part of Ceres House which cared for handicapped children. It is a very practical and spacious house and well suited to bringing up children. Sure that it will work very well for the disadvantaged children which Lioncare hope to house in it and if the experience with their existing home at 307 Dyke Road is anything to go by, suggests that the change of use should not cause a problem for the neighbours especially as no external changes are apparently planned for the house or the gardens.

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- 5.4 **Southern Water:** No objections
- 5.5 **Southern Gas Networks:** No comments regarding the proposed change of use.
- 5.6 **UK Power Networks:** No objections.

Internal:

- 5.7 **Children's Services Commissioner (Agency Placement):** The Local Authority does not have any Council owned/managed residential care resources for non-disabled children and thus all such services are commissioned from the independent sector. There is currently a shortage of children's residential services within Brighton & Hove.
- 5.8 Lioncare is a preferred provider on the joint Brighton & Hove City Council and West Sussex County Council framework of independent providers of children's residential care. This means that the agency is assessed as providing high quality services to looked after children. Whenever possible children looked after by Brighton & Hove City Council should be placed in, or as near to, Brighton & Hove as possible. However, then this is not possible, or not in the best interests of an individual child, children are placed in children's homes in other local authority areas. It is therefore essential that local authorities work co-operatively to provide the wide range of placements required for vulnerable looked after children.
- 5.9 Lioncare provide a specialist therapeutic model of care and whilst this would not be appropriate for all looked after children who require residential care it is suitable for some. Children who live in one of the Lioncare children's homes often remain resident for a number of years and thus vacancies do not arise very regularly. The proposed children's home may provide additional placement options for children in the care of Brighton & Hove City Council, depending on when vacancies arise and the individual needs of children requiring a residential placement at that time, but is unlikely to significantly impact on the number of looked after children placed outside of Brighton & Hove.
- 5.10 **Environmental Health:** No comment
- 5.11 **Planning Policy:** The principle of the proposal is supported by planning policy.
- 5.12 **Sustainable Transport:**
(Original comments 23/05/2014) Recommend approval as the Highway Authority has no objections subject to the inclusion of a condition to secure further details of cycle parking and the implementation of a travel plan.
- 5.13 (Additional comments 03/06/2014 received from Council's Travel Plan Officer)
The Travel Plan should be amended to include information to employees about obtaining season tickets for bus and rail travel, a staff 'key' smartcard for cross-city travel on the bus should be explored and a staff survey should be undertaken on an annual basis.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”
- 6.2 The development plan is:
- Brighton & Hove Local Plan 2005 (saved policies post 2007);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
 - East Sussex and Brighton & Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton & Hove;
 - East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) is a material consideration.
- 6.4 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF.
- 6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU10	Noise nuisance
QD27	Protection of amenity
HO8	Retaining housing
HO9	Residential conversions and the retention of smaller dwellings
HO11	Residential care and nursing homes
HO15	Housing for people with special needs

Supplementary Planning Guidance:
SPGBH4 Parking Standards
Interim Guidance on Developer Contributions

Supplementary Planning Documents:
SPD08 Sustainable Building Design

Brighton & Hove City Plan Part One (submission document)
SS1 Presumption in Favour of Sustainable Development

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the acceptability of the proposed change of use, the impacts upon the amenities of neighbouring properties and transport and sustainability issues.
- 8.2 As previously stated Lioncare currently operate 3 children's homes within the City. It is stated within the application that the proposed home would operate and be managed in a similar manner to the current service known as Westfields in Seafield Road.
- 8.3 The proposed home would provide "individual therapeutically informed programmes of care to young people who may have experienced abusive situations of an extreme nature resulting in them suffering trauma and difficulties in managing their day-to-day life. The home will be specifically planned to provide primary care provision in a group setting for young people who have experienced a break down in their own home and whose needs have not been met in alternative family based or residential care settings".
- 8.4 The number of staff/adults on duty will vary throughout the day and across the year to accommodate school holidays, festive occasions, contact arrangements, individual programmes of care, specific therapeutic tasks and to reflect the different needs of the young people and of the home. In general during the day the average adult carer to young ratio would be 1:2 in addition to any adult team members present in the home carrying out non-direct care tasks such as administration or management duties. At night there would be a minimum of two adults present in the home.

