

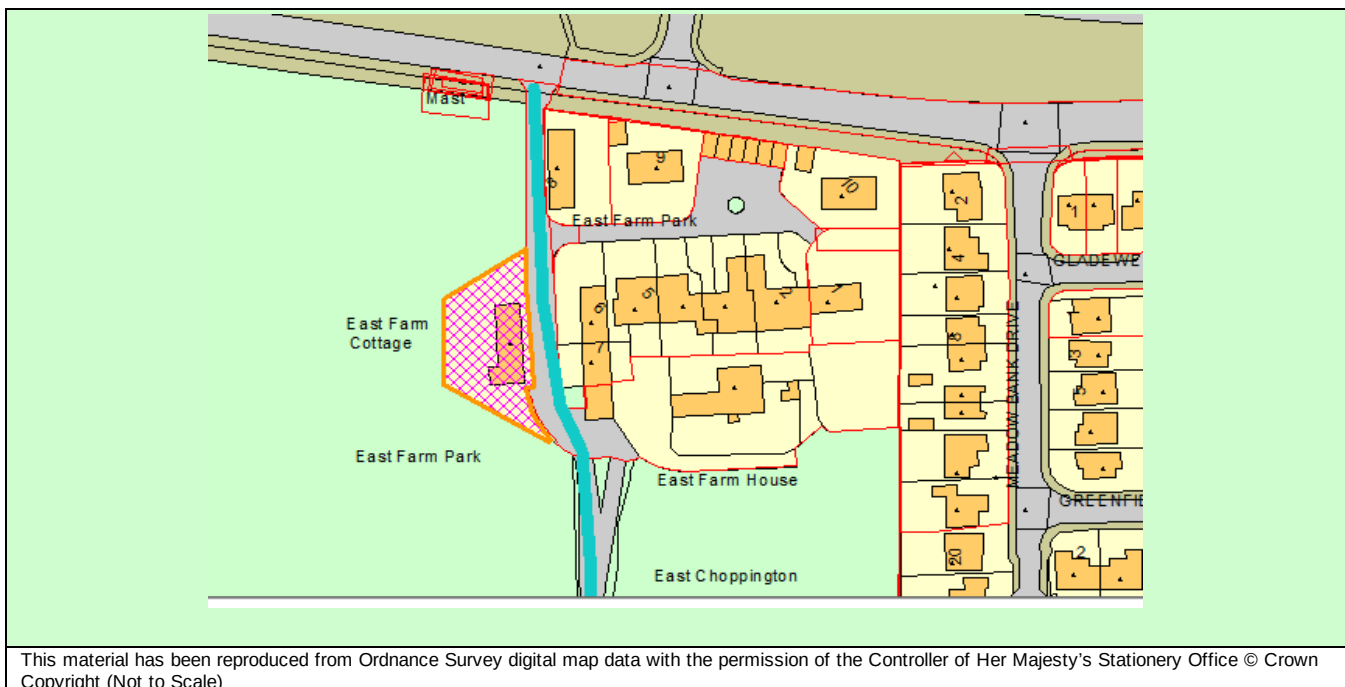


# Northumberland County Council

## Castle Morpeth Local Area Council Committee 10<sup>th</sup> February 2020

<b>Application No:</b>	19/03768/FUL		
<b>Proposal:</b>	Change of use form residential (Class C3) to residential home for children and young people (Class C2) with minor external alterations (As amended 09.12.2019) (amended red line boundary received 16.10.2019 to include access)		
<b>Site Address</b>	East Farm Cottage, Guide Post, Choppington, Northumberland NE62 5PS		
<b>Applicant:</b>	Mrs Sandie Bailey 3 The Boulevard , Ascot Road , Watford , WD18 8AG	<b>Agent:</b>	Mr Kenny Hiles Central Square South, Floor 2 , Orchard Street, Newcastle Upon Tyne, NE1 3AZ
<b>Ward</b>	Choppington	<b>Parish</b>	Choppington
<b>Valid Date:</b>	25 September 2019	<b>Expiry Date:</b>	20 November 2019
<b>Case Officer Details:</b>	Name: Mr Richard Laughton Job Title: Planning Officer Tel No: 01670 622628 Email: richard.laughton@northumberland.gov.uk		

**Recommendation:** That this application be GRANTED permission



### 1. Introduction

1.1 Under the Council's current Scheme of Delegation, where an application raises significant planning issues or objections, it is referred to the Senior Planning Manager for determination as to whether the application should be considered by Members of the relevant Planning Committee. The application has been vetted by

the Senior Manager and Chair of the Committee, where it was decided that the application has raised significant concern from local residents. As such, the application is to be considered by Members of the Committee.

