

Delegated Report

Planning Ref: 23/00385/CLP

Applicant: CHANGING LIVES CARE GROUP

Ward: Hinckley DeMontfort



Hinckley & Bosworth
Borough Council

Site: 16 Hardy Close, Hinckley

Proposal: Use of a dwellinghouse (C3) to a childrens care home (use class C3(b))

1. Recommendations

1. Issue a certificate of lawful proposed development for the use of a dwellinghouse (C3) to a childrens care home (use class C3(b)).

2. Application description

- 2.1. The application is for a Certificate of Lawful Proposed development for the use of a dwellinghouse (C3) to a childrens care home (use class C3(b)). The application is made by Changing Lives Care Group who offer long-term placements for children between 8-18 years of age.
- 2.2. As above it is proposed that the property is used as a Children's Care Home, accommodation up to a maximum of three children at any one time (aged between eight and eighteen years old). There will be a daily presence of up to three adults who would care for the children on a shift pattern.

3. Description of the site and surrounding area

- 3.1. The application site of 16 Hardy Close is a detached residential property and is in an area characterised by similar detached dwellings. The property comprises of 4 bedrooms, 2 bathrooms, a lounge/diner, a kitchen and a utility room. No internal or external changes are proposed to the dwelling.
- 3.2. The property also benefits from an enclosed garden to the rear and off-street car parking provision for up to 5 cars.

4. Relevant planning history

None

5. Publicity

- 5.1. This is an application for a certificate of proposed lawful use and no publicity is therefore required.

6. Consultation

- 6.1. This is an application for a certificate of proposed lawful use and no consultation is therefore strictly required, although in this case LCC Highways were consulted with regards to potential highway impacts.
- 6.2. LCC Highways: No objections to proposal, have advised that applicant may need to be aware that an application to drop the kerb may be required separate to this certificate.
- 6.3. Other: This application was requested to be called in to Planning Committee by Cllr Scott Gibbens due to the concerns of local residents in relation to perceived additional traffic and disturbance as a result of the change of use.

7. Policy

- 7.1. The National Planning Policies and Guidance
- 7.2. The Town and Country Planning (Use Classes) Order 1987

8. Appraisal

- 8.1. The main consideration is whether the proposed use of the property would constitute a change of use, and whether such a change would be a material change of use and require planning permission.
- 8.2. The Town and Country Planning (Use Classes) Order 1987 (as amended) sets out a number of standard Use Classes, some of these classes being split into sub-classes. In general terms, a change of use between sub-classes within a class would not be considered to represent a material change of use which requires planning permission, although each case is to be judged on its own merits as a matter of fact and degree.
- 8.3. The Use Class C3 – Dwellinghouses is split into three sub-classes:
 - C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child
 - C3(b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems
 - C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger
- 8.4. In this case, the existing lawful use of the property is as C3(a), this assessment must determine if the proposed use would fall under C3(b) meaning no material change in use of the property.
- 8.5. The residents of the property under the proposed use (3 children and up to 3 adults) would live together as one household with shared facilities (ie kitchen, lounge/diner). The proposed use would not require any alterations to the exterior of the property nor any significant alterations to the interior of the property which comprises 4 bedrooms, 2 bathrooms, a lounge/diner, kitchen and utility room.
- 8.6. The level of support and care provided by visiting staff as described in the planning statement and the level of activity overall would not be dissimilar to the level of use possible as a single family dwellinghouse, consisting of three children and up to three adults. The children would attend local schools (either mainstream or specialist) with the carers taking children to and from school as per a typical family arrangement.
- 8.7. The covering letters submitted as part of this application confirms the shift patterns of staff would include a maximum of three carers present in the day (07:00 to 22:00)

- with two carers at night (22:00 to 07:00). Carers would live communally within the house and provide an arrangement not dissimilar to a family home.
- 8.8. The cover letter outlines that there would be limited additional external visitations such as social workers. With the above in mind the traffic movements would not be dissimilar to those existing in the area with people travelling to work and school. The parking arrangements (for up to 5 vehicles) is sufficient. Leicestershire County Council Highways were consulted as part of this application and it was confirmed that there would be no objections on highway safety and parking.
- 8.9. There is a significant amount of case law concerning similar changes of use, including some examples within the Covering Letter. The prevailing indication from case law is the requirement for LPAs to determine whether such a change of use would lead to an intensity of use that would be similar to a family home. In this case, for the reasons outlined above the intensity of use would be similar. As such it is considered that the proposed use of the property as C3(b) does not constitute a material change of use and so would not require planning permission.

9. Equality implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (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.
- 9.2. Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3. There are no known equality implications arising directly from this development.
- 9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. The proposed use of the property as C3(b) - dwellinghouse occupied by not more than six residents living together as a single household where care is provided for residents - does not constitute a material change of use and therefore a Certificate of Proposed Use can be issued.

11. Recommendation

- **Issue certificate of lawful proposed development for the use of a dwellinghouse (C3) to a childrens care home (use class C3(b))**

11.2 Reasons

The proposed use of the property as C3(b) - dwellinghouse occupied by not more than six residents living together as a single household where care is provided for residents - does not constitute a material change of use under The Town and Country Planning (Use Classes) Order 1987 (as amended).

The determination is based on the submitted details:

Application Form

Covering Letter

Site Location Plan