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**APPLICATION FOR A CERTIFICATE OF PROPOSED USE OR DEVELOPMENT UNDER
S192 OF THE TOWN AND COUNTRY PLANNING ACT 1990 FOR A CHANGE OF USE
FROM USE CLASS C3(A) (DWELLINGHOUSE) TO USE CLASS C2 (RESIDENTIAL
INSTITUTIONS) FOR USE AS A CHILDRENS HOME**

at

101 Newhill Road, Barnsley, S71 1XH

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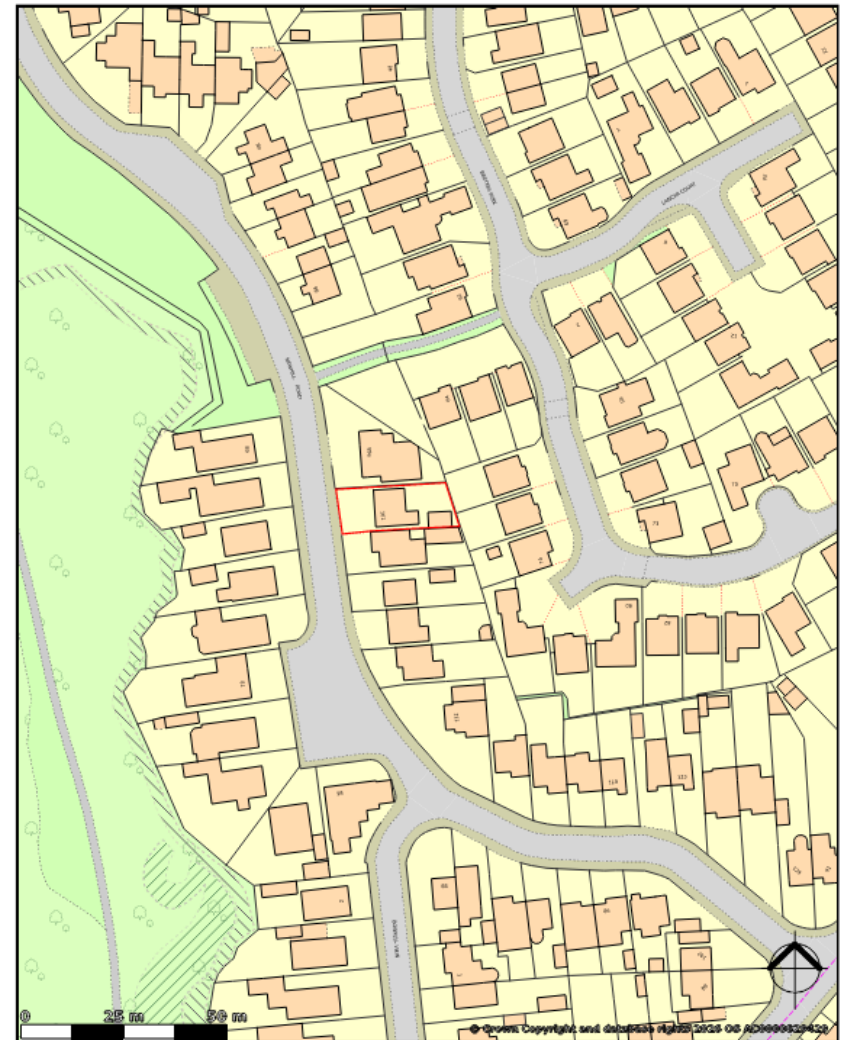
Appendix No	Description
1	Site Location Plan

1.0 INTRODUCTION

- 1.1 Banks Chartered Surveyors have been instructed to submit a Certificate of Proposed Use or Development under S192 of the Town and Country Planning Act 1990 for the change of use from Use Class C3(a) to Use Class C2 (Residential Institutions) for Childcare at 101 Newhill Road, Barnsley, S71 1XH.
- 1.2 The Applicants are Keswick Care Ltd who own and operate a number of children's care facilities in Yorkshire. Keswick Care Ltd are registered providers for "Looked After Children" and are regulated by Ofsted.
- 1.3 101 Newhill Road has been acquired to further expand care and accommodation for children and young people who are looked after, whether that be on an accommodation basis or care order by local authorities. The property will provide permanent residential accommodation for a maximum of two children aged between 8-18.
- 1.4 The Applicants have previously utilised this planning procedure on three other properties, all of which were determined that the change of use was not material, and therefore did not require a full planning permission. It was considered to be the case due to the dwelling operating akin to a family unit. Although still not entirely definitive, this particular change of use was also dealt with in *North Devon District Council v First Secretary of State* [2003]. Albeit, whether or not a material change of use has occurred will ultimately be a matter of fact and degree in each individual case.
- 1.5 Whilst it is considered that no material change of use will occur, the Applicants would like to regularise the planning status of the site to avoid any ambiguity henceforth. It is considered that if the use involves the use of a carer who resides at the subject property permanently for a reason such as disablement, the use would have fallen under Use Class C3(b). Although the carers do reside at the property 24/7, this is done in rotation between the carers, the two of whom stay at the property overnight. The manager is present at the property during normal working hours, Monday-Friday. It is therefore considered that the required use class is C2 (Residential Institutions).
- 1.6 This report has been prepared on behalf of the Applicant by Luke Banks BSc (Hons) MRICS FAAV, a qualified member of the Royal Institute of Chartered Surveyors, an RICS registered valuer and Fellow of the Central Association of Agricultural Valuers.

