

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

24/00713/CPL

CASE OFFICER

Rachel Carney

DETERMINATION DATE 16.09.2024 **EXT OF TIME**

Address: 131 Tweedale Street Rochdale OL11 3TZ

Proposal: Application for a certificate of lawfulness for the proposed use of dwelling (C3) as supported living accommodation for a maximum of 6 adults with learning difficulties with two non residents carers (Class C3(b))

PUBLICITY	Weekly list expired?	n/a	Site notice expired?	n/a
	Neighbour letters expired?	n/a	Press Notice expired?	n/a

DELEGATION	Significant departure from local plan?	n	Contrary to national policy?	n
	Applicant a Council Member or officer?	n	Contrary to previous decision?	n
	Major with 10 or more objections and recommending approval?	n	Called in or Planning Panel objection?	n

COMMENTS	Planning Panel comments received?	n
	Neighbour comments received?	n

EIA	Screening opinion completed and saved to Onbase?	n/a
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CONDITIONS	Pre-commencement conditions proposed?	n
	Pre-commencement conditions agreed (or notification period expired)?	n/a

RECOMMENDATION	GRANT
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CHECKED AND SIGNED OFF BY: LA **DATE:** 16.09.24

SITE

131 Tweeddale Street is an attractive, red brick, mid terrace dwelling. The front of the property includes a small, fenced yard and to the rear the property benefits from a large two storey outrigger (could be original) that has been extended with a single storey lean-to extension.

Plans included in the submitted planning statement indicate that the property currently benefits from six bedrooms, including one bedroom in the attic space and one to the ground floor of the property.

PROPOSAL

The application seeks confirmation that the proposed occupation of the dwellings for up to six adults living together as a single household and receiving care would be classified as Use Class C3(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and would therefore not require planning permission.

Plans included in the submitted Planning Statement identify a sitting room, bedroom, dining room and kitchen to the ground floor, four bedrooms and a bathroom to the first floor and a further bedroom to the attic. The basement comprises two store rooms. It is stated that no internal or external alterations are proposed.

The submitted Planning Statement states that; "The property will be occupied by a maximum of six vulnerable adults with a maximum of two carers on site at any single time to provide support. The use will have the same characteristics of that of a dwelling-house with all occupants living together as a family unit and sharing communal facilities such as a bathroom, kitchen, dining room and lounge. The carers will not be permanent residents at the property and will rotate in accordance with shift patterns".

RELEVANT PLANNING POLICY

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

RELEVANT SITE HISTORY

09/D52135 - Application For A Certificate Of Lawfulness For A Proposed Single Storey Rear Extension To Dwelling - Granted

CONSULTATION RESPONSES

N/A

REPRESENTATIONS

N/A

ANALYSIS

S.55(1) of the Town and Country Planning Act 1990 (The 1990 Act) sets out:

Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land

In respect of changes of use, Article 3(1) of the Town and Country Planning (Use Classes) Order 1987 (The Use Classes Order) sets out “*Where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or that other land for any other purpose of the same class shall not be taken to involve development of the land.*”

In assessing this application, it is necessary to understand the existing lawful use of the unit proposed to change use and the use class of the proposed use. Where the existing and proposed use do not fall within the same use class, it is necessary to consider whether the proposed use would have a materially different impact on the environment and local amenities.

For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The decision will be based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law or judicial authority to the circumstances of the case.

In light of the planning history at the site, the LPA is content to consider the existing lawful use of the site as a C3(a) dwellinghouse.

Article 2 of *The Use Classes Order* defines care as:

Personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment.

The applicant has supplied supporting information that the site is to be operated by a provider specialising in care for adults with learning disabilities, and is to be used by 6 adults who would each have a private room with access to communal rooms and facilities such as kitchen, living and dining rooms. The level of care received would be typical of an external carer, and would not be primary to the upkeep and foundation of the household. Up to two carers would be present at the site over 24 hours, but would not sleep at the site, with care being provided on rotation in shifts.

Within the judgement of Hossack, R (On the application of) v Kettering BC & Another [2003] Mr Justice Richards establishes that residents (not more than six) who have “a common need for accommodation, support and resettlement” can be considered as living as a single household. Further setting out that there is no requirement that the occupiers should come to the house as a preformed group or for a predetermined period or that homogeneity in a group of residents is a necessary precondition to a group forming a single household.

It would therefore be considered that the intended residents would each share common life experiences, facilities and backgrounds which would form the basis of the relationship between them and would satisfy the threshold to be considered ‘living together’. The supporting documentation and details submitted by the applicant clearly establishes an element of care being provided, whilst the individuals being cared for and as such the use described can be considered to fall within use class C3(b).

As established both within article 3 of *The Use Classes Order*, and s.55(2)(f) of *The 1990 Act*, the use of the buildings or other land or of any part of the buildings or the other land, for any other purpose of the same class shall not be taken to involve development of the land and it is therefore recommended that a certificate be granted.

RECOMMENDATION

GRANT UNCONDITIONALLY

1. The proposed use of the building for six adults living together and receiving care would be a change of use within the same class and is not taken to comprise development within the meaning set out within section 55 of the Town and Country Planning Act (1990) and would not require planning permission.

Notes for Applicant:

For the avoidance of doubt, this decision relates to the following list of plans:

Location Plan – Dated 20th July 2024

Planning Statement – Prepared by MPD Built Environment Consultants Ltd