

PLANNING STATEMENT

Lawful Development Certificate for
Propose Use as Supported Living
Accommodation for a maximum of 5
young adults (18 – 21 years old) with two
non-resident carers {Class C3(b)} at 18 – 20
Church Street, Royston Barnsley S71 4QR.

MPD Built
Environment
Consultants Ltd

Introduction

This Planning Statement has been prepared in support of the accompanying application for a Certificate of Lawfulness for The Hennessy Group to use 18 – 20 Church Street, Royston, Barnsley as a dwelling-house to provide supported living accommodation for a maximum of five young adults (18 – 21 years old) with a maximum of two non-resident carers present at any time (Class C3(b)).

The Hennessy Group is a private limited company contracted to provide support services on behalf of the local authority.

Sadly, at present there are not sufficient facilities to keep up with local demand. 18 – 20 Church Street is a desperately needed facility to provide a safe and secure home for these vulnerable young persons. Every area has a mix of people including Barnsley who require varying degrees of support. The aim is to provide the residents with a quiet, friendly and supportive environment for them to live as independently as possible as a group and to allow them to develop with appropriate support. The property will be utilised to house suitable young people who have recently left local authority care from the local area allowing them to live in a supportive environment close to their families and friends.



Site Description

The property is currently a 4 bedroomed detached two storey dwelling with private gardens to the front and rear as well as off-street parking provision. The property is situated at the end of a private road which is an established residential area. The property can also be accessed via New Street to the rear.

There is detached building within the curtilage of the main house which was formerly a garage which has been converted into an administrative office.

There is a residents parking scheme in operation on Church Street, however several properties on the road have dedicated on plot parking to meet their needs, thus on street parking is not prevalent in the locality from a visual inspection undertaken during the daytime. The application site has sufficient on-site car parking to ensure that there will be no overspill onto the adjoining highway.

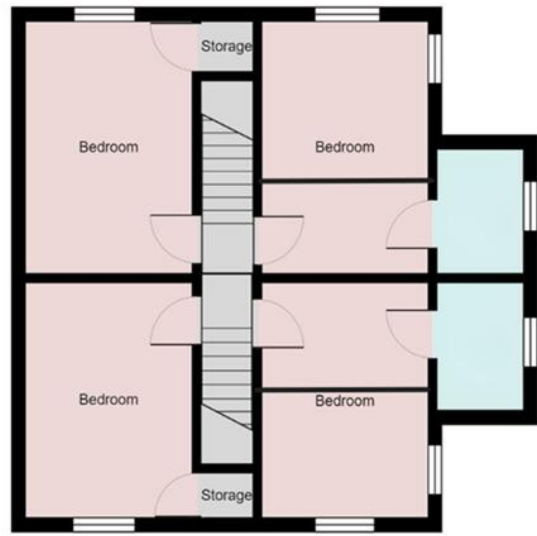
The property is within easy reach of local shops and other amenities, whilst also benefitting from good public transport links. The site is therefore considered to be a highly sustainable location.

The site is situated within Flood Zone One which is the least likely location to be subject to fluvial flooding. The site is also not identified on the Environment Agency flood risk maps as being susceptible to surface water flooding.





Ground Floor



First Floor



The Proposal

This application is pursued under subsection (1) of section 192, which provides for an application to determine whether any proposed use or operations would be lawful for planning purposes. The applicant is seeking a certificate of proposed lawful development for the use of property by up to 4 residents living together with care provided (Class C3b).

The proposal involves the use of a dwelling-house as a supported living unit for a maximum of 5 young adults (18 – 21 years of age) who have left local authority care (Class C3b) with a maximum of two carers on site at any time.

The carers will provide each young person with 5 hours of care per day typically this will be in the form of 2 hours in the morning and 3 hours in the evening. During the day the residents are likely to be away from the property engaged in training, work, education etc.

Currently, Class C3 Dwelling Houses are defined as follows:

Use as a dwelling-house (whether or not as a sole or main residence) by—

- (a) a single person or by people to be regarded as forming a single household;
- (b) not more than six residents living together as a single household where care is provided for residents: or
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Within the Communities and Local Government Circular 08/2010 there were additional comments which state:

C3(b) continues to make provision for supported housing schemes, such as those for young adults who have left local authority care.

It remains the case that in small residential care homes or nursing homes, staff and residents will probably not live as a single household and the use will therefore fall into the residential institutions class (Class C2), regardless of the size of the home. Local planning authorities should include any resident care staff in their calculation of the number of people accommodated.

