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**Walderslade****11<sup>th</sup> DECEMBER 2025****25/00855/PA****Location:** 49 HALLSFIELD ROAD CHATHAM ME5 9RS**Proposal:** Ground floor rear extension and change of use from use class C3 residential dwelling to C2 residential institution designed to provide accommodation and personal care for up to five individuals.**Go to:** [Recommendation](#)

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**1. Description of Proposal:**

- 1.1 Planning permission is sought for a ground floor rear extension and change of use from use class C3 residential dwelling to C2 residential institution designed to provide accommodation and personal care for up to five individuals with learning disabilities. The current age group for residents is between 40 – 53.
- 1.2 The company, St Leonard's Place, employs eight members of staff in total. Two staff members are on duty between 8am – 8pm, with one member of staff on duty overnight operating a 'waking night' shift. The site manager is also on site three to four days a week at various times, as needed.
- 1.3 Use class C2 is defined within "Residential institutions" in the Schedule to the Use Class Order (UCO) as follows:
  - "Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).
  - Use as a hospital or nursing home.
  - Use as a residential school, college or training centre."
- 1.4 It should be acknowledged that under Use Class C3(b), up to 6 residents can live together as a single household, without needing to apply for planning permission, and that this represents a legitimate fallback position to the development. Please see [here](#) for further information.

**2. The Site:**

- 2.1 49 Hallsfield Road is a detached property situated on the east side of Hallsfield Road, Chatham.
- 2.2 There is an Ancient Woodland to the rear of the site, with the rear garden partially sitting within the Buffer Zone.

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**3. Planning History (relevant):**

No recent planning history.

**4. Consultees:**

4.1 PC: No objection.

4.2 KCC (Highways): KCC Highways has reviewed the submitted Parking Management Plan (PMP). While the applicant has addressed some previously raised concerns, the document lacks sufficient detail, and the requested site plan showing independent accessible parking spaces has not been provided. It is also requested that the applicant confirms the expected daily visitor numbers and explain how these will be managed. Based on the submitted information and review of the site it is not considered that the parking requirements can be met with the application boundary. However, as the site is located on an unclassified road with low traffic flows this is not considered a highway safety issue, but rather a highway amenity concern, the parking shortfall cannot be considered a valid reason for highway objection. It remains recommended that the LPA consult their Parking Enforcement Team.

4.3 Environmental Protection: I've looked through the submitted documents and apart from the construction of a conservatory, there appears to be little structural change.

The change from C3 to C2 would not, at first glance at the information supplied, seem to raise any undue Environmental Protection concerns. I have had one case of this type of use causing alleged noise issues to residents, but this was not substantiated as being Statutory Nuisance. In my experience, that type of disturbance is by no means the norm.

Informatives.

During the demolition and construction phases, the hours of noisy working (including deliveries) likely to affect nearby properties should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public Holidays.

Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. I would thus recommend that bonfires not be had at the site.

4.4 Neighbours: 45 objections (please note that in some cases, numerous objections were received from the same household), concerned with:

- Insufficient parking provision

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- Increased vehicular movements
  - Increased noise pollution
  - Fear of crime and security
  - Light pollution
  - Suitability of property for C2 use
  - Unsustainable location
  - Loss of privacy
  - Loss of light
  - Overbearingness of proposed conservatory
  - Waste and odour
  - Loss of residential character
  - Overdevelopment/ intensity of use
  - Stress on local NHS services

4.5 Section 70(2) Town and Country Planning Act 1990 requires the decision maker to have regard to any other material considerations in determining an application for planning permission. The scope of material planning considerations is wide and must have a planning purpose that relates to the character and use of the land. It must fairly and reasonably relate to the proposed development under consideration. The following matters raised by members of the public are not material planning considerations and shall not be considered further:

- The development sets a precedent for further non-residential uses.
- Impact upon property values.
- Restrictive covenants.
- *'Residents of both Hallsfield Road and Sadlers Close recently opposed and successfully resisted a proposed permit parking scheme. The timing of the renewed yellow line restrictions, combined with this planning application, has understandably given rise to public concern that these actions may be connected. Whether or not this is the case, such perceptions risk undermining public trust in fair and accountable local decision making'* (non-material as conjecture).
- Fly tipping and unauthorised works in Ancient Woodland / TMBC land behind site (falls beyond the scope of this planning application, is being dealt with by the Leisure and Services Department in collaboration with the Tree Officer).
- Other works to the property which do not require planning permission (e.g., internal works), including the actions of contractors and other builders. The LPA do not have authority over this and should instead be reported to the building companies themselves.