1.2 The application was heard at Castle Morpeth Local Area Council meeting on 9<sup>th</sup> December 2019, On being put to the vote, it was agreed by a majority that it be RESOLVED that the application be DEFERRED to allow information clarifying the following areas to be provided:

- Evidence from similar schemes elsewhere and any impact on the locality.
- Information on the deliverability of the required five parking spaces.
- Information on the likely visitor numbers to the property.

This is summarised under paragraphs 7.27 - 7.32, 7.41 and 7.43 - 7.44 of the report.

## **2. Description of the Proposals**

2.1 The application seeks full planning permission for the change of use of East Farm Cottage, Guide Post from a C3 (Dwelling) use class to a C2 (Residential Institutions) use class for the provision of residential accommodation and care for Children.

2.2 The change of use of the existing detached four bedroom residential property would retain the same number of bedrooms for a residential home for 3no. children up to the age of 18 years old and supporting staff. This would be registered with Ofsted as a care provider.

2.3 The supporting information submitted with the application states that minor internal reconfiguration works will be undertaken to provide an appropriate internal layout including the following room/amenities:

- Combined kitchen / dining room
- Utility / washing room
- Staff office
- Family lounge
- Dining Room
- Quiet Room formed from the existing garage
- 3 No. individual bedrooms to be occupied by children
- One individual bedroom with en-suite/MC for use by a single member of staff
- Main bathroom for use by children
- Shower Room for us by Staff
- Car parking will be required to support staff, visitors to the home and staff change over. A maximum of five spaces will be required.

2.4 There are no proposals to undertake any significant structural changes to the property with the exception of the garage conversion which would inset a window and matching brickwork to replace the existing garage door.

2.5 The home would operate 24 hours a day, 365 days a year supported by on average 3 members of staff working varied shift patterns. During shift changes and

dependent upon the time of day, there could be up to a maximum of five staff on site. It would provide for the long-term care of up to three children aged between 8 and 18 years old. Although, the focus would be to accommodate children between the ages of 8-12 years. No emergency placements will be accepted.

2.6 The property is within an existing residential area of Guide Post adjacent to a converted farm steading of East Farm and near a working Farm. The property was previously two cottages converted into one larger dwelling with the use of facing brick and upvc windows. Access is via a private road from the A196 and additional on site parking provision will be provided for up to 5 spaces. The property also has a rear garden facing the west opposite farmland and open countryside.

2.7 The home would be run by Action for Children. The planning statement submitted with the application highlights that *“Action for Children have embarked on a national project of expansion..... converting residential homes for children and young people, who can be cared for in their local area and community, along with working in partnership with Local Authorities and other service providers. Action for Children are one of the largest children’s charities in the United Kingdom....Some of these children and young people don’t have the basics, from the love and care of family to regular routines such as meal times or the guidance that all children and young people need in order to thrive and develop into healthy adults”*

*“The aim is to provide a safe family home from home environment in a non-institutionalised way to help the most vulnerable children and young people recover from adverse childhood experiences, injustice, deprivation and inequality”.*

### 3. Planning History

No relevant planning history

### 4. Consultee Responses

Highways	No objections subject to conditions
Choppington Parish Council	No response received
Public Protection	No comments
Architectural Liaison Officer - Police Crime Department	No objections
County Ecologist	No objections
South SE Tree And Woodland Officer	No response received
Forestry Commission	No response received

### 5. Public Responses

#### Neighbour Notification

Number of Neighbours Notified	3
Number of Objections	22

Number of Support	0
Number of General Comments	1

## Notices

General site notice 15<sup>th</sup> October 2019 & 19<sup>th</sup> December 2010 (Amended red line boundary to highway)

No Press Notice Required.