However, what this does not consider is the more modern approach to small care homes whereby there are no resident staff and those living in the house are living together as a single household.

Indeed, to the eye there is no material difference between a Class C3a use (your home) and this home (Class C3b), as it will be operated as a family unit with a supporting model in place to allow the residents to live as independently as possible.

Several appeal decisions have been submitted in support of the application which demonstrate that the Planning Inspectorate has consistently found that supported living accommodation for adults falls with Class C3b and as such is a lawful use of a dwelling house (Class C3). These appeal decisions are submitted as appendices along with the LDC's granted by the Council to the applicant previously.



Legislation

Sections 191 and 192 of the Town and Country Planning Act 1990 provide for anyone (not just a person with a legal interest in the land) to apply to the local planning authority (LPA) for a lawful development certificate (LDC). A certificate is a statutory document certifying:

(1) in the case of an application under section 191, the lawfulness, for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition; or

(2) in the case of an application under section 192, the lawfulness of proposed operations on, or use of land.

The onus of proof in regard to (1) is firmly on the applicant and the issue of a certificate will depend on the on factual evidence provided about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The relevant test of the evidence in this matter is “the balance of probability” and the applicants own evidence does not need to be corroborated by independent evidence. If the LPA have no evidence to contradict the applicant’s version of events or make them less than probable, there is no good reason to refuse the issue of a certificate.

In regard to (2), this provides that, if the LPA are supplied with information satisfying them that the use or operations described in the application would be lawful, if instituted or begun at the time of the application, they shall issue a certificate to that effect; and, in any other case, they shall refuse the application.

In short, the purpose section 192 is to enable any person who wishes to find out whether any proposed use or operations would be lawful to apply to the LPA for that purpose

The application needs to describe the proposal with sufficient clarity and precision to enable the LPA to understand (from a written description and plans) exactly what is involved in the proposal; and to submit whatever supporting information or legal submission that are to be relied upon in order to satisfy the LPA that a certificate should be granted for the proposal.

In making their decision on an application under section 192, the LPA ask themselves the hypothetical question - "If this proposed change of use had already occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?" In doing so, the LPA will not only consider whether the proposal would involve "development" requiring an application for planning permission, but whether it would involve a breach of any existing condition or limitation imposed on a grant of planning permission which has been acted upon, and which therefore constrains what can be done on the land. The LPA will not make a proposal fit a scenario; the only question is whether the proposal made by the applicant is lawful at the time of submission.



Analysis

The site is situated in an established residential area. The authorised use of the property as a dwellinghouse (Class C3a) falls within the same use class as the proposed use as a supported living facility for young adults leaving local authority care (Class C3b). As both are Classed as Class C3 uses a change of use from one to the other would not amount to development in accordance with section 55 (2) (f) of the Town and Country Planning Act 1990.

Planning Permission is accordingly not required for the proposed use which could lawfully take place within the subject property. Therefore, a Certificate of Lawfulness should be granted.

It is hereby requested that a Certificate of Lawfulness be granted for the use of 18 – 20 Church Street as a dwelling house to be occupied as supported living accommodation for a maximum of 5 young adults with up to 2 non-resident carers providing support to them to enable them to live together as a single household.

This application is pursued under subsection (1) of section 192, which provides for an application to determine whether any proposed use or operations would be lawful for planning purposes. The application site is a four-bedroom, two storey detached house that falls within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (“UCO”). The planning history related to the site reveals no previous planning applications to suggest that the property is within any other use.

In accordance with the order, a Class C3 dwellinghouse, encompasses the following: “Use as a dwelling house (whether or not as a sole or main residence) -

(a) by a single person or by people living together as a family, or

(b) by not more than six residents living together as a single household (including a household where care is provided for residents).”

The Town and Country Planning (Use Classes) Order 1987 defines “Care” as:

Under Article 2 of the UCO, “care” means 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.

In this case, an assessment must be made as to whether the property would meet the definition of Class C3b as stated above. The applicant “Hennessy

Group” seek to provide accommodation for 5 care leavers (18-21 years old) for an average stay of 12 months, each resident will be provided with a “light touch” support package that involves a visit from a support worker, on average 25 hours per week. The ethos of the support package is to prepare young people who have left care with the necessary skills to live independently in future.