4.6 Concern was also raised regarding publicity and Certificates. Immediate neighbours were notified as per Council Statement of Community Involvement and a site notice displayed near the site on 3<sup>rd</sup> October 2025. Although the wrong Certificate was initially issued (Certificate A), this was corrected and a Certificate B was served on

the neighbouring property, No, 51, due to the shared drive. Appeal decisions (including PINS ref. 3009006) have confirmed that although Section 65(5) states that *“A local planning authority shall not entertain an application for planning permission unless any requirements imposed by virtue of this section have been satisfied,”* once the requirements of s.65(5) **have** been satisfied, the authority is not prevented from entertaining the application — even where the requirement is met **after** the application has been submitted. The appeal decision emphasises that principles of natural justice must be taken into account. The purpose of the ownership certificate requirements is to ensure that landowners are made aware of development proposals affecting their land and have an opportunity to participate in the planning process. In this case, the landowner’s interests have not been prejudiced. During the site visit, the planning officer spoke with immediate neighbours to discuss their concerns, and it is clear that the neighbour who should have received notice was aware of the proposal and had also submitted representations online. Accordingly, the LPA considers that there is no reason why Certificate B could not be completed retrospectively.

- 4.7 It is acknowledged that updated plans were submitted close to the public consultation end date, however the Council have kept the consultation open and have allowed members of the public to submit comments after the consultation end date. Furthermore, these were corrections to plans rather than amendments.
- 4.8 It should be noted that some of the older comments relate to inaccurate drawings, these have since been rectified. ‘Do Not Scale’ annotations have been removed. It is not a requirement for street furniture to be shown on site location plans.
- 4.9 Moreover, concern has been raised that the Council have accepted more than one amendment to the planning application, and that this contravenes the Council’s procedure on amendments. This is discussed in greater detail within paragraph 5.57 of this report. Whilst it is acknowledged that more than one set of amendments were accepted, it should be noted that not all amendments received were changes to the proposed scheme, but rather they were corrections to drawings which the procedure states will be accepted. Furthermore, it is at the Officer’s discretion whether to accept such amendments and in this case due to the minor nature of the amendments which did not fundamentally change the proposal these amendments were sought.
- 4.10 There has also been confusion over the description of development, with some residents stating that the conservatory represents a first-floor extension, rather than a ground floor extension. However, the LPA would like to clarify that the proposal description is correct. Although land levels at the site make the extension appear as first floor, it is in fact ground floor, with the annexe below representing the basement level.
- 4.11 Lastly, drawing HR-A1-SB-05 (Existing Basement (Annexe) and Ground Floor Plans) is correct. Although they show the fencing to the rear of the site, this is because the fencing is currently there, so it needs to be shown on the plans so that it is a true

reflection of the existing situation on site. On drawing HR-A1-SB-08 (Proposed Basement and Ground Floor Layout) the fencing to the rear has been removed. This is because the applicant will be removing the fencing in order to provide a parking space to the rear.

4.12 Planning Officers have reviewed the plans and are satisfied that they are correct.

## **5. Relevant Policies & Determining Issues:**

### **5.1 Principle of Development**

5.2 Under Policy CP11, Hallsfield Road is identified as part of the urban area of Walderslade. Whilst it is noted that the policy does not specifically reference changes of use, the principle of development in urban areas is largely acceptable, provided it complies with other relevant local and national planning policies. This shall be assessed in further detail below.