## Summary of Responses:

There have been objections received from local residents with concerns related to:

- Increase in anti-social behaviour and fear of crime
- Area already has issues with youth crime
- Site of this nature is too close to existing properties in a quiet neighbourhood
  - this will impact residents amenity
  - cause disturbance
  - Not in accordance with Policy H10 of Local Plan
- Site is still a working farm – unsafe for children with passing large vehicles and spraying of pesticides in adjacent fields
- Impact to highways safety – insufficient parking for proposal and visitors
  - No off site parking can be provided
  - Assessment required due to unsafe access into site from the A196 (bad junction)
  - Additional traffic is unsafe for existing residents
- Site is not sustainable with limited facilities
- No lighting within the estate
- No location assessment has been submitted which is required under the Children Homes Regulation Amendments 2014
- No Needs Assessment submitted
- No information on new residents in terms of criminal records etc.
- Residents have a right for peaceful life under Humans Rights Act
- Removal of a section of wall will impact appearance
- Erection of bike and increased parking will leave insufficient garden space
- Application will impact house prices

The above is a summary of the comments. The full written text is available on our website at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=PXEE6YQSJM600>

## **6. Planning Policy**

### 4.1 Development Plan Policy

Wansbeck District Local Plan 2007

Policy GP1 (A) - Settlement Limits

Policy GP30 - Visual Impact of Development

Policy H10 - Residential institutions and care homes

Policy T6 - Traffic Implications  
Policy T7 – Parking provision

#### 4.2 National Planning Policy

National Planning Policy Framework (2019)  
National Planning Practice Guidance (2019, as updated)

#### 4.3 Other Documents/Strategies

Wansbeck Design Guide 2007

Northumberland Local Plan - Publication Draft Plan (Regulation 19) (Submitted May 2019)

STP1 Spatial strategy

STP8 Development in the Green Belt

HOU8 Residential development in the open countryside

QOP2 Good design and amenity

QOP4 Landscaping and trees

TRA4 Parking provision in new development

HOU11 Homes for Older and Vulnerable People

## **7. Appraisal**

7.1 The NPPF operates under a presumption in favour of sustainable development. It states that development proposals, which accord with the development plan, should be approved without delay. The adopted development plan for the area within which the application site is located comprises of saved policies of the Wansbeck District Local Plan.

7.2 The main considerations in the assessment of this proposal are:

- Principle of development
- Design and visual impact
- Impact on amenity
- Highways

### **Principle of development**

7.3 The site is located within the settlement limits of Guide Post with the proposals map of the Wansbeck District Local Plan and is also utilising a previously developed site through the change of use of an existing property. Policy GP1 Part A of the Wansbeck District Local Plan states that provided proposals are in accordance with other policies of the Plan, development on previously-developed sites and buildings within settlement limits, as defined on the Proposals Map, will be permitted.

7.4 Of relevance within the Local Plan is Policy H10 that states that proposals for residential institutions and care homes will be permitted provided that:

*a) in terms of the likely needs of the prospective residents, the development is sufficiently accessible to local services and facilities; and.*

- b) it is accessible by public transport, on foot and by cycle; and*
- c) residents will enjoy satisfactory living conditions in terms of privacy, outlook, outdoor amenity space and freedom from disturbance and pollutant; and*
- d) there is unlikely to be any disturbance to neighbours.*

7.5 The site is within walking distance of a wide range of community facilities, key services, schools, employment opportunities and public transport links. In this respect the application would accord with criteria a) and b) of Policy H10. This is consistent with the general principles within the National Planning Policy Framework (NPPF) in the context of promoting sustainable development. The appraisal of criteria c) and d) of policy H10 will be further appraised in the report however, it is considered that based on the existing arrangement of the dwelling there would be adequate levels of amenity for future residents without detriment to the existing occupants in terms of outlook, privacy and loss of light. In addition, there is insufficient evidence to indicate that the scheme would generate a significant level of noise and disturbance.

7.6 Paragraph 48 of the NPPF states that some weight may also be given to the policies in emerging plans, depending on the stage of preparation of the plan, the extent to which emerging policy aligns with the NPPF and the extent of unresolved objections to the emerging plan. The emerging Northumberland Local Plan - Publication Draft Plan (Reg 19) (NLP) was submitted to Government on 29th May 2019 for examination. As such, the policies contained within this document carry some weight in the determination of planning applications at this stage.

7.7 Policies STP2 and STP3 of the draft Northumberland Local Plan also seek that decisions apply a presumption in favour of sustainable development. Due to the nature of the scheme and intended users, the application site is ideally situated within a highly sustainable area, accessible by footpaths, public transport, cycling or private car rather than an isolated location. Policy HOU11 of the draft Northumberland Local Plan is supportive of housing and other residential accommodation which meets the changing needs of older people and vulnerable needs groups and which supports residents' desires to live securely and independently in their own homes and communities over their lifetimes will be delivered wherever possible.