Residents will not be allowed to own a car and live at the property and staff in the many cases will live locally so walk or cycle to the work, therefore it is not anticipated that there would be a significant demand for car parking associated with the use.

Secure cycle parking will be provided on site with car parking for 5 vehicles being available on site.

In this case it would be the Hennessy Group who would organise the tenants and their “care”. In the High Court Case *Hossack v Kettering* BC 25/06/2002, it was judged that although the residents were not a "pre-formed group" and were brought together by mutual need, this did not mean that they were not living as a single household.

Therefore, as the existing use would meet the definition of Class C3(a) and that proposed use would meet the definition of Class C3 (b) this would not constitute a change of use and therefore is excluded from the definition of development and no planning permission would be required.

Section 55(1) of the Town and Country Planning Act 1990 defines the term 'development' which includes the change of use of a building. Section 55(2)(f) explains that in the case of buildings used for a purpose of any class specified in an order made by the Secretary of State, the use of that building for any purpose within the same class shall not be taken, for the purpose of the Act, as amounting to 'development'.

The Principle

The characteristics of the use are very similar to that of a single-family dwelling (Class C3a). However, as the carers will not be resident on site the use falls within that of supported living accommodation (Class C3b).

The primary use is still residential (Class C3) with the residents living independently as a group albeit it with a degree of external support from the carers. A supported living unit meets the definition of a household under Class C3 and as such a Class C3b use as proposed is considered a wholly appropriate use in a residential area from a land use policy perspective and does not

constitute a material change of use as defined by the Town and Country Planning (Use Classes) Order 1987 (As Amended).

Visual Impact

There are no external alterations proposed as part of this application, as the property was previously occupied as a dwelling (Class C3a). Therefore, from the outside the property will not be discernibly different from any other dwelling located in the road. To all intents and purposes, the property will appear to be a family dwelling house to any passer-by.

Residential Amenity

The property will be occupied by a maximum of five young 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 bathrooms, the kitchen, dining room and lounge. The carers will not be permanent residents at the property and will rotate in accordance with shift patterns as supplied as part of the supporting evidence.

The proposal will not have any greater impact on the residential amenities enjoyed by the neighbours than if a family of six occupied the property (Class C3a) or if it was in use as a single group HMO (Class C3c).

Highway Safety

The nature of the resident's tenancy means that none are unable to live at the property and own a car, as such only visiting carers will use a vehicle. The carers all live locally and therefore most will walk, cycle or use public transport to travel to and from work rather than drive so there will be no significant impact in terms of parking demand in the locality and there is more than sufficient car parking on site to meet demand.

There will only be a maximum of two carers on site at any single time, so the traffic generated by the use will be no different to that which might be expected of a single-family dwelling. The use is therefore not envisaged to result in an increase in traffic generation or impact highway safety.

Future Management

Whilst the on-going management of the home is not a material planning consideration as such, this often causes anxiety amongst residents and therefore it is important that this is addressed to reassure neighbours about the operation of the property in the future. The local planning authority is concerned with the impact of the development in land use terms to ensure it

does not have any adverse impacts in terms of material planning considerations such as residential amenity, highway safety and parking etc.

To provide a further insight into the operation of the property further details have been provide at Appendix A of this document, along with a staff rota detailing the shift pattern.

Other Legislative Requirements

Equality Act 2010

Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act as well as advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

Human Rights Act 1998 considerations

This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved polices of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Conclusions

The permitted use of the property is as a dwelling-house (Class C3). The characteristics of the proposed use as supported living for five young adults (aged 18 -21 years old) who have left local authority care (Class C3b) will have no greater impact on the locality than that of a large family dwelling in terms of material planning considerations and as such falls within the same use class. The property will be used to house a maximum of five young persons with support needs and will provide a much need facility to allow the residents to lead as independent life as possible in a supported environment as they transition from local authority care into living independently as an adult in the community.

Having regard to the above and noting that the nature of the development would not result in any greater impacts than the authorised C3 use, it is considered that the proposed development does not constitute a material change of use and as such a Certificate of Lawfulness should be granted for the use of the premises for supported living for a maximum of five young adults (18 – 21 years old) with support needs (Class C3b).



