

2025/1069

Mr Jason Davy

93 Barnsley Road, Goldthorpe S63 9AA

Certificate of lawfulness for the proposed use of the property as a Class C3(b) for supported living accommodation for 3-4 young people aged 16-17.

Site Description

The host property is an end terrace residential property which is brick built with a tiled pitched roof. It appears the property was formerly two individual units that have been converted into one. To the rear is a small tarmacked area which can be accessed from the existing access that runs down the side of the property. There is also a small grassed area. The property fronts onto Barnsley Road and is in close proximity to local services and public transport.

Planning History

| Reference | Description | Decision |
|-----------|---|-----------|
| 2024/0971 | Certificate of lawfulness for existing use as HMO | Withdrawn |
| 2025/0637 | Certificate of lawfulness for existing use as HMO | Refused |

Proposed Development

This application is for a Lawful Development Certificate under Section 192 of the Town and Country Planning Act 1990 and seeks confirmation that a proposed use of the property as C3(b) for supported living for 3-4 young people is lawful and does not require planning permission. A supporting statement states that no internal or external works are proposed. Section 192(1) the Town and Country Planning Act 1990 states that if any person wishes to ascertain whether any operations proposed to be carried out in, on, over, or under land, would be lawful, they may make an application for the purpose to the local planning authority describing the use or operations in question.

Section 192(2) then states that if, on an application under this section, the local planning authority are provided 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 shall refuse the application. No special restrictions or designations affecting the proposal are considered to apply to this site, such as permitted development rights having been removed, or listed status etc.

Consultations

There is no statutory requirement for a Local Planning Authority to consult third parties on a lawful development certificate application, including neighbouring residents or parish councils since such applications are a matter of fact and law and are not determined on planning merits or judged against national and local planning policies and guidance. Nonetheless, the application was made available online and one comment was received from the neighbouring property.

Assessment

Where activity will result in a material change of use of a building to a use falling within a different use class, planning permission will be required to authorise that change of use.

The starting point is to first establish as a matter of fact and degree, whether such a use would constitute a material change of use. The issue largely centres on whether the occupants are in themselves capable of living together as a single household. Class C3(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended) refers to the use of a building as a dwellinghouse, as a sole or main residence and occupied for more than 183 days in a calendar year by “not more than six residents living together as a single household where care is provided for residents”. If a children’s home was operating on this basis, with children being cared for by a permanent occupant of the dwelling, then there would be no requirement for planning permission. However, the matter is less clear when the care could be more of a temporary arrangement and where staff work on shift patterns.

For the proposal to require planning permission, the local planning authority must be satisfied that the proposal amounts to a material change of use. What constitutes a material change is not defined within planning legislation and is a matter of fact and degree to be determined on the individual merits of each case, so the local planning authority must weigh up the facts of this case and make a planning judgement as to whether the change would amount to a material change or not.

This application relates to a large property located in a predominantly residential area. The application property does have a vehicular access to the side with an available parking area at the rear. The statement sets out that there will be no staff members residing at the property and the young people will live there semi-independently. One staff member is likely to attend daily and the support workers will attend on a need-to basis.

It is therefore not considered that the proposed use would create additional vehicle movements, especially given the residents will unlikely be able to drive or have access to a vehicle. The support workers can use the onsite parking in the same way that owners/occupiers of a family dwelling would. The site is also in a sustainable location with access to public transport, there are two bus stops within a 1 minute walk of the property. It is unlikely that the comings and goings, and number of visitors would significantly differ from what you would expect from a family living within the property.

Regarding potential noise and disturbance, it is not considered that a property with the proposed occupiers would result in significantly increased levels of impact above those associated with the lawful use of the application property as a C3 dwellinghouse and therefore, it is not considered that existing amenity of residents would be materially different or detrimentally impacted.

The submitted information indicates that the proposed use of the application property as supported living accommodation would not operate in a way which would amount to a material change to its stated use or lawful use as a C3 dwellinghouse, which could accommodate a family.

Essentially, the application property would continue to function in very much the same way as it would as a C3 dwellinghouse. In this case, based on the submitted information, the local planning authority determines that the proposed development and associated activity would fall within use class C3(b) and does not require planning permission, therefore, this lawful development certificate for a proposed C3(b) use should be granted.

Recommendation

Grant Certificate