7.8 Little weight can be attributed to the emerging Local Plan at this stage, however, the Plan does propose a direction of travel for the forthcoming Plan period in shaping how the County can be developed. In that respect, the proposal is considered to be in general accordance with policies STP2, STP3 and the principles within HOU11.

7.9 Overall, the application is acceptable in principle as it would provide housing for vulnerable children by re-using a previously developed site within a sustainable location in a settlement. The application is therefore in accordance with Policy GP1(a) and H10 of the Wansbeck District Local Plan and the NPPF.

#### Design and visual impact

7.10 Policy GP30 of the Wansbeck District Local Plan details that all proposed development within the former district will be assessed in terms of its visual impact. As there are no major design changes to the existing dwelling proposed within this

application, there is not considered to be an adverse impact caused upon the appearance of the site. Whilst it is noted that the garage door will be replaced by a window and matching brickwork, this would present no harm to the character of the property. The installation of formal hardstanding to the side elevation would also constitute minor works would not cause harm to the visual amenity of the site or surrounding area. It is therefore considered that the proposal accords with policy GP30 of the Wansbeck District Local Plan.

### Impact on amenity

7.11 Policy H10 of the Wansbeck District Local Plan stipulates that residents of such an establishment must enjoy satisfactory living conditions in terms of privacy with sufficient outdoor amenity space and freedom from disturbance and pollutant; and there is unlikely to be any disturbance to neighbours.

7.12 Paragraph 127 of the NPPF seeks to ensure that developments will create places with a high standard of amenity for existing and future users. Paragraph 58 states in relation to 'Requiring good design' that "Planning policies and decisions should aim to ensure that developments:

- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion;"

The NPPF goes on to state in para.69 in relation to 'Promoting healthy communities' 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.

7.13 The application has raised considerable objection from local residents with concerns relating to anti-social behaviour. The issue has been raised due to the proposed housing of vulnerable children who may suffer from behavioural difficulties that are related to deprivation or adverse childhood experiences.

7.14 Whilst all issues raised are noted within the determination of a planning application, there can only be great weight attached to those 'material considerations' that relate to land use planning. The strength of feeling from the local residents in respect of this proposal is fully understood however, issues such as perceived behavioural matters, vulnerable tenants, anti-social behaviour, substance abuse or a number of similar uses within the area are not recognised as material considerations. These are controlled by other bodies, such as Ofsted, the police and other bodies of the Council, such as the anti-social behaviour and housing team.

7.15 The requirements within the NPPF relate to crime and disorder which associates new development and designing out crime. In any instance, there should be evidence to support identifying a specific group of people and the perceived risk of anti-social behaviour and crime. Notwithstanding this, it is accepted that Policy H10 specifically refers to supporting proposed residential institutions provided that '*there is unlikely to be any disturbance to neighbours*'. It should be noted that 'disturbance' should not be directly related to crime and

anti-social behaviour and is a planning judgement on the impact to neighbours from the increased levels of activity based on the scale of the scheme. In this case, the nature of the proposal does not give immediate rise to concerns of disturbance. As described earlier in the report, it is anticipated that no more than 3no. children would reside in the property at any one time. When taken in context, this is not dissimilar to a standard family residence.

7.16 There also has to be consideration given to the principles within the NPPF and main aims of policy H10 that supports the housing of vulnerable needs groups in sustainable locations as well as other material planning considerations to form a balanced and informed decision.

7.17 The application is seeking to change the existing use from C3 (Dwellinghouse) to C2 (Residential Institution). Use class C3(b) is defined within Class C3. "Dwellinghouses" in the Schedule to the Town & Country Planning (Use Classes) Order 1987. Classes C3(a) and (b) are set out as follows:-

*"Use as a dwellinghouse (whether or not as a sole or main residence) —*

*(a) by a single person or by people living together as a family, or*

*(b) by not more than 6 residents living together as a single household (including a household where care is provided for residents)..."*

7.18 A children's care home therefore, could fall within the existing Use Class C3(b) (Dwellinghouses) where the total number of residents does not exceed six and the carers and the cared-for live as a single household. The definition within 3(b) does not refer to 'personal care' and parents provide care for their own children as a household, this is the same function as a shift care worker. The current application proposes housing for 3no. children and 5no. carers which would fall beyond the requirements under Class 3b as a dwellinghouse and therefore, the application could possibly be considered a permitted development if the number of carers was reduced.