5.3 The proposal would result in the net loss of 1 residential dwelling through the conversion. The Council cannot currently demonstrate a 5 year supply of housing and the loss of a dwelling is undesirable. However, the adopted development plan does not contain policies resisting the loss of such accommodation.

5.4 Furthermore, the Housing Needs Report 2022 identifies 258 residential care bedspaces (C2 planning use class) or 13 each year to 2040.

5.5 In summary, while the proposal would result in the loss of a single dwelling at a time when the Council cannot demonstrate a five-year housing land supply, the development plan contains no policy basis for resisting such a loss. Moreover, evidence in the Housing Needs Report (2022) highlights a clear and ongoing requirement for additional C2 bedspaces within the Borough. These considerations form an important part of the overall planning balance and are examined further in the following sections.

### **5.6 Design**

5.7 Policy CP24 of the TMBCS seeks to ensure that all development is well designed and respects the site and its surroundings. Policy SQ1 of the MDE DPD requires development to reflect the local distinctiveness, condition and sensitivity to change of the local character areas.

5.8 Paragraph 139 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

5.9 The proposed rear extension would measure approximately 5.5 metres in depth, 5.6 metres in width, and 3 metres in height. Its fully glazed design is lightweight in

appearance and characteristic of a traditional conservatory, rather than a solid brick-built structure. As the extension is positioned to the rear of the dwelling, it would not be readily visible from the public realm and would therefore have no impact on the street scene or the character of the wider area. Whilst the change in land levels results in the ground floor—and consequently the extension—appearing elevated, this is not considered to be visually intrusive or harmful.

5.10 Overall, it is considered that the design is appropriate for the character of the area and would not detract from the street scene or create any impact on the character and appearance of the area. As such, the development accords with policies CP24 and SQ1 and paragraphs 135 and 139 of the NPPF.

#### 5.11 Residential Amenity

5.12 Saved Policy P4/12 states that extensions to residential properties will not be permitted if they would result in an adverse impact on residential amenity of neighbouring properties in terms of light and privacy and overlooking of garden areas.

5.13 Policy CP1 of the Core Strategy also requires proposals to have regard to impacts on residential amenity.

5.14 It is proposed to construct a conservatory-style extension at ground floor level, replacing the existing terrace. The current terrace has no mitigation measures in place to address potential overlooking. However, given that the proposed conservatory would likely result in a more intensive and year-round use of this space, it is necessary to consider the potential impact on neighbouring residential amenity.

5.15 The two closest neighbouring properties are No. 47 Hallsfield Road to the north and No. 51 Hallsfield Road to the south. No. 47 is positioned further forward on its plot relative to the application site. Substantial soft landscaping exists along the shared boundary, meaning views from the existing terrace—where the proposed conservatory would be located—towards No. 47 are limited and would not result in a material loss of privacy. Whilst some oblique views towards No. 47's garden may be possible, these would be effectively mitigated by the proposed obscure glazing to the conservatory's side elevations, supplemented by a privacy panel for additional screening.

5.16 No. 51 sits level on its plot with No. 49. The proposed obscure glazing to the conservatory's southern elevation will prevent direct overlooking towards No. 51. Although the eastern elevation will not be obscure glazed and may allow some limited views towards No. 51's rear garden, at the time of site visit it was noted that substantial tree cover exists along the boundary between the rear gardens. Given this existing screening and the downward slope of the gardens to the east, any potential overlooking is not considered to result in harm to neighbouring amenity.