Planning Policy:

- 8.5 The National Planning Policy Framework sets the presumption of sustainable development and paragraphs 7 and 50 seek to ensure sustainable, inclusive and mixed communities are created and a mix of housing is provided to meet the needs of different groups in the community.
- 8.6 Policy HO8 of the Brighton & Hove Local Plan states planning permission will not be permitted for proposals involving a net loss of units of residential accommodation unless one or more of the following exceptional circumstances applies;

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- a) the residential accommodation is classified as unfit for human habitation and it can be demonstrated that it cannot be made fit for habitation;
 - b) a separate access to the residential accommodation is impracticable;
 - c) where it can be demonstrated that the change of use is the only practicable way of preserving the existence or special architectural or historic character of a listed building or other building of architectural or historic interest;
 - d) where the proposal would result in a net gain in units of affordable housing;
or
 - e) where the previous use of a building would be a material consideration.
- 8.7 Lioncare consider that the former use of the property by Ceres House (approved in 1979) as a C2 residential home for children with learning disabilities demonstrates that the property is suitable as a children's home. Whilst this former use is noted it would appear that this use ceased a long time ago and therefore only limited weight to this previous use is given, in respect of policy HO8.
- 8.8 As part of the application information regarding extensive site search to find a suitable premises. The search appears to have been related to existing large residential properties. The location of some of these properties was considered a problem, for example too far from the City centre, adjacent to an office block which would have security implications or located adjacent to a busy dual carriage way. The modernisation/layout change costs of other properties viewed was considered too excessive to proceed with a purchase.
- 8.9 It is stated within the submission that the number of existing residential care homes (use C2) within the City currently available for sale is minimal. It is stated that although the occupancy of an existing C2 premises is more beneficial to the care provider (ie no planning permission required, fire detection stems already installed, etc) at this time no C2 properties were found to be available in the required part of the City, of a sufficient size or within purchasing price.
- 8.10 Policy HO11 of the Local Plan states that planning permission will be granted for residential care and nursing homes where it can be demonstrated that the proposal;
- a) would not adversely effect the locality or neighbouring properties by way of noise or disturbance; or by way of size, bulk or overlooking
 - b) provides adequate amenity space;
 - c) is accessible to people with disabilities; and
 - d) provides for operational parking.
- 8.11 The supporting information submitted suggests that neighbouring properties would not be adversely affected by noise and disturbance as the property would continue in use as a shared residence, with the children supervised at all times. Furthermore, it suggests that the day-to-day running of the premises 'has the feel of a family home' and it is not considered that it would result in additional noise and disturbance than if the property continued to be occupied as a family home. The impacts of the proposal upon the amenities of neighbouring properties is further considered below.

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- 8.12 Many of the representations received in respect of the proposed change of use refer to the size of the rear garden being too small. Policy HO1 states that adequate amenity space should be provided, stating that a minimum depth of 10m and not less than 25m² per resident should be provided. The garden area of the site has a depth of approximately 16.5m and the rear amenity space equates to approximately 38m² per resident.
- 8.13 Although the garden area and entrance to the property are not level it is considered that level access could be provided and that the premises could be adapted to provide flexible accommodation if required. It is also noted that within the submitted Planning Application Report it is stated that the proposed future occupiers of the home would not have severe physical disabilities.
- 8.14 A hard-standing area is located to the front of the property for parking purposes.
- 8.15 It is noted that the applicant has stated that they would be agreeable to a condition being attached to an approval to ensure that upon Lioncare ceasing to operate a residential children's home from the site the property converts back to a single dwellinghouse but is it not considered in this case that such a condition is required although it is considered that a condition should be attached to ensure that the premise remains as a children's care home and as no other C2 use.
- 8.16 Policy HO15 of the Brighton & Hove Local Plan states that planning permission will be granted for the provision of residential accommodation for people with special needs, including supported housing. It is considered that the proposed would be delivering such a provision and would be in accordance with this policy. Policy HO15 is cross-referenced to policy HO9 regarding residential conversions, self-containment and the retention of smaller family sized dwellings. HO9 is primarily concerned with the loss of smaller sized family houses and seeks to retain some family sized accommodation within residential conversions wherever possible. One of the permissible exceptions to this is where proposals are specifically for people with special housing needs, to which the proposal is in compliance with.
- 8.17 Whilst policy HO8 of the Brighton & Hove Local Plan seeks to retain residential accommodation, it does not specifically relate to the loss of C3 uses. Given the supporting information submitted to justify the loss of the family accommodation, such as the site search information, together with the compliance of the proposal with policies HO11 and HO15 of the Local Plan, the change of use is considered acceptable in planning policy terms.

