

2024/0209

Miss Charlotte Chesman

Lawful development certificate for proposed change of use from Class C3a to Class C3b

4A and 4B Cumberland Road, Hoyland, Barnsley, S74 9PQ

Site Location and Description

The application relates to a pair of recently constructed, 2 storey, 3, bedroomed, hipped roofed, brick built semi detached properties set back from Cumberland Road in Hoyland. To the front of the dwelling is a shared driveway, with associated soft landscaping, leading to 2no. parking spaces per dwelling. To the rear of the property is a garden area which slopes down from the rear of the dwellings to the rear boundary.

There is a public footpath linking Cumberland Road with Greenside Lane along the Western boundary with semi-detached dwellings fronting Cumberland Road beyond. To the East are further semi detached properties which front Cumberland Road and Lilac Crescent. Beyond the Southern boundary of the site are 3no. recently constructed dwellings which are accessed via Greenside Lane. The properties are built on a lower level.

Planning History

2018/1524 - Erection of one pair of semi-detached two storey houses and associated access and landscaping – approved subject to conditions



Proposed Development

The application is for a Section 192 Lawful Development Certificate of proposed use or development which is used for the following.

1. If any person wishes to ascertain whether –
 - a. Any proposed use of buildings or other land; or
 - b. Any operations proposed to be carried out in, on, over or under land, would be lawful.

The applicant seeks confirmation for the change of use from C3a (covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child) to use class C3b (covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems).

Both houses are three-bedroom properties and will house up to six young people across both properties when to capacity.

Both properties will remain separate and will be treated as separate dwellings. The applicant and company owner will reside in number 4a with two young people.

The supported living provider only houses young people aged 16-25 who are independent, do not need domiciliary care and can move around freely in the home and in the community. The young people are those who are Looked After by the Local Authority, and care leavers, who are waiting to be housed by the council.

The young people will be expected to maintain the property in respect to cleanliness, will undertake their own food shopping, cooking. The staff are present to ensure they can offer any support/guidance when needed.

The applicants aim is to support the young people to become more independent, make good choices to then be able to hold their own tenancy in the future. This support is purely on a guidance basis.

The young people will be assessed prior to the business accepting the placement. There is 24/7 support available to the young people, but this does not mean staff will be on site for all of that time and can be supported by having on call available. Each young person is given a support plan which will outline the support they require, this is likely to be on average four hours of support per day. This support is likely to take place first thing on a morning for up to 2 hours and up to 2 hours in the evening time.

The residents are encouraged and supported to access employment/education therefore it is likely that they will be out during the day.

Staffing:

In respect to staffing, the owner/Director of the company will reside in 4a Cumberland Road for the foreseeable future.

There is one other staff member proposed, who will work during the day. This staff member will not reside at either property. There is one staff member to the six young people. At the maximum there will be 2 members of staff to 6 people.

Handovers:

Handover is expected to last between 30-60 minutes. The handovers will be carried out in the staff office (which will be located in the garden). The staff will be expected to park on the driveway therefore will cause no additional parking on the street.

Shift patterns:

One member of staff as a general will work a maximum of 8:00-18:00 during the day, and the owner/director will be on hand over night given they will live in 4a.

Staff team meetings will take place off site.

External visitors to the property:

Young people are allowed visitors however this needs to be pre-arranged and agreed by the social worker. Therefore there will be a diary to reflect who has a visitor and when so no one clashes there is also visiting hours in place between 10:00-20:00 and no more than two visitors at any one time, and only once per day.

Additional works

No physical works, internal or external, are proposed and staff and residents would utilise the in curtilage parking available.

Consultations

None

Representations

There is no statutory requirement for Local Planning Authorities (LPA) to consult third parties, including neighbouring residents or parish councils on a lawful development certificate (LDC) application since an LDC application is a matter of fact and law and is not determined on its planning merits or judged against National or Local planning policies or guidance. Despite this, 1 letter of objection has been received.

The objector does raise some concern with the potential residents of the scheme, however, some of the objections relate to overlooking caused by a raised decking area and additional window. The objector states these are not in accordance with the approved plans for the dwellings and will be investigated separately.

Assessment

General

Where activity results in a material change of use of a building to a use falling within a different use class then planning permission will be required to authorise that change of use. Depending on the circumstances of each case, a children's home will fall into either a C2 or C3 use classification.

A material change of use from class C3 to C2 amounts to development requiring planning permission. There is therefore a potential requirement for planning permission in order to use a dwelling house as a care home. The starting point is to first establish as a matter of fact and degree, whether such a use would constitute a change of use from C3 to C2. The issue largely

centres on whether or not 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 as amended refers to “up to six people living together as a single household and receiving care e.g., supported housing schemes such as those for people with learning disabilities or mental health problems.”

In this case, 4a Cumberland Road would be occupied permanently by the owner/director of the care company alongside 2 residents, as such, they would form a single household and fall into use class C3b, therefore, the change from C3a to C3b would be within the same use class and constitute permitted development.

Property 4b Cumberland road is less clear in that the staff attending to those residents would not be permanently on site. In the North Devon District Council [2003] case Justice Collins made the point that children “need to be looked after. They cannot run a house. They cannot be expected to deal with all the matters that go to running a home ... children are regarded as needing fulltime care from an adult, someone to look after them, someone to run their lives for them and someone to make sure that the household operates as it should.”

However, as outlined above, the occupants of that property would be aged between 16-25 and be independent. They do not need domiciliary care and can move around freely in the home and in the community. The young people are those who are looked after by the Local Authority, and care leavers, who are waiting to be housed by the council. As such, they are not ‘children’ and are capable of running a household independently. Care will be provided to those residents during the day by an onsite member of staff. The staff member will likely only be required during the morning and late afternoon as the residents are encouraged to attend further education or work. If care is required out of hours then the owner/director is available in the adjoining property.

Given the comments above, the residents of 4b Cumberland Road would be capable of forming a single household while receiving care i.e. supported housing, as such, the use would again fall in use class C3b and would be permitted development.

In any case, 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 LPA has to 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.

The operation of these 2no. properties as described above, even if a change of use to C2 was established, would not constitute a material change given their operation would not be significantly different to that of 2no. semi-detached family homes within a predominantly residential area.

Recommendation: Approve