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- 5.17 It is considered that the proposed conservatory would not result in any loss of light to neighbouring properties, as the 45-degree rule is met on both sides. Moreover, the conservatory is a lightweight glazed structure rather than a solid built form such as a brick extension, which significantly reduces its visual mass and overall impact. As a result, and given the separation distance between properties, the proposal would not appear overbearing or cause undue harm to neighbouring amenity in this regard.
- 5.18 Some residents have raised concerns regarding potential light pollution from the proposed extension. However, it is not considered that the extension would generate significant levels of light pollution that would justify refusal of the application.
- 5.19 Overall, it is considered that the proposals would not result in a significant impact on the amenity of the neighbouring properties in terms of loss of light, light pollution, overbearingness, overlooking and privacy.
- 5.20 There has been a number of objections to the proposal from local residents, largely relating to noise and disturbance. It is noted that the Council's Environmental Protection Team raised no objection to the proposals and stated that noise disturbance from this type of use 'is by no means the norm.' Such uses can operate successfully within established residential areas without resulting in any measurable impact on local amenity or a change to the character of the area. Nevertheless, the extent to which that is achievable in this instance remains a matter of planning judgement, taking into account the specific site context and operational details of the proposal.
- 5.21 The proposal would accommodate five adult residents on a permanent basis. Between 8:00am and 8:00pm, two members of staff would be present on site to provide care, with a site manager attending three to four times per week and remaining on call at all times. The applicant indicates that external visitors include a chiropodist (monthly), a hairdresser (every six weeks), and family visits for one resident every two weeks, with another resident escorted by staff to visit relatives elsewhere. It is noted that details of visitors for the other three residents have not been specified. Therefore, a condition requiring an Operational Management Plan is recommended to ensure visits are staggered to ensure that visits do not result in harm to the amenity of the neighbouring occupiers.
- 5.22 There is no evidence to suggest that the proposed use would generate higher levels of noise and disturbance than its current Class C3 Use. If remaining in Class C3 Use as a family home, the dwelling could accommodate two adults and three+ children in the main dwelling, with further capacity for up to two adults in the annexe. The comings and goings associated with a large family such as this is considered to be comparable to the proposed Class C2 Use. The regular shift patterns and changes at 8am and 8pm would be no different from a family commuting to and from work or school. Visitors are infrequent and again, a Class C3 Use can also generate a large number of visitors, so there is no evidence to suggest the situation would be materially different.

- 5.23 Moreover, if noise nuisances did occur, nearby residents would still be protected under the Environmental Protection Act 1990.
- 5.24 The aforementioned condition requiring an Operational Management Plan is recommended to mitigate impacts to neighbouring amenity. This should include contact details for the site manager so neighbours can get in touch if complaints or concerns arise. Further conditions are recommended restricting the use and the number of residents, so that the LPA can monitor changes to the site.
- 5.25 As such whilst the proposed use is not a private residence, there is nothing to suggest that the use would result in any greater level of noise or disruption than might reasonably be expected in such an area. To reiterate, the Council's Environmental Protection Team have raised no objections on noise grounds, and this further suggests that there is no evidence of any harmful levels of disruption to adjoining properties. The proposals are therefore not considered to result in undue noise and disturbance in line with Policy CP1.

#### 5.26 Fear of Crime

- 5.27 It is important to recognise that the planning system does play a role in maintaining and enhancing well-being amongst individuals and communities, and fear is well documented as being an important contributory factor to diminished levels of well-being. Paragraph 96 of the NPPF states that planning 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 is echoed in Paragraph 135(f) of the NPPF which states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being.
- 5.28 The courts have held that the fear of crime can be a material consideration if there is some reasonable, cogent evidential basis linking the proposed use or occupiers with criminal activity (West Midlands Probation Committee v Secretary of State for the Environment [1997]).
- 5.29 The proposal relates to accommodation for adults with learning disabilities, which is a supported and supervised residential use. It should be noted that the institution must be registered and approved by the Care Quality Commission with stringent checks and inspections on its set up and operations. There is no substantive evidence to suggest that the proposal would give rise to an increase in crime or anti-social behaviour, nor that it would generate a reasonable fear of such outcomes among local residents. Any perceived concern would therefore be speculative and not supported by material planning grounds. On this basis, it is considered that fear of crime does not carry significant weight in the determination of this application.

