

Planning Statement

Lawful Development Certificate to allow for supported living within the dwellinghouse.

34 Montcliffe Crescent, Manchester M16 8GR

for Tulip Mental Health and Community Care Limited

June 2022

Ref: 22049

Rev: #

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1. INTRODUCTION

- 1.1 Plande has been appointed to submit a supporting statement to establish that the use of the dwelling house for supported living is a lawful use of the existing dwelling house.
- 1.2 The Lawful Development Certificate seeks confirmation that the use of the dwellinghouse for supported living is a lawful use of the existing dwelling house for up to 2 young persons, usually aged 16 to 25, with up to 4 non-resident carers on a shift basis.
- 1.3 This statement, which should be read in conjunction with the supporting information submitted with the application, aims to give an appraisal of the planning issues and merits in context with planning and other policies, guidance and material considerations.

2. LOCATION AND CONTEXT

- 2.1 The existing site comprises a two storey detached family home, with hardstanding parking area to the front and typical residential private amenity space to the rear.
- 2.2 The property sits on a road of similar residential properties in a predominantly residential area.

3. RELEVANT PLANNING HISTORY

- 3.1 A planning history search illustrates the following relevant planning application:

Erection of a two storey side extension to form additional living accommodation following demolition of existing side extension
34 Montcliffe Crescent Whalley Range Ref. No: 073619/FH/2004/S1 Validated: Tue 23 Nov 2004 Status: Decided
Two storey side extension to form lounge and kitchen with bedrooms and bathroom over
34, Montcliffe Crescent, Fallowfield Ref. No: 042446 Validated: Fri 16 Oct 1992 Status: Decided

4. ORIGINAL PROPERTY

- 4.1 The original property is self-evidently “a single, self-contained unit of occupation which can be regarded as being a separate ‘planning unit’ designed for residential purposes-containing the normal facilities for cooking, eating and sleeping associated with use as a dwellinghouse”.
- 4.2 As such the original use of the property falls within Class C3 of Town and Country Planning (Use Classes) Order 1987 (as amended).

5. LAYOUT OF THE PROPERTY

- 5.1 No material changes have been made to the dwelling-house which needed no adaption to facilitate supported living.
- 5.2 The original house features 3 bedrooms, with 1 bathroom on the first floor, with general living accommodation on the ground floor.
- 5.3 The property, therefore, continues to be used as a traditional “dwellinghouse” with bedroom accommodation on the 1st floor and living accommodation on the ground floor.

- 5.4 Each resident will have their own bedroom and shares the communal kitchen and dining area on the ground floor and the carer shares and participates in the domestic and living activities with the residents.
6. THE OCCUPIERS & DAY TO DAY LIFE IN THE PROPERTY
 - 6.1 Tulip care Ltd offers specialist residential placements, person- centre approach care and intensive 24-hour care in the community to young people and young adults (16-25 years) struggling with mental health difficulties.
 - 6.2 Tulip care came about as a group of experienced professionals within the mental health sector identified a gap in the community care regarding therapeutic placement for young people and young adults. Our findings suggest that a lot of young people are unnecessarily stuck in hospital settings as stakeholders have no placement provision due to the lack of specialist therapeutic placement for the young persons which is where we get involved.
 - 6.3 Tulip Mental Health and Community Care Limited aims to provide a homely and safe environment, offering; specialist transitional therapeutic and rehabilitative residential placements, good links with the community facilities, and a focus on social integration within a continued risk assessment/management framework for young people and young adults with complex and challenging presentation in the context of mental health problems and associated risks from the age of 16 up to 25 years.
 - 6.4 Tulip mental health and community care Ltd will be providing care for 16- to 25-year-olds transition age group service for young people with complex mental health and associated risks within the application property. Tulip care provides bespoke care packages to manage young people who due to any reason are unable to live independently in the community or in their homes.
 - 6.5 As above, there will be up to 2 residents and up to 4 members of staff, of a shift basis, at the property generally, with members of staff providing 24-hour care and to support community access (i.e., someone going out for appointments or activities or to do shopping). 1 – 2 members of staff, including a Registered manager during the daytime and an on-call Manager for out of hours, will also be at the property and sleep there at night depending upon the needs of the children although this will not be their principle place of residence.
 - 6.6 The young people will have access to multidisciplinary team as and when per their need and requirements. There will be 1 -2 residents residing on the premises at any given time. The residents will always be observed on a 1:1 basis. Residents will be encouraged to engage in day-to-day activities of personal care, cooking, education, financial support, leisure activities and work opportunities that enables them for more independent living in the future. All our homes are regulated by CQC.
 - 6.7 The nature of the use means that there is no material increase in vehicle or pedestrian movements into and out of the site when compared to potential maximum potential for the existing use.
7. RELEVANT USE CLASS
 - 7.1 Section 55(1) of Town and Country Planning Act 1990 (The Act) defines the meanings of the term “development” and which includes the making of any material change in the use of any buildings.
 - 7.2 Section 55(2) set out what shall not be taken to involve development and further states in (f) that "in the case of buildings ... which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or of any part of the buildings ... for any other purpose of the same class."
 - 7.3 Section 57(1) of The Act provides that "planning permission is required for the carrying out of any development of land" which includes buildings.
 - 7.4 Section 191 of The Act (as amended) makes provision for an application to be made to the local planning authority to ascertain whether any existing use of a building is lawful.

