

Delegated Report

Planning Ref: 24/01120/CLP
Applicant: NIKKI AND PETER COOKE
Ward: Barwell



Hinckley & Bosworth
Borough Council

Site: 16A Regent Street, Barwell

Proposal: Certificate of proposed lawful development for the dwelling house to be used as a C3(b) use.

1. Recommendations

- 1.1 Issue a Certificate of proposed lawful development for the dwelling house to be used as a C3(b) use.

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)). Specifically it is proposed to operate the home as an Ofsted registered children's home for two young persons, supported by four staff members on a 2:1 staffing ratio at all times. The application is for two children and four staff. Staff would be on site 24/7.
- 2.2. The planning statement sets out that a consistent core staff would be utilised to provide stability and provide strong relationships within the home, whilst also ensuring familiarity and links within the local area.
- 2.3. Day to day life would be akin to a typical family household with the young persons attending school, community activities etc. It is proposed they would reside in the home until the age of 18 supported by the staff.

3. Description of the site and surrounding area

- 3.1. The application site is located within the settlement boundary of Barwell. The property is a detached, 3 bedroom, two-storey dwelling with associated parking to the front of the site and garden to the rear. The site is located within a residential area.

4. Relevant planning history

None relevant

5. Publicity

- 5.1. None required.

6. Consultation

- 6.1. As the proposal is not a planning application, no consultation is required for this application.

7. Policy

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

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) categorises different types of property and land into standard Use Classes, some of these classes being split into sub-classes. In general terms, a change of use within the same class including 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 by people regarded as forming a single household,
 - C3(b) not more than six residents living together as a single household where care is provided for residents,
 - C3(c) not more than six residents living together as a single household where no care is provided to residents
- 8.4 In this case, the existing lawful use of the property is as C3(a) and the application has been made on the basis that the proposed use falls under use class C3(b). The proposed use of the property as C3(b) would not result in the property falling outside of the C3 use class category.
- 8.5 Whilst staff members the adults residing at the property would provide day to day care for the children. The residents of the property would live together as one household with shared facilities. The proposed use would not require any significant alterations to the property. The level of support and care provided by 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 two children and up to four adults.
- 8.6 The planning statement submitted as part of this application confirms that the young persons will attend school and with staffing operations including waking night shifts, the comings and goings at the property will be akin to a standard residential household.
- 8.7 As such it is considered that the proposed use of the property would fall within use class C3(b), as the current use of the property is C3(a), the proposed change falls within the C3 use class and does not constitute a material change of use which would 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 children's 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

Planning Statement

Site Location Plan