



Planning Guidance, Children’s Homes

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Lead Member/Relevant Portfolio Holder	Portfolio Holder for Governance, Environment and Regulatory Services

Corporate Priority:	Excellent services positively impacting our communities
Relevant Ward Member(s):	All
Date of consultation with Ward Member(s):	None
Exempt Information:	No
Key Decision:	No
Subject to call-in:	Not a key decision

1 Summary

- 1.1 Melton Borough Council are aware of an increasing number of privately operated children’s homes within the Borough including in some of the smaller, rural communities within the Borough.
- 1.2 The Council is supportive of children’s homes and the key role they play in providing an important part of the social care provision for children, but notes the need for local context to be taken into account when making plans to establish children’s homes, ensuring that there is sufficient consideration of the needs of vulnerable young people and also for the local communities within which they are present.

- 1.3 There are different roles and responsibilities in the context of decision making relating to children's care homes.
- 1.4 This report introduces a planning guidance document to support and guide applicants who are operating or considering operating Children's Homes within the Melton Borough. The guidance seeks to clarify and provide information around legislation and policy and how this informs the decision-making process around children's homes.
- 1.5 It does not create new policy but references existing policy and is considered to be a material planning consideration in the determination of applications.

2 Recommendations

That Cabinet:

- 2.1 **Approve the 'Planning Guidance for Applicants' - Children's Homes document at Appendix A.**
- 2.2 **Delegate to the Director for Growth and Regeneration in consultation with the Portfolio Holder for Governance, Environment and Regulatory Services, authority to make minor amendments to the guidance as required.**
- 2.3 **Agree that a proactive approach is taken to engage with local and national partners to increase awareness of the need for local context and community cohesion to be taken into consideration when considering the suitability of locations for children's homes in local communities.**
- 2.4 **Note that the Leader of the Council will be writing to Ofsted to express concern about their current approach and the absence of consideration regarding proportionality and concentration of children's homes in rural communities.**
- 2.5 **Requests that the policy position is considered as part of the Local Plan Review process.**

3 Reason for Recommendations

- 3.1 Whilst this guidance does not create new policy, it acknowledges that there are a range of considerations that need to be brought into a more coherent set of guidance. It also sets out the Council's expectations for applicants who are considering operating children's homes within the borough.
- 3.2 The guidance is important and is particularly relevant given the increasing number of children's homes operating in the Melton Borough.
- 3.3 The Council is supportive of children's homes and the key role they play in providing an important part of the social care provision for children but considers the need for local context and concentration of children's homes to be taken into account when making plans to establish children's homes. This is considered necessary for the benefit of vulnerable young people and also for the local communities within which they are present.

- 3.4 The Council does not have the jurisdiction to regulate the operation of Children's Homes. This is the role of Ofsted in ensuring suitability of locations for children's homes and regulating their safe and effective operation.
- 3.5 The clustering of children's homes within some small rural communities in the borough has been problematic. There is evidence of increased demand on public services arising from anti-social behaviour and a breakdown in community cohesion. This is neither in the best interests of the children or the wider community.

4 Background

- 4.1 Melton Borough Council are aware of a number of privately operated children's homes within the Borough including in some of the smaller, rural communities within the Borough.
- 4.2 There has been a notable increase in the use of dwellings as children's homes in recent times. Some of these properties have applied for Lawful Development Certificates, some for full planning permissions and some neither.
- 4.3 The Council is supportive of children's homes and the key role they play in providing an important part of the social care provision for vulnerable children and young people.
- 4.4 However, there is a need to ensure that children's homes and local communities can positively co-exist and that there is not a disproportionate or unsustainable concentration of children's homes in one locality, leading to imbalance in communities and to the detriment of the local community and the young people in care.
- 4.5 The Council is a Local Planning Authority (LPA) and responsible for the planning function within the Borough. The purpose of the proposed guidance document is to provide information and assistance for the development of, or changes of use for children's homes. The guidance also provides information in respect of applications for Lawful Development Certificates for children's homes.
- 4.6 The guidance seeks to clarify and provide information around legislation and policy and how this informs the decision-making process around children's homes. It does not create new policy but references and brings into one place existing policy and is considered to be a material planning consideration in the determination of applications.
- 4.7 The guidance is not exhaustive or conclusive but rather seeks to highlight the relevant legislation, regulations, guidance and policy that will be used in the decision-making process.
- 4.8 As with any planning application each and every case will be assessed on its merits, and it is advised that pre-application advice is sought from the Council in respect of a specific application.
- 4.9 In this context, the Council aims to:
- Ensure that such accommodation is located in appropriate and suitable locations that best meet the needs of looked after children and can also integrate into existing settings with consideration of the current infrastructure available;
 - Support and safeguard children in care and local communities through the use of structured and robust management plans;

- Avoid the undue concentration of children’s homes in a particular area having regard to the existing character and amenity of an area; and
- Actively support and enhance local communities for all residents within an area.