#### 5.30 Amenity of Future Occupiers



- 5.31 Paragraph 135(f) of the NPPF states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 5.32 The application proposes one double bedroom in the annexe (11.1m<sup>2</sup>), one double bedroom on the ground floor (11.8m<sup>2</sup>), two double bedrooms on the first floor (12.3m<sup>2</sup> and 13.2m<sup>2</sup>) and a single bedroom on the first floor (7.6m<sup>2</sup>). Concerns were raised during the application process about the lack of space for staff and regarding the size of one of the bedrooms (7.2m<sup>2</sup>). Consequently, amended plans were received which subdivided the living room to create a larger double bedroom on the ground floor, and turn the smaller (former) bedroom into an office, as a dedicated space for staff to use. As previously stated, it is recommended that a condition to secure the number of residents to be no more than 5 and to ensure the office is not changed back to a bedroom at a later date.
- 5.33 Although subdividing the ground floor living room has reduced the amount of communal space, this is mitigated somewhat by the creation of the ground floor conservatory-style extension, which will allow the terrace area to be used year-round.
- 5.34 It is noted that members of the public have raised concern regarding non-compliance with both National Described Space Standards (NDSS) and the Kent County Council (KCC) Learning Disability Supported Accommodation Design Principles (May 2017).
- 5.35 The NDSS are not relevant to the determination of this application as they are applied for the creation of new dwellings which this is not.
- 5.36 Regarding the KCC Design Principles, although a material consideration, they carry little weight as they are not formally adopted within the Local Plan. Minor shortfalls in these principles would therefore not warrant a reason for refusal in their own right.
- 5.37 It is worth highlighting that the planning system is just one mechanism in which the suitability of the property for the proposed use will be assessed. The Care Quality Commission (CQC) act as the main body / regulator for residential institutions such as this, and the applicant would be required to register their new location with the CQC who would undertake their own assessment of the facility in line with their regulations.
- 5.38 Therefore, the living standards for future occupants are considered to be acceptable in line with paragraph 135(f) of the NPPF.

#### Highways and Parking Provision

- 5.39 Paragraphs 115 and 116 of the NPPF explain that:

“115. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users;
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach.”

“116. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 5.40 Policy SQ8 of the MDE DPD states that development proposals should comply with the adopted parking standards and development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.
- 5.41 In this case, the relevant parking standards are Kent County Council (KCC) Parking Standards published in January 2025. The guidance sets out the parking standards for new developments in Kent.
- 5.42 The applicant has supplied the LPA with a ‘Deed of Access,’ which shows that No. 49 has a right of access over the shared drive which runs between the application site and No. 51, and vice versa. Consequently, the red line boundary was amended during the application process to encompass the whole drive, as shown on the Deed of Access. This is in line with National Planning Practice Guidance which states that the red line on the location plan ‘should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings).’
- 5.43 Although this type of development would usually fall below the threshold for consultation with the KCC Highways Department, due to the considerable public interest, particularly with matters pertaining to parking provision and highway safety, their professional opinion was sought.
- 5.44 In their final set of comments dated 6<sup>th</sup> November, it was stated that:

*“KCC Highways has reviewed the submitted Parking Management Plan (PMP). While the applicant has addressed some previously raised concerns, the document lacks sufficient detail, and the requested site plan showing independent accessible parking*

*spaces has not been provided. It is also requested that the applicant confirms the expected daily visitor numbers and explain how these will be managed. Based on the submitted information and review of the site it is not considered that the parking requirements can be met with the application boundary. However, as the site is located on an unclassified road with low traffic flows this is not considered a highway safety issue, but rather a highway amenity concern, the parking shortfall cannot be considered a valid reason for highway objection. It remains recommended that the LPA consult their Parking Enforcement Team."*

5.45 The standards can be seen below:

<b>Residential Institutions – C2</b>			
	<b>Car Parking</b>		<b>Goods Vehicles and Coach Parking</b>
	<b>Staff</b>	<b>Visitors</b>	
<b>Nursing / Residential Care Homes</b>	1 space per resident staff + 1 space per 2 other staff	1 space per 6 beds or residents	Minimum of 1 space for an Ambulance (see Note 1)

5.46 No resident staff are proposed. During the day, there will be 2 regular members of staff and the site manager, who will visit the site ad hoc. This generates a requirement for 1.5 spaces, rounded up to 2 spaces. For visitors, 1 space per 6 beds or residents is required. As there are 5 residents proposed, this generates the need for 1 visitor space. In total, 3 parking spaces are required. It is acknowledged that the company uses a pool car to transport residents to appointments and other days out. However, this does not alter the required parking provision of the site on a strict reading of the standards.