APPENDIX 1

CRITERIA FOR ASSESSMENT OF MATERIAL CHANGE IN RESPECT OF SMALL CARE HOMES

1. The numbers of occupants and numbers of vehicles at the property or as last occupied.

There will be a maximum of 5 residents (18 – 21 years of age) who will be residing in the property. The residents will not have cars as this is a requirement of their tenancy. On site parking will be provide for carers vehicles. There will only ever be two carers on site so the maximum number of vehicles present at any single time would be two.

2. The number of residents who will be residing at the property and for how long they will live there.

There will be 5 permanent residents each receiving a support package living at the property for a period of 12 months as they transition from local authority care to full independence in the community.

3. The age the residents who will be residing at the property.

The residents residing at the property will be aged 18 – 21 years old.

4. The types of residents who will reside at the property e.g. adults with disabilities, alcohol problems etc.

The residents residing at the property will all be care leavers who have been in local authority care. The objective is to provide care leavers with a supportive environment with access to services and help to allow them to transition from the care system to living independently in the community.

5. The number of carers in total and the number which will be present at the property at any given time and whether there is 24-hour care.

There will be 2 part time support workers employed at the property. During the morning there will be 2 staff members on site for around 2 hours and during the evening there will be 2 staff member providing 3

hours care to the residents. At any given 1 time there will be a maximum 7 individuals in the property. (5 residents and 2 staff) – however as tenants are encouraged to “live a normal life” we will be engaging them out in the community – so across the course of the day they will be away from the premises working or engaged in some other form of activity such as training or education.

6. Shift patterns including the duration of each shift and associated vehicular movements and parking details.

5-hour daily shifts x 2 per week. Equating to 25 hours for employees. (See Rota attached). There is space for 5 vehicles on site. It is expected that staff will be commuting to work by walking or getting public transport as carers tend to live close to their place of work.

7. Details of social workers and psychologists – numbers, frequency of visits and duration of stay.

As the residents are now classed as adults in the eyes of the state, they no longer receive social worker(s) or visit from health workers etc. The Hennessy Group has its own in-house psychologist who can be contacted by residents for support if required, but this will be done virtually rather than in the form of a visit to site.

8. Details of any staff or contractors visiting the property e.g. gardeners, maintenance, home delivery etc. – numbers, frequency of visits and duration of stay.

Monthly window cleaner. Any contracting work will be pre-planned. In respect to emergency this would be like any normal dwelling.

9. Any external changes which may be made to the property e.g. replacing the garden with a drive, erection or signage or cameras.

CCTV will be installed. The house is in a good condition and normal cleaning, jetwashing, weeding etc would be completed as and when needed.

10. Will there be any internal alterations to the properties, if so, what?

Installation of fire doors, firefighting equipment, fire alarm system, EML and the blocking up of the access between the downstairs bedroom and the kitchen etc.

APPENDIX 2A - APP/U1105/X/12/2173513 - Chessington, 50 Marlpit Lane, Seaton, Devon EX12 2HN.

APPENDIX 2B - APP/U5930/X/19/3229723 - 55 Cecil Road, Walthamstow, London E17 5DH.

APPENDIX 2C - APP/V2255/X/19/3224363 - Loyterton Farmhouse, Tickham Lane, Lynsted, Sittingbourne, Kent, ME9 OHW.

APPENDIX 2D - APP/H6955/X/20/3247381 – Croeshowell Cottage, Croeshowell Lane, Burton, LL12 0LB.

APPENDIX 2E - APP/L5240/X/14/2216851 – 31 Canterbury Road, Croydon, CR0 3PY.

APPENDIX 2F - APP/Z4310/X/23/3316521 - 3 Measham Way, Liverpool L12 0NL.

APPENDIX 2G - APP/Z5639/X/23/3318074 - Red Thorns, 98 Westbury Road, Kingston Upon Thames, New Malden, KT3 5AN.

APPENDIX 2H - APP/K2420/X/11/2155849 - 15 Crownhill Road, Burbage, Hinckley, Leicestershire, LE10 2LD.

APPENDIX 2I – APP/G5750/C/19/3239475 – 11 Plaistow Park Road, Plaistow, London E13 0SA.

Appendix 2J - APP/P1560/X/12/2186388 – Walnut House, Lodge Lane, Tendering, Clacton-on-Sea, Essex CO16 0BS.

Appendix 2K - APP/N2739/C/17/3180869 – ‘Garmsway’ Selby Road, Whitley, Goole DN14 0HY.

APPENDIX 2L – 2024/0209 - 4A and 4B Cumberland Road, Hoyland, Barnsley, S74 9PQ.