5 Main Considerations

5.1 Regulatory Context

5.2 The planning system is not the only regulatory regime relevant to children’s homes and the Council does not have the jurisdiction to regulate the operation of Children’s Homes or to determine the suitability of a particular location for a children’s home. The role of Ofsted in ensuring suitability of locations for children’s homes and regulating their safe and effective operation is key.

5.3 Section 11 of the Care Standards Act 2000 and the Children’s Homes (England) Regulations 2015 require care homes to be registered with Ofsted. There is also guidance that care providers should follow when registering and operating a children’s home (including the suitability of locations through location assessments). It is the Council’s view that there is a gap in Ofsted consideration of location suitability in terms of the local context and community impact.

5.4 Planning Context

5.5 The Council has noted an increase in the use of dwellings as children’s homes in recent times. Some of these properties have applied for Lawful Development Certificates, some for full planning permissions and some neither.

5.6 A Lawful Development Certificate is a mechanism by which an application can be made to the Council as a Local Planning Authority to consider whether the use of a building or land is lawful and whether there has been a material change of use.

5.7 The Council’s planning department have worked with other Council departments and stakeholders to better understand the nature of children’s care homes and associated considerations.

5.8 All buildings and land within England will have a use, and this use will be defined by the Town and Country Planning (Use Classes) Order 1987 (the Use Class Order).

5.9 The Use Class Order has a number of classes, and the relevant classes for this purpose are C2 (residential institutions) and C3 (residential dwellings). The Guidance sets out the detail of these use classes but notes that these homes will generally be classed as C2 and therefore a change from a residential dwelling. The issue that then needs to be considered is whether that change is material. There is not statutory or single planning definition of what constitutes a change being material, but the guidance (Part 7) provides some examples of the things that will be considered.

5.10 In the event that it is established that there is a material change of use, a planning application will need to be made to the Council. The Council will then make an assessment of the application to ensure that the provision of children’s homes are established in appropriate properties in suitable and sustainable locations.

5.11 **National Planning Policy**

5.12 The National Planning Policy Framework (December 2023) (the NPPF) is the national planning policy for England. The guidance notes the relevant parts of the NPPF that will be considered in these cases.

5.13 **Written Ministerial Statement**

5.14 A written ministerial statement is a material planning consideration. Directly relevant to this report, is a ministerial statement issued by the Housing Minister in May 2023 specifically relating to the planning system and children's care homes. This stated (inter alia) that:

“the planning system should not be a barrier to providing homes for the most vulnerable children in society.” ... “local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions.” ... “In two tier authorities, we expect local planning authorities to support these vital developments where appropriate, to ensure that children in need of accommodation are provided for in their communities”

5.15 **Local Planning Policy**

5.16 The Melton Local Plan (adopted October 2018) sets out the local development strategy for Melton Borough up to 2036, including a vision and objectives that seeks to deliver a wide choice of quality homes to meet the needs of Melton Borough's community. The plan also sets out a number of planning policies to direct development.

5.17 Notwithstanding the fact there is no specific policy relating to children's care homes, the Local Plan includes a number of policies that are of most relevance and are set out in the guidance (Part 9). This list is not exhaustive, and the relevant policies will depend on a particular application.

5.18 The Council's Supplementary Planning Document for Design of Development may also be referred to.

5.19 The Leicestershire Highway Design Guide (Leicestershire County Council) may also be referred to.

5.20 There may also be considerations within the relevant Neighbourhood Plan for an area.

5.21 **Other Considerations:**

5.22 **Location Assessments:** The Council expects applicants to include with their application a supporting statement in respect of the appropriateness of the location. The guidance sets out what should be included within the documents.

5.23 **Property Type:** Consideration is also given within the guidance to property type, size and density of premises.

5.24 **Car Parking and Vehicular Movements:** Consideration is given within the guidance to suitability and sufficiency of parking arrangements, vehicular movements, intensity of activity and impact on residential amenity.

- 5.25 **Management Plans:** The guidance notes that a Management Plan must be submitted with all applications for planning permission or Lawful Development Certificates for a children's care home. This information will inform the decision made on the suitability of the location and also the potential impacts on residential amenity. It is noted that some information contained within the Management Plan will be sensitive and therefore redacted prior to publication on the Council's Planning Website. The guidance sets out the information that should be submitted within the management plan.
- 5.26 **Pre-Application Advice:** The guidance notes that early discussions can help to achieve time savings, and a better standard of application, which improves the chance of a timely and successful outcome. The council makes a charge for advice that it provides to applicants and developers prior to submitting a planning application. The level of the fee depends on the scale and nature of the development proposed.
- 5.27 **Community Considerations**
- 5.28 The Council is supportive of children's homes and the key role they play in providing an important part of the social care provision for children but considers the need for local context and concentration of children's homes to be taken into account when making plans to establish children's homes. This is considered necessary for the benefit of vulnerable young people and also for the local communities within which they are present.
- 5.29 The clustering of children's homes within some small rural communities in the borough has been problematic. There is evidence of increased demand on public services arising from anti-social behaviour and a breakdown in community cohesion.
- 5.30 Whilst it is not possible to apply a blanket view as each case must be considered on its merits, there is a need to ensure that children's homes and local communities can positively co-exist and that there is not a disproportionate or unsustainable concentration of children's homes that could lead to imbalance in communities, to the detriment of the local community and the young people in care.
- 5.31 For applicants to follow the steps set out in the guidance document will enable greater visibility of proposals and ability to work in a constructive way to support and balance community cohesion with meeting the needs of vulnerable young people.
- 5.32 The Council has a requirement to support community safety across the Borough, working with a range of partners to achieve this. The Council is actively engaging with a range of partners including Police, Parish Councils, property owners and children's home operators and other local stakeholders.
- 5.33 The Council is also engaging with other councils and partners at a local, regional and national level to enable and identify good practice, embed learning and to explore opportunities to seek a commitment to ensuring that policy objectives are aligned.