2.0 APPLICATION SITE

- 2.1 The property is a detached dwellinghouse, containing four bedrooms, W/C, games room/snug, bathroom, utility room, open-plan kitchen/living room, a driveway and garden.
- 2.2 The Application Site is located east off Newhill Road with easy access to the M1 motorway.
- 2.3 The Application Site is bounded by residential properties on all four sides and located within a heavily populated residential area.



3.0 PLANNING HISTORY

- 3.1 There is no recent planning history available associated with the Application Site on the Barnsley Metropolitan Borough Council's planning register.
- 3.2 We would however like to bring the Councils attention to a number of previous planning decisions made in the Borough and neighbouring Local Planning Authorities:
- 2021/0930 – Change of use of residential dwelling (C3) to care home (C2) – no residential amenity, visual concerns or highway safety concerns were raised as part of Officers report in identical circumstances save for the number of children in this application being three as opposed to a single child. The application was considered policy compliant and planning permission was granted.
 - 2020/0900 – Change of use of dwelling (C3) to residential care home (C2) (4-person occupancy) – No officers report was available for review but planning permission was granted for a 4-child occupancy at this property.
 - 2020/0404 – Change of use of premises from residential (C3) to residential care home (C2) – Change of use approved.
 - 2016/0827 – Change of use from residential care home (C2) to residential dwelling (C3) and erection of new portico entrance – Change of use approved.
 - 2023/0917 – Lawful development certificate for existing use as a children's home (C2 Use Class).
 - 23/01944/CPE - Lawful development certificate for existing use as a children's home (C2 Use Class) – Wakefield Council.
 - 23/01941/CPE - Lawful development certificate for existing use as a children's home (C2 Use Class) – Wakefield Council.

4.0 CHANGE OF USE

- 4.1 In terms of internal and external alterations, the property will remain very much the same following on from the properties acquisition. The subject property can be seen more clearly on the Site Location Plan at **Appendix 1**.
- 4.2 In line with Ofsted's requirements, the running of the home is kept as close as possible to a typical family household. This includes eating together, baking together, cooking together and sharing chores. The food shopping is carried out with a mixture of visits to the supermarket and online food orders.
- 4.3 Staffing requirements are set by the local authority. The staff sleep within the home to ensure there is always support for the children. Each carer will stop at the property for a minimum of 24 hours to ensure consistency and continuity of care to the children.
- 4.4 There is sufficient parking for 2 motor vehicles at any one time. In addition to the two carers on duty in the day, there will be a manager on duty during normal working hours Monday-Friday. There may be additional vehicles in the form of visitors, managers, social workers or Ofsted which will require parking (approximately 5-6 visits per month). These visits are scheduled for times of least intrusion. In the event that additional parking is required, there is additional unrestricted street parking. Occupation of the property would not substantially differ from those who could occupy as part of a permitted C3(a) use.
- 4.5 The home which is Ofsted registered provides much needed around the clock care and support to vulnerable children in the locality within a safe, stable, homely environment within the community. The children receive individual, targeted support to enable them to build meaningful connections, access education / training and gain independent life skills to support them in becoming individuals who are able to make positive contributions to society and the local community.

5.0 PLANNING ANALYSIS

- 5.1 As mentioned above, it is considered that had the use involved the use of a carer who resides at the subject property permanently for a reason such as disablement, the use would have fallen under Use Class C3(b). Although the carers do reside at the property 24/7, this is done in rotation between the carers, two of whom stay at the property overnight. It is therefore considered that the required use class is C2 (Residential Institutions). Further details on this matter are discussed below.
- 5.1.1 In determining whether the change of use is material, it is necessary to compare the C2 use against the current permitted C3(a) use. As noted in *North Devon District Council v First Secretary of State* [2003], the question of a material change of use is a matter of fact and degree and must be assessed on a case-by-case basis.
- 5.1.2 The definition of “development” can be found at Section 55(1) of the Town and Country Planning Act 1990. Exclusions to development are contained at 2(a-g). In summary, 2(f) states that in the case of buildings which are used for purposes within the same class, this does not amount to “development” as highlighted in the Act.