7.19 Permitted development however, under use class 3(b) provision has given rise to debate in case law, particularly where carers do not permanently live at the premises, but operate on a shift basis. The general consensus is that constantly changing supervising adults cannot be considered part of a household. For a household to be created there would need to be at least one permanent adult living on the premises with the children. Whilst care homes in general are of a similar function to a dwelling house, the additional activity of shift changing and cars may also provide a material change of use.

7.20 In the case between *North Devon District Council v The First Secretary of State (2004)*, it was held that where the carers did not live permanently within the premises, the occupants would not be living together as a single household and consequently would not fall within Class C3. The main issue however, was whether the lack of any carers 'living' within the property materially changed the character of the property as a dwellinghouse. It was the inspector's opinion that it did not. Although when carers visiting the site would increase activity, this would not disturb local residents or affect the character of the area. Additionally, although local residents were fearful about the children committing anti-social acts or increasing crime levels, he decided that it was not inherent in the character of a



children's care home that the proposed use of the property would have an adverse impact upon the local community and welfare services. Consequently, this was not a factor which would materially alter its basic character as a dwellinghouse. The children would be supervised and have to obey a set of written rules but in his view it was not uncommon for a family to have its own set of unwritten rules.

7.21 In summary, there is debate within different examples of case law on whether small scale children care homes should be considered a C2 or C3 use class however, there is a consistent judgement, including a decision from the Secretary of State, that care homes for a small number of children would not have a material change to the character and function of a dwellinghouse. Although applications are assessed on a case by case basis, it was determined that the care for a small number of children, the level of activity would not provide significant disturbance than that of a household within a large dwelling in a suburban location where levels of activity alters within different households.

7.22 The submitted planning statement states that Action for Children will operate the property as a residential home for children and young people and will therefore, operate at all times, in a similar manner as that of a normal residential home. The home will be registered as a care provider with Ofsted and managed on a day-to-day basis by a registered manager who will ordinarily be based at the property Monday to Friday, 9am until 5pm. The registered manager will be supported by a suitably qualified staff team in line with current Ofsted regulations. Rotas will reflect the needs of the individual children residing at the property. It is envisaged that when children are in education during term time, staffing levels will decrease. Due to the need to provide continuity of care to the children and young people, a hand over period between the shifts will be necessary which will be for 30 minutes.

7.23 The Crime Department within the Police were consulted and had no objections to the application from a crime prevention point of view. The crime reports and incidents in the area are currently low and without detail of the potential residents, it is not possible to indicate whether crime will increase due to the proposed scheme. In terms of the risk involved near a working farm and large vehicles using the private road, the police consider this to be an issue for staff to educate the children in road safety matters.

7.24 Policy H10 d) covers developments for all possible size and scale and it is considered that based on the provision of housing for 3no. vulnerable children within an existing dwelling, it is of a minor scale rather than a large new build residential institution catering for a small community of residents. The level of activity would not be to a significant level. The site will also be managed by carers to supervise the children.

7.25 Based on the identified case law and local police comments, there should not be significant weight afforded to the fear and perception of antisocial behaviour, without any evidence. The scheme would provide supervised valuable living accommodation for a vulnerable needs group that require support and have the right to live in safe conditions to improve their welfare and future upbringing.

7.26 Whilst issues raised from residents include the unsafe location near a working farm, there is still adequate amenity space to the rear garden for size of the

dwelling and number of occupants. There is also no increase to the number of bedrooms. The issues raised would still be applicable for occupants in the existing use as a dwellinghouse and the associated risks for any family in an urban or rural environment. As the proposal uses the existing dwelling there would be no adverse impact to privacy, loss of light or outlook than what occurs from the current property.

Additional information from applicant

7.27 In order to address the concerns raised by Members of the Committee, the applicant has submitted further information in relation to anti-social behaviour and general management of the children.

7.28 In summary, East Farm Cottage is considered appropriate as it is a generous sized 4 bedroom detached house with bedrooms located on the first floor and the layout of the rooms are ideal in terms of the ability of staff to safely monitor and supervise the children throughout the night as all rooms are in sight of the staff 'sleep in room'. The property has its own gardens that are large enough to ensure the children have appropriate outdoor amenity space and also reduce any noise or disturbance to neighbours. The home was also chosen due to the location for its good transport links and parking requirement but is situated within in a small private road, set back from the main highway and will not have many people passing through. The home is also within a short distance of 'outstanding' schools and children under care will have priority access.