6 Options Considered

- 6.1 The Council could choose not to create the proposed planning guidance document. This is not recommended as currently the relevant information is not contained within one coherent document. The recommended document also provides guidance to applicants on the council's expectations and requirements.

- 6.2 The Council continues to look at longer term solutions, which may require national and local policy changes. It is recognised that this is not straightforward, and that this is a complex issue across the country.

7 Consultation

- 7.1 The guidance document does not create new policy. Consultation has not been specifically undertaken on the guidance document. The document has been developed with relevant teams.
- 7.2 The report reflects the recent increase in the operation of children's homes across the borough, and impacts experienced from clustering of children's homes in some small rural communities.
- 7.3 The guidance seeks to support a balanced approach that will enable children's homes and local communities can positively co-exist and seeks to avoid a disproportionate or unsustainable concentration of children's homes leading to imbalance in communities and to the detriment of the local community and the young people in care.

8 Next Steps – Implementation and Communication

- 8.1 The planning guidance document will be published to the Council's website.

9 Financial Implications

- 9.1 There are no financial implications arising directly from this report.

Financial Implications reviewed by: Director for Corporate Services

10 Legal and Governance Implications

- 10.1 The Planning position relating to Children's Care Homes is set out in the Use Class Order 1987 and has also been addressed in case law. The main issue is over 'materiality' for which there is no single legal or planning definition, but rather is a matter of fact and judgement for the decision maker. The guidance sets out some of those considerations and provides great clarity without fettering the discretion of the decision maker.
- 10.2 The Guidance does not (nor can it) create new planning policy for which there is a separate process. The document collates the relevant considerations and information and places them in one single guidance note. Resultantly, the considerations and policy have not changed, but are rather highlighted within the guidance note.
- 10.3 The document is a planning guidance note and is therefore limited to material planning considerations. Whilst there are other relevant considerations to the wider matter, these cannot be controlled through the planning system as reflected within the main body of this report.

Legal Implications reviewed by: Deputy Monitoring Officer

11 Equality and Safeguarding Implications

- 11.1 The Equalities Act 2010 requires the Council as a public authority to have due regard to the Public Sector Equality Duty to achieve the objectives set out under section 149 of the Public Sector Equality Act 2010:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 11.2 The guidance document does not create new policy or make changes, but clarifies and collates the current considerations.
- 11.3 The Council aims to ensure community cohesion through the appropriate siting of children's homes to best support the young and potentially vulnerable people who use these homes as well as the communities in which they are placed. This is considered to be in accordance with the objectives set out above.

12 Data Protection Implications (Mandatory)

- 12.1 No new requirements identified.

13 Community Safety Implications

- 13.1 None arising directly from this report. However, the council's community safety team continue to engage with all partners and stakeholders in relation to this matter. Every case would be considered on its merits.

14 Environmental and Climate Change Implications

- 14.1 None arising directly from this report.

15 HR and Staffing Implications

- 15.1 None arising directly from this report.

16 Risk & Mitigation

Risk No	Risk Description	Likelihood	Impact	Risk
1	Applicants do not comply with the planning regime.	3	3	Medium
2	Other regulatory partners do not engage with the Council in relation to this matter.	4	3	Medium
3	Community cohesion is impacted by decisions relating to children's homes.	4	3	Medium

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant			2, 3	
	3 Low			1	
	2 Very Low				
	1 Almost impossible				

Risk No	Mitigation
1	Planning guidance in place – clarity on expectations and requirements. Early dialogue with the LPA recommended. The Council also has a planning enforcement policy and staff to address any breaches of planning control.
2	Continue to proactively contact other regulatory partners to seek ongoing dialogue and understanding of community context.
3	Support to communities and community partners, named contacts and ongoing, open dialogue. Instances of ASB or safer communities issues addressed proactively. Visibility and presence in communities to support community cohesion. Early dialogue in the event of children's homes opening within the borough to support integration and community cohesion.

17 Background Papers

17.1 None

18 Appendices

18.1 Appendix A: Planning Guidance Document – Children’s Homes