

Planning

Growth & Development

Delegated officer report for planning application

Application no. 131339/LP/2021

Date registered valid: 13 August 2021

Proposal: Certificate of Proposed Lawful Development for use of property to provide care for up to two children receiving care from two members of staff (Class C3b)

Address: 61 Blueberry Avenue, Manchester, M40 0GE

Ward(s): Charlestown Ward

Applicant: Shumba Upwards Care Solutions Limited Suite 1 Fourth Floor Building 1, Wilson Business Park, Monsall Road, Manchester, M40 8WN

Agent (if any): Dirawu 13 Ringcoft Gardens, Manchester, M40 5GG

Case officer: Janine Renshaw-Livesey
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Recommendation: Approve

Date of recommendation: 7 October 2021

Application details

Type of application: Certificate Lawful Developmnt Proposed

Development type: Certificates of lawfulness

Date of site visit:

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

No neighbour notifications have been printed and sent.

Site notice

No site notice has been produced

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

Listed building: Not applicable

Conservation area: No

Tree Preservation Order: NO

This application is for Certificate of Lawful Proposed Development - Use of a dwelling house to provide care for 2 children with 2 staff members (Class C3b). The property that is the subject of this application is 61 Blueberry Avenue which is located within the Charlestown Ward of Manchester. The property itself is a brick built 2 storey semi-detached dwelling house with garden area to three sides. The rear garden provides off street parking for the dwelling house. There is useable external amenity space in the form of a rear garden, where the waste management provision is also stored.

The application building is a semi-detached residential property with two bedrooms and one reception room. No changes to the existing layout of the houses are proposed. The proposals would provide accommodation for a maximum two children with care provided on the following basis:

The use of the premises to provide care for two children with two members of full time staff on a rota system. The full-time staff members that will sleep overnight and live together as a single household. The building will provide care for up to two children, boy or girl aged between 8-18 years of age. There will be a maximum of one care staff at any one time.

The area within which the property is located is predominantly residential in nature, with properties of a similar footprint and design to the proposal property.

Consultations & Notification Responses

None required for this type of application.

Issues

The Applicant intends to use the property to accommodate up to two young people in social care who will reside on a permanent basis at the property, administered by 2 care workers.

The staff will be engaged in the same domestic routines, tasks and social activities which you would expect in a single-family dwelling house. The bathroom, kitchen and living areas will be communal and the child will have their own bedroom.

The property does not require significant adaptation because it is the intention to provide a normal home environment. There would be no features associated with an institutionalised care home, with the child living a normal family life as a single household; they go to school, play out and take part in activities outside the home in the same way as children living in a domestic household. As such, it is improbable that any 'material' change in the character of the use would arise, such as from comings and goings generated by the proposed use. Similarly, it is unlikely that there would be any 'material' change in the appearance of the property or its surroundings. The Lawful Development Certificate should be granted for the following reasons; there will be no changes to use of the land or building. Although, the proposal is a care home this will be operate as a normal family setting as key points outline:

- Staff will undertake long shifts to reduce staff coming and going from the property. Staff will undertake 24 hour shifts. Staff changeover will be at 5pm.
- There will be one staff member on site at any one time. With 1 member of staff leaving soon after handover
- There will be no more than 3 people at the property at one time and this will operate as a normal family setting.
- The homes manager will act as carer and work during the day.

Conclusion

The GDPO provides that, where no more than six residents will live together as a single household where care is provided, the lawful use is Use Class C3 (b). However this applications seeks a Certificate of Lawful proposed Development for the use of the property as Use Class C3 (b) This is due to the fact that whilst there is an element of care, it is not assigned carers that would reside there permanently , however, in all other ways the premises would operate as a family home. As the existing lawful use is Class 3 (a), under normal circumstances there would be no permitted change to Use Class C3(b). Therefore, it is a matter of Fact and Degree. Case Law has been provided specifically in the case of the following High Court judgement:

Given that there is no permitted change from Use Class C3 to Use Class C3(b) a planning judgement has to be made taking into account the following material considerations:

Principle of use- the principle of the use of the residential property as a C3 (b) use is considered acceptable, however that is a judgement that is based on the specific running, management and operation of this property. Having the use operate as a single family dwelling house would operate, thereby, integrating into the residential character and grain of this established residential area is considered acceptable. However, the acceptance of the principle is not a blanket acceptance. It is therefore considered that the attachment of a condition restricting the

movement of the use of the property to other uses within Class C2 be required to apply for planning permission before such changes could take place. A condition to that effect would be attached to any consent granted.