5.47 It is acknowledged that there are on-street parking restrictions in the immediate vicinity of the site. These restrictions operate directly outside the property between 12:00pm and 1:00pm, Monday to Friday, and on the opposite side of the road between 11:00am and 12:00pm, Monday to Friday. However, the management of any existing on street parking restrictions falls to the Parking Services teams within District and Borough Councils because it is a devolved function – i.e., it is not the responsibility of the Highways Authority to enforce these restrictions. Therefore, if illegal parking did occur, this would be flagged with the Parking Services Team within the Council.

5.48 Although the plans have been amended during the course of the application, it is considered that the site can only effectively accommodate parking for two vehicles. Vehicle tracking demonstrates that it would not be possible for a car to manoeuvre out of the front parking space independently while another vehicle is stationary. Therefore, only one vehicle can be accommodated at the front. In addition, the

applicant has confirmed that only one car can be accommodated within the rear parking area. To help offset this shortfall, cycle storage provision has been included as part of the proposal.

- 5.49 Although the proposal includes the provision of cycle parking spaces, this does not in itself ensure that they will be used. In practice, it is unrealistic to expect staff working long or overnight shifts to travel by bike, particularly given the likely distances between the site and their place of residence. As such, the shortfall in on-site car parking cannot reasonably be mitigated by the inclusion of cycle spaces, and the LPA has no mechanism to require or enforce staff or visitors to travel by bike. Accordingly, only limited weight can be afforded to this measure in addressing the identified parking deficit.
- 5.50 However, it is noted that the site is classified as being within an urban area in the Local Plan. The policy description states that “*Development at the urban areas can also minimise the need to travel, by being located close to existing services, jobs and public transport.*” One of the determining factors in designating an area as urban would be, amongst other considerations, its accessibility to public transport. Therefore, it is reasonable to assume that the site benefits from at least a basic level of public transport connectivity, which may offer some limited mitigation in respect of the parking shortfall.
- 5.51 The Council are aware that the comments received from Highways were somewhat unclear. We sought advice from a Senior Highways Officer, who provided us with the following final view.
- 5.52 The Highways Authority have advised that Hallsfield Road is a residential street that is not subject to through traffic and therefore conducive to a low-speed environment. Many dwellings have their own dedicated off-street parking which would indicate that Hallsfield Road experiences a low-level of parking stress. This could be quantified via parking surveys, however it was not considered proportionate to the scale of development proposed to request this of the applicant. Moreover, much of Hallsfield Road has a linear alignment meaning that oncoming vehicles would have good visibility of any overspill parking that might be associated with the development. For this reason, although there is a shortfall of 1 parking space, the Highways Authority do not object to the development as the shortfall would not amount to a highway safety concern. As per Paragraph 116 of the NPPF, ‘Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe’. As the impacts on the road network at not considered to be severe or amount to a highway safety concern, Officers conclude that a refusal based on impact to the Highway would not be sustainable at appeal.
- 5.53 Although it is acknowledged that the ambulance space cannot be provided on site, this was not raised as a concern by the Highways Authority. The applicant has

advised that ambulance callouts are by no means the norm and the likelihood of an ambulance being called to the site is the same as any other dwelling in the area.

- 5.54 It is noted that the applicant has installed fencing to the rear and that this currently blocks off the rear parking space. A condition is recommended ensuring that the fencing is removed and the parking space made available prior to first occupation.
- 5.55 In conclusion, it is considered that the proposals do not conflict with Paragraphs 115 and 116 of the NPPF.
- 5.56 Policy SQ8 of the MDE DPD states that development proposals should comply with the adopted parking standards. Although strict reading of the standards would indicate a parking shortfall and therefore non-compliance with the adopted parking standards, this shortfall has been considered in a site-specific context. In the context, the shortfall is considered not to amount to a highway safety issue and therefore is accepted in this instance.