- 7.5 It is suggested that the use of the property for supported living could be considered as either as falling within the use classes of C2, C3 or C4 as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended).

Class C2. Residential institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Class C3: Dwellinghouses

- C3(a): those living together as a single household as defined by the Housing Act 2004;
- C3(b): those living together as a single household and receiving care, and
- C3(c): those living together as a single household who do not fall within the C4 definition of a house in multiple occupation.

Class C4: Houses in multiple occupation (3-6 occupants)

- 7.6 The Government issued a circular (08/2010) in November 2010 entitled “Changes To Planning Regulations For Dwellinghouses And Houses In Multiple Occupation” which “... gives guidance on planning regulations, in particular on changes of use for dwelling houses and houses in multiple occupation following changes to legislation in April and October 2010. The general effect of these changes is to allow changes of use between dwellinghouses and houses in multiple occupation to take place without the need for an application for planning permission unless a local authority has specifically identified an area in which planning applications will be required.”
- 7.7 The Circular provided the following guidance which is useful in assessing which use class the relevant use falls:
- 7.7.1 *“Changes of use within a class do not require an application for planning permission.”*
 - 7.7.2 *“...for the purposes of C3(b) and (c) single household is not defined in the legislation.”*
 - 7.7.3 *“... in broad terms, the new C4 class covers small shared houses or flats occupied by between 3 and 6 unrelated individuals who share basic amenities.”*
 - 7.7.4 *“... a change of use from a dwellinghouse (class C3) to a house in multiple occupation (Class C4) and from a house in multiple occupation to a dwellinghouse is possible under permitted development rights and planning applications are not needed.”*
 - 7.7.5 *“C3(b) continues to make provision for supported housing schemes, such as those for people with disabilities or mental health problems.”*
 - 7.7.6 *A “single household” under C3(a) can be formed by a variety of people including “...a carer and the person receiving care ..”*
 - 7.7.7 *“It remains the case that in small residential care homes or nursing homes, staff and residents will probably not live as a single household and the use will therefore fall into the residential institutions class (Class C2), regardless of the size of the home. Local planning authorities should include any resident care staff in their calculation of the number of people accommodated.”*
 - 7.7.8 *“Care homes and children’s homes” are excluded from the C4 use class*
- 7.8 In addition, the Town and Country Planning (Use Classes) Order 1987 (as amended) defines “care” as “personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in-class C2 also includes the personal care of children and medical care and treatment”
- 7.9 It is suggested that the use is not that of C2A (Secure Residential Institutions) as there is no security preventing the residents from leaving.
- 7.10 It is further suggested that use is not that of C4 as, although the residents are unrelated by birth or marriage etc, there is an element of care and the individual bedrooms are not self-contained bed-sits.
- 7.11 It is therefore suggested that the occupiers within the property, therefore, meet the definition of “receiving care” as defined in Class C3(b) in that they are not children and have “past or present mental disorder”