Visual Amenity- There are no aesthetic changes required for the operation of the premises as a C3(b) use. As such the proposed use would not result in a detrimental impact upon the visual amenity of either the property itself, or the area within which it is located.

Residential Amenity- The proposed running of the premises as a C3 (b) home is not considered to give rise to unacceptable impacts upon the residential amenity currently enjoyed by the neighbouring properties. However this again is based upon such factors as ratio of staff to children, operational practices put in place through the submitted management procedures, and 24 hour carers on site to deal with any issues at an early stage, much as would be expected of a single family dwelling house. The controlled operation of the property is particularly pertinent given the fact that the property is one half of a pair of semi-detached properties, and as such there is the potential for noise transfer as a result of the increase in noise that could be compounded by behavioural issues.

The level of residential amenity could not be controlled if another use within the C3 Use Class was to be introduced within the property without first being fully assessed as to its impact. Again, this is why the attachment of a condition restricting the movement within the use Class C3 would be attached to any consent granted.

Parking- The rear garden parking area is paved, and as such, there would be parking provision for 1 vehicle. Based upon the number of vehicle movements proposed over a weekly period this should be sufficient for staff and occasional visitor to the property.

Waste Management- Given that the property is to be used as a single family dwelling house, the existing waste management procedures will remain unaffected.

Character of the Area- there are no physical external changes to the building, and the parking arrangement already exists, as such the proposal should not result in a detrimental impact upon the character of the property nor the area in which it is located. This is so long as the property is managed in accordance with the planning statement submitted as supporting information. The condition requiring prior consent for any other change within the Use Class C2 would be intended to protect that character and would be attached to any consent granted.

To conclude, based on fact and degree, the use of the property in these respects, as a children's care home, would not result in a use materially different in character to the lawful use of the property as a C3 dwelling house, however due to the shift changes of the carers would sit more comfortably within Use Class C2. It is considered that this approach could be supported but only with the attachment of a bespoke condition relating to the specific management and operation of this property, and, that planning permission would be required for any other subsequent use which falls within the Use Class C2. This approach would be similar to attaching a personalised consent.

This approach would enable the integration of young people within the community, promoting a 'small care home within normal residential areas living as typical families, whilst protecting the amenities of the people living within the area from potential intensification of use through moving within the Use Class C2 without the benefit of first securing planning permission. It is considered necessary to attach the condition to enable issue of the Certificate as applied for as, other uses within use Class C2 would have the potential to result in demonstrable harm upon those amenities currently enjoyed by the neighbouring properties, and upon the character of the property itself and the area within which it is located.

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 policies 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.

Recommendation: Approve

Article 35 Declaration

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

1) The permitted lawful use of the property is solely as described in the description of development on the application forms and the planning statement and the Drawing Numbered 1895.101, stamped as received on the 13 August 2021. Any change in the use of the property from the described development to any alternative use within Use Class C3 would require a separate application for planning permission.

1) Approved on the basis that the proposed occupation of 61 Blueberry Avenue, as detailed on the submitted document stamped as received by the City Council on the 13 August 2021 and referenced:

Forms relating to an application for a Lawful Development Certificate, Drawing Numbered 1895.101 and the Planning Statement, constitutes a Class C2 use for occupation by up to six people living together as a single household and receiving care as defined by Town and Country Planning (Use Classes) Order 1987 (as amended).

Appendix 1 – List of consultees & neighbours notified

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding - Not Affected
Coal Authority - Development High Risk - Name: DEVELOPMENT_HIGH_RISK_AREA
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Coal Authority - Surface Coal Resources - Name: Coal bearing strata at surface
Area Team Boundary - Name: NORTH1