

APPLICATION NUMBER: 24/00714/CPL

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

24/00714/CPL

CASE OFFICER

Aimee Bovaird

DETERMINATION DATE 16.09.2024 EXT OF TIME

Address: 24 Martin Lane Rochdale OL12 7NU

Proposal: Application for a certificate of lawfulness for the proposed use of dwelling (Class C3a) as a children's home for a single child, with a manager and two who would sleep overnight, working on a rota basis(Class C2)

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/A	Contrary to national policy?	N/A
	Applicant a Council Member or officer?	N/A	Contrary to previous decision?	N/A
	Major with 10 or more objections and recommending approval?	N/A	Called in or Planning Panel objection?	N/A

COMMENTS	Planning Panel comments received?	N/A
	Neighbour comments received?	N/A

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

RECOMMENDATION

GRANT

SITE

The application relates to 24 Martin Lane, a two storey terraced dwelling with one bedroom, office and staff room on the first floor and a living room and kitchen on the ground floor. The property has a rear garden and off street parking.

This property is within the Defined Urban Area and in a residential area.

PROPOSAL

The application seeks a certificate of lawfulness for the proposed use of dwelling (Class C3a) as a children's home for a single child, with a manager and two who would sleep overnight, working on a rota basis (Class C2).

No external alterations are proposed.

RELEVANT PLANNING POLICY

The Town and Country Planning Act (1990) - S.192

The Town and Country (Use Classes) Order (1987) (as amended)

National Guidance

National Planning Practice Guidance (NPPG)

RELEVANT SITE HISTORY

19/01221/CPL - Lawful development certificate for a proposed single storey rear extension – Refuse

20/00106/CPL - Application for a certificate of lawfulness for a proposed single storey rear extension – Grant

CONSULTATION RESPONSES

Not applicable

REPRESENTATIONS

In accordance with the Council's Code of Publicity for Planning Applications, this application has not been publicised.

ANALYSIS

S.55 of the Town and Country Planning Act 1990 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 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.

Additionally, it is noted that in paragraph 006 of the NPPG (Reference ID: 17c-006-20140306), states that ‘in the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.’

Information submitted sets out the building will be used as residence for one child with a maximum of three carers. The information states two carers will work on a rota basis and there will also be a manager. The applicant asserts that the property would be run as a household, and that the experience of the occupiers would be akin to that of a household, rather than that of a care home, and considers the proposed use to fall under use class C2.

Use Class C2 defines this 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; or use as a residential school, college or training centre. Care is defined in Article 2 of the UCO as meaning:

"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."

Established case law provided for by the *North Devon District Council v First Secretary of State [2004]* judgement in respect of a house used to care for children is applicable to the circumstances of lawful development certificate application. In that, the Court said that 2 children aged between 10 and 17, supported by non-resident carers, could not constitute a household for the purposes of Class C3(b).

In the *North Devon* case, the property was being used as a home for two children and two non-resident staff were on duty at all times with a shift system operated by 6 to 7 carers to maintain the requisite cover. The application was based on the premise that the children by themselves would constitute a single household with the use falling within Class C3(b).

Crucially, the judge set out that a household needed more than just children, as children: “need to be looked after. They cannot run a house. They cannot be expected to deal with all the matters that go to running a home ... children are

regarded as needing full-time care from an adult, someone to look after them, someone to run their lives for them and someone to make sure that the household operates as it should.” The Court therefore held that the concept of living together as a household means that a proper functioning household must exist and thus, for the use to fall within Class C3(b), the children and carers must reside in the premises. Otherwise, the use falls within Class C2.

As such, in light of above and having regard to the supplied supporting statement, it is accepted that the proposed use falls within Use Class C2 (and not C3b), which would comprise a change of use within the context of the 1987 Act given it would comprise a change between Classes C2 and C3, however, as S.55 of The 1990 Act sets out, for a change of use to comprise development, it must be material, and in determining this application, this must be assessed.

The information submitted sets out there could be four people at home during the day, including one child and three carers. Six carers will operate on a shift pattern of 48 hours on, 60 hour off. A table of weekly movements has been provided in a supporting statement and it is not thought the movements are more than a typical household.

There may be arranged visitors from various professionals or others when considered acceptable. This is not thought to be any different from a typical household.

The proposal is not considered to have a negative effect on the surrounding character of the area as the proposal will operate similar to a normal residential dwelling. No external works are proposed and as the dwelling is in a residential area the proposal will be compatible within the street scene.

The child will attend school during the day and make use of facilities in the surrounding area. No specific details regarding attending school have been provided, this is not considered to be different than a normal household.

The existing house has a child's bedroom, staff room and an office, this is considered acceptable. The property has one off street parking space, there may be more than one car at the property by visiting professionals however on street parking is considered a characteristic of the area and a typical household would have visitors on occasions.

Conclusion

Having regard to the matters above, on balance it is concluded that the proposed change of use from C3 to C2 is not a material change of use, meaning that the change does not constitute development, planning permission is not required, and a lawful development certificate can be granted.

RECOMMENDATION

GRANT UNCONDITIONALLY

1. The proposed use of the building for one child and two carers on a shift basis and a manager providing care would be a change of use from C3 to C2 however the change is not considered to be material, and therefore does not comprise development within the meaning set out within section 55 of the Town and Country Planning Act (1990) and would not require planning permission.

Procedure Statement

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively to issue the decision without delay.

Notes for Applicant:

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

Block Plan
Location Plan
Existing and Proposed Floor Plans 023
Planning Statement

Report Author Aimee Bovaird