

Delegated Report

Planning Ref: 23/00688/CLP
Applicant: HONEYCOMB CARE
Ward: Hinckley DeMontfort



Hinckley & Bosworth
Borough Council

Site: 65 Highfields Road, Hinckley

Proposal: Use of a dwellinghouse (C3) to a residential institution (C2)

1. Recommendations

1. Issue a certificate of lawful proposed development for the use of a dwellinghouse (C3) to a residential institution (C2).

2. Application description

- 2.1. The application is for a Certificate of Lawful Proposed development for the use of a dwellinghouse (C3) to a residential institution (C2). The application is made by Honeycomb Care, to provide residence and care for one child.

3. Description of the site and surrounding area

- 3.1. The property is a two storey end terrace property located on the corner of Highfields Road and John Street. The property has two bedrooms and a detached garage located to the rear of the property. Both Highfields Road and John Street consist of two storey terrace properties with a high prevalence of on-street car parking.

4. Relevant planning history

None

5. Publicity

- 5.1. None required.

6. Consultation

- 6.1. None required.

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. Under the Order, Class C3 includes use by "... (b) not more than six residents living together as a single household where care is provided for residents". Care homes more typically fall under Class C2 as use "for the provision of residential accommodation and care to people in need of care". The definition of "care" as set out in Article 2 of the Order includes, in Class C2, the personal care of children. There is therefore some overlap between classes C2 and C3 in so far as they relate to care homes
- 8.3. For a change of use from a use in Class C3 to a use in Class C2 to amount to development, and thereby require planning permission, the change of use has to be material. That applies to the overall character of the use not just to certain aspects

of

it.

- 8.4. The home would provide for care for 1 child, administered by non-resident care staff who would work in shifts, thereby providing round-the-clock care. The applicant gives details in the planning statement of the numbers involved and the pattern of working, including the expected trips to and from the property in direct comparison to a residential dwelling/household. The case of North Devon DC v FSS and Southern Childcare Ltd [2003] EWHC 157 Admin provides authority for the view that use as a care home for children, where carers are non-resident, falls within Class C2. Children need to be looked after and could not, on their own, be regarded in the true sense as a household without the presence of a carer. Carers who provide 24-hour care but who are not resident could not be regarded as living together in a household. The concept of living together as a household means, in the context of Class C3(b), that a proper functioning household must exist. It can therefore be confirmed that the proposal is for a change of use from Class C3 to C2.
- 8.5. Whilst it is acknowledged that a change of use is occurring, the proposed use would not, as a use within Class C2, amount to a material change of use from Class C3 use as a dwelling house. The change of use would not therefore amount to development for which planning permission would be required.
- 8.6. This is considered due to the detail provided of the number of residents receiving care (1) and the number of staff at the property at any one time (2) and within the planning statement details of the vehicular movements/shift patterns are detailed. This information has been used in comparison by the applicant to evidence that there is no material change to the property through vehicular movements, external appearance or the number of people within the unit.
- 8.7. As such the certificate of lawfulness can be issued.

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. Although a change of use from a use in Use Class C3 dwellinghouse to Use Class C2 residential institutions would occur, it does not amount to a material change of use and no development requiring planning permission would therefore take place, and 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 residential institution (use class C2)**

11.2 Reasons

Although a change of use from a use in Use Class C3 dwellinghouse to Use Class C2 residential institutions would occur, it does not amount to a material change of use and no development requiring planning permission would therefore take place 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 Drg No. 65HR/2023

Floor Plans Drg No. 65HR/2023