7.29 Action for Children has spoken with several of their registered managers throughout their portfolio of circa 45 properties and in this regard, can advise that they have not encountered a rise in anti-social behaviour which in their opinion could be attributed to their operations. It is considered that the causes of anti-social behaviour are subjective as are many aspects of social behaviour and environmental factors. The applicant states that: *"Action for Children can confirm that at present we have over 45 service providing long term and /or short breaks to children and young people. As a snap shot a 3rd of the homes have been contacted and there have been no reported incidents with the police and no increases in crime or anti-social behaviour linked to young people living within these homes."*

7.30 The statements further highlight that;

*"Action for Children have since September 2019 been in contract with Northumbria Police in relation to the preparation of their locality risk assessment and planning as part of the preparation for Ofsted Registration. Action for Children have been advised by the local PCSO that the Guidepost area is usually a quiet area for the police with no undue risks caused by the surroundings of the home, with the local PCSO more than willing to work with the staff and young people which will form part of the running and operations of the home once it has been registered and open. Action for Children will positively engaged with the local police and wider community.*

*In terms of the management of anti-social behaviour this will be thoroughly and rigorously risk assessed as part of the management of the property in order to*

*comply with their Ofsted Registration and their regulatory responsibilities which they must adhere to in order to provide the service. Anti-social behaviour will be continually and comprehensively reviewed as part of the day to day management of the home, the individual child's care plan and personalised risk assessments with regular contact and meetings with the Police in order to identify any threats or risks to home or wider environment so that at an early stage they can be captured in order to allow appropriate procedures to be addressed, risk assessed and mitigation measure implemented".*

7.31 The home would be monitored through Ofsted regulations and *"additionally homes follow specific guidance and legislation to ensure the day to day running of the home and legislative requirement are fulfilled - this includes all areas of health and safety for the individuals, staff and environment both internally and externally. This is demonstrated through rigorous and on-going risk assessment, monitoring, regular audit and local delegation procedures to support completion of this. All of this is inspected as part of Ofsted's inspection criteria (at least annually) and overseen by the organisations monitoring tools.*

*In addition to Ofsted Inspections the home will receive annual monitoring visits from the placing authority of each young person placed within the home. 'Reg 44' visits are also completed each month by an independent person. The visit will be unannounced and a report will be completed which sets out, in particular, the independent person's opinion as to whether:*

- (a) children are effectively safeguarded; and*
- (b) the conduct of the home promotes children's well-being.*

*This will ensure that the home remains compliant with all relevant legislative frameworks"*

7.32 Discussions with the agent confirmed that they were unable to provide any site specific examples of similar cases to demonstrate the management of anti-social behaviour as certain information within Action for Children is unable to be disclosed. It is considered by the applicant that adequate measures and procedures are in place outside of the planning process to ensure that any anti-social behaviour that may occur is appropriately managed.

7.33 Overall, the application would be in accordance with Policy H10 of the Wansbeck District Local Plan and the NPPF. Policy QOP2 of the emerging NLP seeks to ensure that development would not result in unacceptable adverse impacts on the amenity of neighbouring land uses. It is considered that the proposal is in accordance with this, however little weight can currently be given to this policy.

## **Highways**

7.34 There have been concerns raised from residents in respect to highway safety issues with insufficient parking, poor and unsafe access, increased vehicular movements and dangers from farm traffic. The Local Highways Authority has been consulted and has no objections to the application.

7.35 The proposed development is an existing dwelling; East Farm Cottage, located on the western side of a private access road which forms an access with the adopted highway at the A196 to the northern side in Choppington. Although there are no footways along the private access road, there are existing street lit footways on both sides of the A196 with bus stops in an accessible walking distance, with cycle based journeys able to be accommodated through on-street cycling utilising existing carriageways for connections to surrounding cycle routes.

7.36 The levels of accessibility are acceptable and in keeping with surrounding dwellings with no requirements to improve access to sustainable travel as part of this application.

7.37 The change of use from C3 Residential to C2 Residential Institutions is also not expected to lead to a significant increase in vehicle trips beyond the current use, subject to the site being operated as a “residential home for children and young people.” Subject to this intended use the trips associated with this site and the subsequent impact upon the highway and the access with the A196 would be considered as acceptable in principle alongside those of the wider East Farm development.

