

Planning Statement

Proposal: Application for a Lawful Development Certificate re: use of a C3a dwelling as a children's home for a maximum of one child, with two carers sleep overnight, working on a rota basis (C2).

Introduction

It is accepted that the proposed use falls within Use Class C2 and hence the change of use from C3 is not an automatic permitted change. However, it is nevertheless argued that there is little material difference between the current and proposed use, meaning that planning permission is not required.

The home will aim to provide a smooth transition for a child who comes to live, through careful planning and consideration. The home will primarily serve medium to long term placements in order to minimise disruption to residents.

There will be no external alterations to the building or surrounds. From the outside, there will be no change in the appearance or character of the dwelling.

During the day it is expected that the child would engage in various activities, plus attend a mainstream or special school.

The proposal is to register the property as a registered children's home for a single child aged from 8 to 18 years. They would be looked after by two carers sleeping overnight working on a rota basis.

With regard to schooling, it is often the case that when young people come into care, they have missed an extensive proportion of their education or are affected in a way that they could not work effectively in a large classroom environment. Given this, they could be tutored from home initially. This is all achieved online without any tutors having to come to the house. They may then progress to a specialist unit (smaller class sizes) then hopefully onto mainstream. In cases where the child may have a home tutor, this is no different from an ordinary family who chooses to have their children educated at home. It makes no difference to the planning status of the use.

Whether the change of use would be material is also well established by the courts. Notwithstanding whether the use is considered to be within Class C2, rather than Class C3b, planning permission would not be required if the change would not be a 'material change' of use. It is still necessary to consider

therefore, whether that change of use would be 'material'. It is a matter of fact and degree, in the circumstances of an individual case, as to whether a change of use will be 'material'.

By way of a guide, differences which might be considered 'material' are those which are measurable or quantifiable as resulting in a significant or substantial change or step up in the character or impact of a use.

Planning Guidance

There is some case law which establishes that if the carers work on a rota basis and that it is not their permanent residence, the use must be regarded as C2 and not C3b. In the judgement of Mr. Justice Collins in *North Devon District Council v First Secretary of State* [2003]. J. Collins was clear on the facts of that particular case, that carers who do not live but who provide, not necessarily through the same person, a continuous 24-hour care cannot be regarded as living together and that, whilst there would be less than six residents, the children, without at least one adult living with them at the premises, would not be capable of being regarded in the true sense as a household.

Assessment

The task must be to compare against that 'baseline' the character of the current land use with what is now proposed. In so many respects the use would operate in a way that is very similar to a normal family home. The property would provide the young people with their sole and main residence, with free and shared access to living, dining, and kitchen facilities, an ability to take shared meals prepared for them or make their own food or drink.

The residents would be taken to and brought home from school each day and with their carers they would interact with the property and the residence in a way that is very similar to an adult resident, parent or guardian. The residents would eat together and carry out domestic chores. The home would seek to foster lifestyles which would be the same as if the residents were children living in a family home.

The comings and goings are not considered to be significantly different from those associated with the current use as a family. In terms of the two staff on the premises, they would normally work on a 48-hour shift basis, which would involve only one change over each day.

As stated above, these children do not require regular visits from social workers and clinicians, with most of these meetings, if they are required, taking place away from the home. Due to the background

of the children, family visits are rare and in any case, would take place away from the home to avoid upsetting the other children.

On this basis it is maintained that the proposed use as detailed in this supporting statement would not be materially different from a typical household. This is supported by the Egerton Appeal (Appeal Ref. 3161037) where the Inspector concluded a similar use would not result in significantly more movements to give rise to planning concerns.

Conclusion

It is maintained that there is no material difference in planning terms between the proposed use and the current use as a dwelling. The carers, working on a rota basis, would effectively live at the dwelling house to provide 24-hour care, as a single household. Facilities such as the bathroom/wc, kitchen and living rooms would be shared and the living mode would be communal. The comings and goings associated with the use would not be materially different from the current use as a family dwelling.

The proposed use is to provide a stable home environment for the occupants as their main and sole residence and that the length of stay is generally more than temporary or passing. It would not be a 'half way' house or provide overnight emergency lodgings for example.

However, in any event, the courts have provided some assistance in determining the significance of there being a commercial factor to a residential use or an arrangement where the occupants have generally only a limited period of stay.

Following *Gravesham BC v Secretary of State for the Environment* [1982], the court accepted that the distinctive characteristic of a dwelling house was its ability to afford to those who used it the facilities required for day-day private domestic existence. It did not lose that characteristic if it was occupied for only part of the year, or at infrequent intervals, or by a series of different persons, or if it was under commercial management.

The lawful use of a dwelling house, included in Class C3 of 'the UCO 1987', is broad in scope and could in association bring with it considerable activity, associated and ancillary use, or vehicular movement. The prevailing character of the proposed use would be that of a small group of children living together and using the property in a way similar to that of a family home where they would be supervised and cared for by adult guardians. While there might be identifiable differences, between proposed and existing uses, these would not be 'material' or easily measurable and quantifiable against the rather flexible characteristics and impacts of a lawful dwelling house.

It is maintained that the nature of the use is not materially different from the current use as a family dwelling. Comings and goings would be no greater than occur at present, hence there would be no undue disturbance to any neighbours.

The local authority is therefore respectfully requested to support the application to allow this much needed facility to be established.