5.2 Use Class

- 5.2.1 The first question is what Use Class the property falls into; *North Devon* provides the legal framework for assessment of this. In *North Devon*, the refusal of a Lawful Development Certificate was overturned by the Planning Inspector, the Certificate issued by the Inspector related to the use of the dwelling to provide care “*for up to two children living together as a single household with care provided by up to two non-resident staff*”.
- 5.2.2 Much of the situation in this application is paralleled with the case. In *North Devon*, the care for children is considered to be excluded from the definition of care, all children need to be cared for, so this does not constitute “care” within the statutory meaning. Ultimately, this means that the care for children does not fall under Use Class C3(b).

5.2.3 Consideration as to whether two children with two adult carers constitutes a “single household” as per Use Class C3(a) must also be given. The definition of a “single household” must be construed in accordance with Section 258 of the Housing Act 2004. Section 258 establishes that:

Persons are to be regarded as not forming a single household unless –

(a) they are all members of the same family; or

(b) their circumstances are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.

5.2.4 In relation to this planning application, the children and carers would not be members of the same family so would not fall within the definition contained at Section 258(2)(a) nor has there been a specified purpose made by the appropriate national authority. Consequently, a single household does not exist under the terms of S258 of the Housing Act 2004.

5.2.5 In summary, the existing use of the dwelling falls under Use Class C2.

5.3 Material change of use

5.3.1 The question then turns to whether or not a material change of use has occurred. As stated above, the question of a material change of use is a matter of fact and degree and must be assessed on a case-by-case basis. It is considered that there are two main areas to explore to establish the above, the first being whether the existing C2 use is materially different to a C3(a) use and the second being the impact upon residential amenity and the character of the area.

5.3.2 Upon review of similar planning decisions under Barnsley Metropolitan Borough Council and other local authorities, it is noted that this is a use commonly accepted (see 3.2 of this report for further details). A prime example being a Certificate of Lawfulness granted in almost identical circumstances save for two additional children at the subject property. This particular application was at 6 Waldenhowe Close, Featherstone, Pontefract (Planning Reference: 22/01758/CPL).

- 5.3.3 In this application, the planning officers report states “the operating model of two adult carers and one child is akin in its size to a family unit in its size and composition”. The report goes further to state that “those occupying the property would not substantially differ from those who could occupy as part of a C3(a) use”.
- 5.3.4 With that being said, in this case it is much the same, two overnight adult carers and a maximum of two children with limited care would also be considered akin to a family unit. The report then goes on to state that the size limit prior to triggering a material change of use, as a general rule of thumb would be 6 persons. This is in line with use class C3(b) and C3(c), which state a maximum of 6 persons.
- 5.3.5 This general rule is further supported by case law in the form of R (Hossack) v Kettering Borough Council and English Churches Housing Group [2002], which found that the smaller the number of occupants, the more intimate, integrated and cohesive their occupancy is likely to be. The three adjoining terraced houses provided accommodation for small groups of up to 6 people in need per property. It is therefore commonly accepted that up to 6 persons would be considered akin to a single household or family unit.
- 5.3.6 Currently, there is sufficient parking for two motor vehicles at any one time on the property. Additional vehicles in the form of visitors, social workers or Ofsted will require parking (approximately 5-6 visits per month). These visits are scheduled for times of least intrusion and have to be booked in advance to ensure that there is no overlap between visits. Visits from managers are more frequent to ensure consistency of staff.
- 5.3.7 Visits undertaken by those who are not employees are short in duration and similar in nature and length to those visits by family members or friends if indeed the dwelling was in a C3(a) use. Furthermore, additional vehicular movements can be required for things such as food shops, but these are not out of the norm for a C3(a) use.
- 5.3.8 Furthermore, the property is a detached self-contained dwelling with its own large curtilage. No operational development has been undertaken to facilitate the change of use. The property will look the same as it is when in C3(a) use and therefore there would be no change in the street scene or any impact upon the character of the property.

5.3.9 As noted from the previous planning decision (Planning Reference: 22/01758/CPL), the number of occupants is consistent with that of a C3(a) use dwelling (up to 6). As such, the levels of noise would not exceed that of the original use. It is recognised that if the number of children were to increase then this may affect the planning balance, but each case must be assessed on its own merits. Accordingly, this case is consistent with the above and no material change of use has occurred.