### *Road Safety*

7.38 The development will be contained to within the boundary of the existing farmhouse, with vehicular access in the form of car parking contained on the northern boundary in the approximate position of the existing driveway area. A section of stone boundary wall will be removed to increase this slightly with the driveway extension not expected to impact upon the adjoining dwellings or the junction into the adjacent residential development also served by this private access road. Subject to this intended use the trips associated with this site and the subsequent impact upon the highway and the access with the A196 would be considered as acceptable in principle alongside those of the wider East Farm development.

7.39 As the access is private the Council has no regulatory involvement in actions on the private road itself in regards to existing manoeuvrability issues caused by adjoining residential and agricultural uses.

### *Car Parking*

7.40 Appendix D of the Northumberland Local Plan Publication Draft Plan (Regulation 19) outlines that C2 Residential Institutions require 1 space per unit for wardens or residential staff, 1 space per 2 non resident staff, 1 space per 3 rooms for visitors and 1 space per 4 residents for residents. Section 18 (Employment) of the application form refers to the intention for the development to employ 5 No. full time staff, with the proposed site plan illustrating 5 No. parking spaces on the northern side. Perpendicular parking spaces should be a minimum of 2.5m x 5.0m or 3.0m wide where bounded by a wall or fence line to permit access. Adjacent car parking spaces shall add 2.5m to these dimensions. Perpendicular spaces require a minimum of 6.0m to the rear to allow for reversing manoeuvres.

7.41 The applicant states that *“that they would expect and anticipate 1 to 2 visitors per week however, and due to the specific legislative requirements surrounding*

*visitors to the property and safeguarding requirements all visitors to the site will be managed with prior appointments being required, where reasonably practicable. Visitors to the site will also be managed around the staff change over patterns in order to reduce and avoid disruption to the surrounding properties".* It is considered that the proposed amended site plans show an acceptable level of provision to facilitate car parking associated with this change of use standard for both staff and visitor requirements without overspill parking obstructing manoeuvrability to the adjoining agricultural / residential uses. A condition is recommended to implement the car parking prior to occupation. In addition, there will be cycle storage within a lockable shed which is acceptable.

7.42 It should be noted that were an application for extension of the existing C3 Residential Use and subsequent increase to bedroom numbers be brought forward, a maximum of 5 No. parking spaces would be required regardless of overall bedroom numbers where vehicles in excess of this provision could arise.

7.43 A condition is considered appropriate to restrict the use to a children's care home with use class C2 unless an application is submitted to the Local Planning Authority. As similar residential institutions may require additional parking any future proposals would need to be assessed by the Local Planning Authority.

#### *Ownership of Boundary Wall*

7.44 The provision of the proposed 5 parking spaces would require a section of boundary wall to the north east corner of the site to be removed in order to extend and gain full access into the existing parking area. The issue surrounding the ownership of this boundary wall was discussed at the previous committee meeting and concern was raised on whether or not the parking area can be delivered if doubt remains on the ownership and removal of the wall. The applicant has since provided land registry documents claiming ownership of the land. They have also claimed that there is no enforceable covenant registered against the property in respect of maintenance of the boundary as a result of a chain of indemnities being broken. A covenant is not a material planning issue that should impact the decision of the application.

7.45 In consultation with the Council's Legal Department, the Council are not in a position to confirm who owns the wall from the information provided. The majority of registered titles only show general boundaries which the Land Registry conclude to be a reasonable interpretation taken from deeds and ordinance surveys. There are methods by which the precise identification of a boundary can be agreed and noted on the registered title to the property or if the adjoining owners cannot agree then they can apply to the Land Registry to determine the boundary. Should permission be granted, a condition would be imposed to ensure parking provision has to be provided prior to occupation of the property for the proposed use.

#### *Refuse Storage and Servicing*

7.46 No details of refuse storage or servicing arrangements have been submitted or shown on the plans which are a requirement to discharge conditions subject to planning permission being granted. A condition is recommended to secure the refuse storage details with these to be retained at all times.

7.47 Overall, the site is served by an existing access to the East Farm development and no further works are required. Due to the scale of the proposal the anticipated trips generated will not be substantial and as the site is a private road, the council has limited control on manoeuvrability and blocking this access. The proposed parking is in accordance with the NCC parking standards and overall, it is not considered the application would have a significant impact to highway safety and is in accordance with the NPPF.