#### Waste

- 5.57 Policy CC2(4) of the MDE DPD states that *'Proposals for development will not be permitted unless they incorporate adequate space for the storage of recyclable and non-recyclable waste, where different waste streams can be segregated and collected, and, in the case of residential schemes, each dwelling with private garden space is equipped, where practicable, with a composting bin.'*
- 5.58 It is acknowledged that concern was raised from local residents regarding waste provision.
- 5.59 The Waste Services Team have been consulted and confirmed that they would provide the property with all the waste receptacles they provide to other residential properties and that the Residential Institution is treated as a Dwellinghouse in this regard. Although the exact size of the bins needed is currently unknown (Waste Services have advised that when/if the property is occupied, they will discuss their needs and provide the most suitable sized bins for their collections), it is considered that there is adequate space to the rear of the site for waste provision, such as that it would not have a harmful impact on visual amenity. It is recommended that details are secured by condition once the sizes of the bins have been confirmed by Waste Services.
- 5.60 The occupancy would be similar to a Class C3 dwelling and the generation of waste and type of waste would be similar such as to not result in harm to the amenity of neighbours by way of waste odour.

#### Pressure on Local Services

- 5.61 Concern has been raised from local residents regarding pressure on local services, particularly GPs. However, this is a small-scale development, with five residents

proposed. This would not make a significant impact on local services, enough to warrant a refusal of the application.

#### 5.62 Public Sector Equality Duty – Equality Act 2010: Equality Impact

5.63 Section 149 of the Equality Act 2010 introduced the Public Sector Equality Duty (PSED), which came into force in April 2011. This duty requires public authorities, including the Council, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment, and victimisation;
- Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- Foster good relations between people who share a protected characteristic and those who do not.

5.64 In the context of planning, equalities considerations are embedded throughout the planning process. This begins with the formulation and adoption of planning policies at the national, strategic, and local levels, including any supplementary planning guidance. These policies are subject to statutory processes that include assessments of their impacts on protected groups.

5.65 For individual development proposals, further consideration is given to the potential equality impacts where relevant. In this case, all relevant policies from the Tonbridge and Malling Development Plan and the National Planning Policy Framework (NPPF) have been considered in the assessment of the application. These policies have been subject to equality impact assessments during their adoption, in accordance with the Equality Act 2010 and prior legalisation and the Council's obligations under the PSED.

5.66 Accordingly, the adopted planning framework used in the assessment of this application is considered to reflect and support the needs of individuals with protected characteristics, as defined by the Equality Act 2010 and previous legislation. These characteristics include: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

5.67 In assessing this application, Officers have taken into account the nature of the business, which provides care for adults with learning disabilities. It is recognised that the applicant purchased the property prior to obtaining the necessary planning permissions, and that this application therefore carries significant implications for the applicant, their business, and the residents in their care. Officers have sought to work proactively with the applicant, initially allowing time for the engagement of professional architectural support and subsequently accepting a series of amended plans. This approach went beyond the usual TMBC policy, which permits only one set of amendments per application, and has resulted in what Officers believe to be a policy-compliant scheme.

5.68 In conclusion, it is considered that Tonbridge and Malling Borough Council has had due regard to its duties under Section 149 of the Equality Act 2010 in the assessment of this application and the recommendations set out in this report.

#### Fallback Position

5.69 The applicant has submitted a Change of Use application for Planning Permission and thus the application has been assessed on this basis. However, it should be acknowledged that under Use Class C3(b), up to 6 residents can live together as a single household, without needing to apply for planning permission.

5.70 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).”