Impact on Amenity:

- 8.18 Policy QD27 states that planning permission for any development will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

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- 8.19 Concerns have been raised by local residents regarding the potential noise and disturbance from the use of the property as a children's care home. A maximum of five children are proposed to live at the property; presently as a single family dwelling house a family with the same or more children could live at the premises without the need for planning permission. The property is a large semi-detached property which is considered sufficient to accommodate a children's home at the scale proposed without having a detrimental impact on neighbouring occupiers.
- 8.20 Council Environmental Health records show no complaints have been received regarding the other premises operated in the City by Lioncare. There is a potential, however, for some disturbance resulting from prolonged activity in the rear garden if use of the outdoor space is not managed satisfactorily. Although the supporting information submitted with the application suggests children will be supervised at all times, to ensure noise levels are reduced, it is recommended that a condition is attached requiring details of the management of the outdoor space in addition to details regarding the installation of acoustic fencing, additional to the existing boundary treatments.
- 8.21 The surrounding area is principally residential in character, however there are a number of other children's homes near to the application site. The change of use of the property to a children's home is not considered to have a detrimental impact on the surrounding area. As a children's home, the property will have a similar character to that of a single family dwelling house and a condition is imposed which restricts the use of the property to a children's home only with no permitted development rights to change the use to other uses which fall within the C2 use class. As previously stated, as a single family dwelling house a large family could reside at the premises without the need for planning permission, as a result it is not considered that the proposed change of use would have a detrimental impact on the surrounding area.

Impact on Traffic:

- 8.22 Concerns have been raised by local residents regarding the increased parking pressure and traffic as a result of the proposal. The Traffic Manager has commented on the application and raises no objections to the proposal subject to the attachment of conditions regarding the submission of a details Travel Plan and cycle storage facilities.

9 CONCLUSION

- 9.1 In conclusion it is considered that the proposed change of use is acceptable in terms of policy requirements and is not considered to be out of character with the surrounding area. Subject to the compliance with the recommended conditions, the proposed use as a children's care home would not have a significant detrimental impact upon the amenity of neighbouring properties or parking within the area. Approval is recommended.

10 EQUALITIES

- 10.1 The proposal would provide care for an identified special needs group.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

11.1 Regulatory Conditions:

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
- 2) The development hereby permitted shall be carried out in accordance with the approved drawings listed below.
Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Site Location Plan	100 001	P2	20 th June 2014
Existing Plan	200 001	P1	16 th April 2014
Proposed Plans	200 002	P1	16 th April 2014

- 3) The number of children residing at the property shall not exceed 5.
Reason: To safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 4) Notwithstanding the provisions of Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or any amendment thereto, this permission shall be for a children's home and no other purposes including any other uses within Class C2 of the Schedule to the Order without the prior consent of the Local Planning Authority to whom a planning application shall be made.
Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and in order to comply with policy QD27 of the Brighton & Hove Local Plan
- 5) No development shall take place until details of the management of the use of the outdoor space have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in strict accordance with the agreed details prior to the use hereby approved commencing.
Reason: To ensure the effective management of the outdoor space and safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- 6) Within 3 months of occupation of the development hereby approved, the Developer or owner shall submit to the Local Planning Authority for approval in writing, a detailed Travel Plan (a document that sets out a package of measures and commitments tailored to the needs of the development, which is aimed at promoting safe, active and sustainable travel choices by its users (pupils, parents/carers, staff, visitors, residents & suppliers).
Reason: To ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR1 and TR4 of the Brighton & Hove Local Plan.

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- 7) The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.
- 8) The Childrens Home hereby approved, shall not be occupied until a scheme has been submitted to and agreed in writing by the Local Planning Authority for the instillation of acoustic fencing along the boundaries of the site and the fence as approved shall be constructed prior to the first occupation of the home.
Reason: In order to safeguard the residential amenity of nearby occupiers and to comply with policies QD27 & HO15 of the Brighton & Hove Local Plan

11.2 Informatives:

1. In respect of condition 7 the Travel Plan shall include such measures and commitments as are considered necessary to mitigate the expected travel impacts of the development and should include as a minimum the following initiatives and commitments:
 - i. Promote and enable increased use walking, cycling, public transport use, car sharing, and car clubs as alternatives to sole car use:
 - ii. A commitment to reduce carbon emissions associated with business and commuter travel:
 - iii. Increase awareness of and improve road safety and personal security:
 - iv. Undertake dialogue and consultation with adjacent/neighbouring tenants/businesses:
 - v. Identify targets focussed on reductions in the level of business and commuter car use:
 - vi. Following the annual staff survey, an annual review will be submitted to the Local Planning Authority to update on progress towards meeting targets:
 - vii. Identify a nominated member of staff to act as Travel Plan Co-ordinator, and to become the individual contact for the Local Planning Authority relating to the Travel Plan.
2. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
3. This decision to grant Planning Permission has been taken:

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- (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
- (ii) for the following reasons:-
The proposed change of use is considered acceptable in terms of policy requirements and is not considered to be out of character with the surrounding area. Subject to the compliance with the recommended conditions, the proposed use as a children's care home would not have a significant detrimental impact upon the amenity of neighbouring properties or parking within the area.