### Equality Duty

The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

### Crime and Disorder Act Implications

These proposals have no implications in relation to crime and disorder.

### Human Rights Act Implications

The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided

that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

## **8. Conclusion**

8.1 The concerns of the objectors have been fully taken into account in the assessment of this proposal. In view of the material planning considerations the Local Planning Authority can attach weight to, it is considered that the proposal is of an appropriate design and represents an appropriate form of development that would not have a significant adverse impact on the street scene, or the amenity of nearby residents. The application has been assessed and found to be acceptable in relation to its impact upon highways. It is therefore considered that the proposal is in accordance with national and local planning policies and on that basis, is recommended for approval.

## **9. Recommendation**

That this application be GRANTED permission subject to the following:

### Conditions/Reason

01. 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 of the Town and Country Planning Act 1990 (as amended)

02. The development hereby permitted shall not be carried out other than in complete accordance with the following approved plans:

Location Plan 150-01 Rev 01  
Site Plan as Proposed 300-02 Rev 04  
General Arrangement as Proposed 300-01 Rev 04  
External Alterations Proposed 300-03 Rev 04

Planning Statement referenced Sanderson  
Wetherall; 191203 received on 10th October 2019.

Reason: To ensure the development is built in accordance with the approved plans.

03. The development shall not be occupied until the car parking area indicated on the approved plans has been implemented in accordance with the approved plans. Thereafter, the car parking area shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the development.

Reason: In the interests of highway safety, in accordance with the National Planning Policy Framework.

04. The development shall not be occupied until cycle parking shown on the approved plans has been implemented. Thereafter, the cycle parking shall be

retained in accordance with the approved plans and shall be kept available for the parking of cycles at all times.

Reason: In the interests of highway safety, residential amenity and sustainable development, in accordance with the National Planning Policy Framework.

05. The development shall not be occupied until details of refuse storage facilities and a refuse storage strategy for the development have been submitted to and approved in writing by the Local Planning Authority. The details shall include the location and design of the facilities and arrangements for the provision of the bins. The approved refuse storage facilities shall be implemented before the development is brought into use. Thereafter the refuse storage facilities and refuse storage plan shall operate in accordance with approved details.

Reason: To ensure sufficient and suitable facilities are provided for the storage and collection of household waste in accordance with National Planning Policy Framework.

06. The premises shall be used for a 'residential home for children and young people' and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification)

Reason: To protect residential amenity in accordance with the NPPF.

07. The facing materials and finishes to be used in the external alterations shall match the corresponding materials of the existing building in respect of colour, appearance, shape and texture.

Reason: In the interests of the satisfactory appearance of the development upon completion and in accordance with the provisions of the NPPF.

### **Informative**

01. All species of bat and their roosts (whether occupied or not) are strictly protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017. Similarly, all wild birds and their nests are protected whilst in use and it is an offence to recklessly or intentionally destroy nests or dependent young when on or near the nest, or to kill or take them. Barn Owl are especially protected under Schedule 1 of the Act.

Applicants and contractors should note that the protected species legislation operates independently of the planning system, planning consent does not override the legislation relating to protected species and that they should be aware that there is a small chance of encountering protected species during works.

If protected species such as bats or nesting birds are encountered during development then works should cease immediately and professional advice should be sought straight away.



Applicants and contractors can obtain advice on bats by telephoning Natural England's bat advice line on 0345 1300 228.

The Chartered Institute of Ecology and Environmental Management (CIEEM) has an online professional directory should assistance be required.  
<https://cieem.net/i-need/finding-a-consultant/>

Further information about protected species and the law can be found on the government website  
<https://www.gov.uk/guidance/bats-protection-surveys-and-licences>

The applicant should note that where sites are very overgrown or have features such as log piles or piles of stones there may be risk of causing harm to species protected under law from killing or injury such as reptiles, or species of principal importance such as hedgehogs. Any vegetation or materials clearance be carried out gradually and with due care and attention.

02. Building materials or equipment shall not be stored on the highway unless otherwise agreed. You are advised to contact the Streetworks team on 0345 600 6400 for Skips and Containers licences.

03. In accordance with the Highways Act 1980 mud, debris or rubbish shall not be deposited on the highway

**Date of Report: 28.01.2020**

**Background Papers:** Planning application file(s) 19/03768/FUL