6.0 CONCLUSION

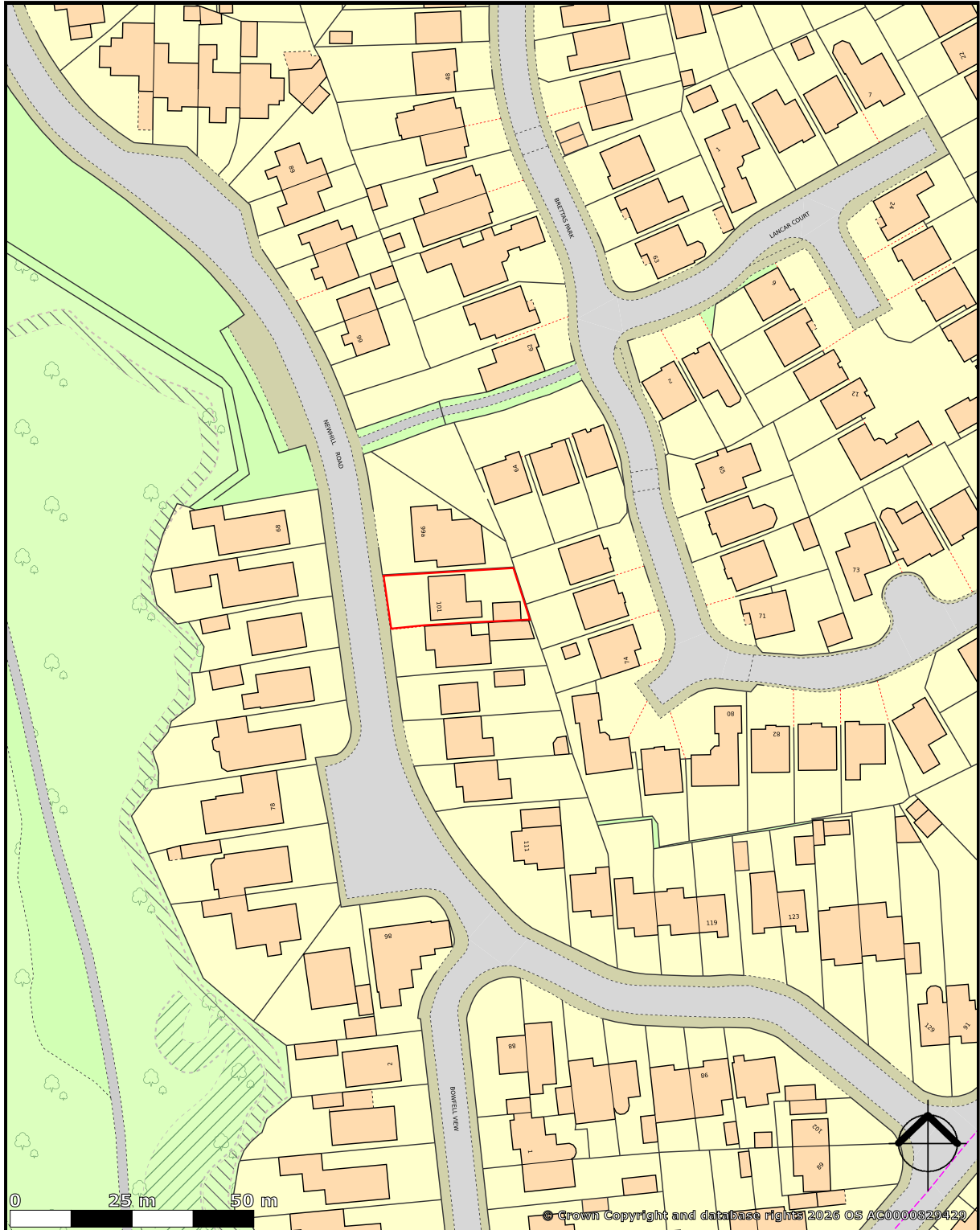
- 6.1 This application seeks a Certificate of Proposed Use of Development (CLPUD) for the change of use from C3(a) to C2. The question of which is whether the change of use is *material*.
- 6.2 It has been established that the proposed use is C2 (Residential Institutions), the question then becomes whether a material change of use will occur between that and the original C3(a) use. Due to the number of occupants not exceeding that which would be expected of a single household, the properties use is akin to that of a C3(a) use.
- 6.3 We are of the view that the change of use is not material and will therefore be lawful development without the need for planning permission but as stated above we would like to regularise the use and remove any doubt or ambiguity. Previous planning decisions would align with our view.
- 6.4 Due to the reasons outlined herein, it is considered that this change of use is not material and therefore does not involve development within the meaning of Section 55(1) of the Town and Country Planning Act 1990. Accordingly, a Lawful Development Certificate should be awarded.

APPENDIX 1

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Plotted Scale - 1:1,250

101 Newhill Road, Barnsley, S71 1XH