5.71 Paragraph 3B-979 of the Encyclopedia of Planning includes the following statements:

(a) “Class C3 is intended and apt to include small community care homes consisting of up to six people, “living together under arrangements for providing care and support within the community”; (b) “the smaller the number of occupants, the more intimate, integrated and cohesive their occupancy is likely to be and the more apt, therefore, to describe it as a single household”; (c) “Where the household is one where care is provided for residents it remains in this class (provided the limitations are met) rather than class C2 (residential institutions); (d) “The Secretary of State does not accept that the distinction depends upon the extent of the care provided”; and (e) “the High Court has confirmed that the Class does not require that the staff providing care for residents need themselves be resident (R. v Bromley LBC Exp. Sinclair [1991] 3 P.L.R. 60)”.

5.72 Should the application be refused, the applicant may seek to pursue a Lawful Development Certificate, which represents a legitimate fallback position. At this stage, the Council does not have sufficient information to assess the likelihood of such a Certificate being granted, nor is that the matter currently before us for determination. The burden of proof would rest with the applicant to demonstrate, on the balance of probabilities, that use of the premises is consistent with a single household (C3(b)) and not of a Residential Institution (C2).

5.73 If a Certificate were to be granted, the use could continue without the Local Planning Authority having the ability to impose conditions, including any relating to operational management as previously suggested within this report.

5.74 It should be noted that Planning Permission would still be required for the ground floor extension.

5.75 Taking into consideration all relevant material planning considerations and the fallback position, the following recommendation is put forward:

**6. Recommendation:**

**6.1 Approve**, subject to the following:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Planning Statement

Parking Management System

HR-A1-SB-04 – Proposed Block Plan

HR-A1-SB-08 – Proposed Basement and Ground Floor Layout

HR-A1-SB-09 – Proposed First Floor Plan and Roof Plan

HR-A1-SB-20 – Proposed Elevations

BR-AA-XX-XX-DC-E-0403-P02 Vehicle Tracking Path 2 Block Plan View

BR-AA-XX-XX-DC-E-0404-P02 Vehicle Tracking Path 3 - Google Maps View

BR-AA-XX-XX-DC-E-0405-P02 Vehicle Tracking Path 3 - Block Plan View

BR-AA-XX-XX-DC-E-0406-P02 - Vehicle Tracking Path 4 - Google Maps View

Location Plan

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and reenacting that Order), the use hereby approved shall be for a residential institution for adults with learning disabilities and for no other purpose falling within use class C2.

Reason: To ensure the use is controlled in the interests of safeguarding neighbouring amenity.

4. The residential institution shall be limited to no more than 5 residents at any one time.

Reason: To ensure the use is controlled in the interests of safeguarding neighbouring amenity.

5. Before the development hereby approved is occupied, an Operational Management Plan detailing how the residential institution will be operated shall be submitted to



and approved in writing by the Local Planning Authority. The management plan should include, but is not limited to, the following details:

- How the staff will engage with the local community
- How visitors will be managed

The facility will be run in accordance with the approved management plan at all times.

Reason: To ensure the use is controlled in the interests of safeguarding neighbouring amenity.

6. The northern and southern elevations of the hereby approved ground floor extension shall be obscure glazed and remain so for the lifetime of the development.

Reason: In the interests of safeguarding neighbouring amenity

7. Prior to the first occupation of the development hereby approved, full details of the proposed privacy screening on the ground floor shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the design, height, materials, and finish of the privacy panels. The approved privacy screening shall be installed in full prior to the first occupation and shall thereafter be retained and maintained in situ for the lifetime of the development.

Reason: To protect the amenities of adjoining residential properties and visual amenity.

8. The use shall not be commenced until details of how waste is to be stored on site, and how materials for recycling will be stored separately, have been submitted to, and approved by the Local Planning Authority. The development must be carried out in accordance with those details, and the approved scheme shall be retained at all times thereafter.

Reason: In the interests of residential and visual amenity.

9. The use hereby approved shall not be occupied until the area shown on the submitted layout for vehicle parking spaces has been made available. Thereafter the spaces shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a garage or garages) or in such a position as to preclude vehicular access to these reserved parking spaces.

Reason: To ensure that parking is provided, in the interests of residential amenity.

**Informatives**

1. During the construction phase, the hours of noisy working (including deliveries) likely to affect nearby properties should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public Holidays.

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