- 7.12 Where the use of a dwelling house is for “non-family” purposes the concept of a single household is key in order to establish a lawful use as Class C3(b), although as above, there is no statutory definition.
- 7.13 Whether the use of the dwellinghouse, particularly where 24-hour care is provided, falls within Class C2 or C3 requires careful consideration and has been the subject of various Lawful Development Certificates, planning appeals and case law, including:
- 7.13.1 North Devon District Council v First Secretary of State [2003] which confirmed that children could not on their own be considered to constitute a fully functioning household without a resident carer living full-time in the property. In this case even though a change of use from C3 to C2 had occurred at the property it was not deemed to be a material change of use and that as such, planning permission was not required.
- 7.13.2 R v Bromley London Borough Council ex parte Sinclair (1991) which stated that staff providing care do not necessarily have to be resident at the property in order to be still classed as forming part of the household
- 7.13.3 R (Hossack) v Kettering BC [2002] EWCA Civ 886 concerned what could be construed as a single household and concluded that “if there are no more than six residents living together in the same house, it seems to me altogether more likely that they are doing so as a single household”. In addition, it was stated, “the smaller the number of occupants, the more intimate, integrated and cohesive their occupancy would be likely to be and the more apt, therefore to describe it as a single household.”
- 7.13.4 Planning Appeals:
- Enfield 11/7/06 – 4 people with mental health problems with three staff on shift system sharing a kitchen, living room, dining room, toilet and bathroom
 - Croydon 8/1/03 – 5 people with learning difficulties with staff on a shift system with staff and residents sharing facilities and taking meals together.
 - Crewe & Nantwich 24/4/06
 - DCS reference: 200-004-885 – Hearing in 2016 for mentally disabled residents living together under Class C3b. 5 bedroom house with locks on bedroom doors with day and night support workers. Purpose of carers to largely assist as opposed to undertaking day-to-day tasks
 - APP/E2205/X/16/3161037 – LDC allowed for use of the house for 4 people and their carers (up-to 2)
- 7.13.5 Lawful Development Certificate Precedents:
- 2010/2137/S – Solihull – Proposed use of an existing house to a residential care home for up to 5 people
 - APP/2015/0554 – Burnley - Proposed use as a residence by up to 4 young persons with care provided by two carers on a 24-hour non-residential basis
 - F/YR15/1093/CERTLU – Fenland - Certificate of Lawful Use (Existing): Use of the dwelling under Class C3b (Care Home) for 3 residents and up to 4 staff on a rota basis
 - 16/P/01281/CEU – Pontypool - Application for Certificate of Lawful Development to retain the existing C3b use offering supported living to a maximum of 5 residents.
 - 18/0480 – Willenhall – LDC for 3 persons supervised by a carer.
- 7.14 It is suggested that these examples lead to the conclusion that the use of the property for supported living as described above would fall under the definition of a single-household in that:
- 7.14.1 Staff providing care do not necessarily have to be resident at the property in order to be still classed as forming part of the household
- 7.14.2 The number of people in the property would mean that the likelihood is that they would be living as a single household
- 7.14.3 Other than a bedroom, the carer or occupiers have no separate facilities with all facilities (kitchen and bathrooms etc) shared.
- 7.15 Notwithstanding the above, if the Council were to consider a change of use from C3 to C2 it is proposed that this doesn’t amount to a “material” change of use as there is no material difference in the activity to that which may be anticipated in the case of a conventional residential use. The premises retain the overall appearance and character of a conventional residential dwelling and it is

further suggested that the use does not give rise to any greater level of disturbance or amenity effects that could be generated by a C3 use.

8. CONCLUSION

8.1 In conclusion, it is suggested that the use of the property for supported living for up to 2 young persons, aged 16-25, with up-to 4 carers, falls under the Planning Use Class C3 as follows:

- 8.1.1 The original lawful use of the property is Class C3: Dwellinghouses
- 8.1.2 The dwelling house retains its original layout and comprises “a single, self-contained unit of occupation which can be regarded as being a separate ‘planning unit’ designed for residential purposes-containing the normal facilities for cooking, eating and sleeping associated with use as a dwellinghouse”.
- 8.1.3 The residents receive “care” as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) and as Class C3(b) makes provision for supported housing schemes, such as those for people with mental health problems.”
- 8.1.4 The level of activity, comings and goings and overall function of the building would be no different than associated with many dwelling houses.
- 8.1.5 Even if a change of use from C3 to C2 had occurred at the property it is not a material change of use and that as such, planning permission is not required.
- 8.1.6 The residents will generally form friendship bonds, share facilities and have communal living arrangements.
- 8.1.7 The purpose of the carers is largely to assist the residents with day-to-day tasks as opposed to undertaking those tasks themselves on behalf of the residents.

8.2 Based on the information above, it is considered that no development has occurred, and a Certificate of Lawfulness of Existing Use of Development should be issued accordingly.