

**MC/21/3141**

Date Received: 28 October 2021  
Location: 48 Kingfisher Drive Princes Park  
Chatham Medway  
Proposal: Application for a Lawful Development Certificate (Proposed) for the change of use from a dwelling house Class (C3a) to semi supported living for up to four young adults Class (C3b) and single storey rear extension.  
Applicant: Mrs Gloria Opara  
Ward: Princes Park Ward  
Case Officer: Tom Stubbs  
Contact Number: 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 12th January 2022.**

**Recommendation - Approval**

- 1 The proposed change of use would fall within Use Class C3(b) of The Town and Country Planning Use Classes (England) Order 1987 (as amended) and therefore the change of use from Use Class C3(a) to Use Class C3(b) would be permitted and not require planning permission.
- 2 The proposed extension constitutes permitted development under the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

**Proposal**

This application is for a Lawful Development Certificate (Proposed) for the change of use from a dwelling house Class (C3a) to semi supported living for up to four young adults Class (C3b) and single storey rear extension.

The proposed property layout consists of living room, kitchen, dining room with proposed conservatory and w/c at ground floor. The supporting information indicates a fourth resident could use the downstairs living room as a bedroom. At first floor there would be three bedrooms and shared bathroom.

The proposed flat roof rear extension with rooflight would project 3m from the rear elevation and measure approx. 5.3m in width with a height of approx. 2.9m.

**Representations**

As the application is for a Lawful Development Certificate no consultation has been carried out.

## Development Plan

As this is an application for a lawful development certificate the matter is dealt with on the basis of an assessment of the available evidence. The issue of whether either the proposed use or extension comply or not with the development plan does not apply in such circumstances.

## Assessment

### *Legal Background*

The law relating to Lawful Development Certificates (LDC) can be found in sections 191 and 192 of the Town and Country Planning Act 1990 (the Act). The current application falls under section 192 as it relates to a proposed rather than an existing development. The National Planning Policy Framework (NPPF) and Planning Practice Guidance Note on lawful development certificates provides further guidance on this. In summary, lawful development is development against which no enforcement action may be taken (either because it does not involve development or require planning permission or because the time for enforcement action has expired) and that would not contravene any enforcement notice which is in force.

### *Proposed change of use*

The current lawful use of the property is for a Class C3 dwelling house and there is no known enforcement notice against the site for the proposed change of use. It is necessary to decide whether or not the proposed use also falls within Class C3 and if it does not, whether or not a material change of use has occurred.

Class C3 is defined as:

*Dwelling houses Use as a dwelling house (whether or not as a sole or main residence) by—*

- (a) a single person or by people to be regarded as forming a single household;*
- (b) not more than six residents living together as a single household where care is provided for residents; or*
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).*

Also of relevance is Class C2 which is defined as:

*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)). Use as a hospital or nursing home. Use as a residential school, college or training centre.*

The proposed use could fall within either Class C3 (b) (a dwelling house where care is provided for residents) or Class C2 (a residential institution with care) and there is much case law which assesses this matter, with many seemingly conflicting decisions having been made.

In the current case the property is a detached house with three bedrooms at the first floor and a shared bathroom, the ground floor as a living room, kitchen and dining room. The proposed floor plans show the same layout but with the conservatory rebuilt to be slightly larger and to include a wc. The supporting information indicates that the

use would operate with a maximum of 4 residents with the living room acting as a fourth bedroom if required.

The primary occupants would be four girls aged 16 plus and therefore could form a shared household unit with the assistance of some care. There would be no permanent live-in carers (such there would be, for example, in a foster care situation), with staff staying overnight on a shift pattern basis. The total number of people at the premises would not exceed six including the care provision (the maximum allowed under Class C3(b)).

The proposed plans show that the ground floor rooms consisting of the kitchen, dining room and conservatory would all be for communal use for the occupiers and the living room also be available as a fourth bedroom on occasions. No rooms are proposed to be solely for the carers as an office. When such an office is provided, it would indicate they require an office space to run the household on the occupiers behalf and therefore perhaps more akin to a care home than a dwelling house. It should also be noted that planning permission would not be required to alter the internal layout of a living room to a bedroom as it does not constitute development.

In these circumstances the proposed use is therefore considered to be C3(b). A change of use from the existing C3(a) to C3(b) would not require planning permission as the change of use between subsections of C3 uses are permitted development.

#### *Proposed rear extension*

In considering the criteria set out in Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GDPO'), the single storey rear extension is considered permitted development for the following reasons:

- The dwelling house was not permitted under Class G, M, MA, N, P, PA or Q of Part 3.
- The proposed extension would not result in a total ground covered by buildings of the dwelling house within the total curtilage by more than 50% (excluding the original).
- The height of the extension would not exceed the highest part of the existing dwelling house.
- The height of the eaves of the extension would not exceed the height of the eaves of the existing dwelling house.
- The extension would not extend beyond a principle elevation or front a highway and forms a side elevation of the original dwelling house.
- The dwelling house is attached and the proposed extension would not extend beyond 3m of the rear wall of the original dwelling house or 4m in height.
- The proposed extension does not have more than a single storey.
- The extension is within 2m of a boundary but the eaves height is under 3m.
- The extension does not extend beyond a wall forming a side elevation.
- The total enlargements (being the enlarged part together with any existing enlargement of the original dwelling house to which it will be joined) would not exceed the limits set out in subsections (e) to (j) of this class (set out above).

- The extension does not include:
  - the construction or provision of a verandah, balcony or raised platform,
  - the installation, alteration or replacement of a microwave antenna,
  - the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
  - an alteration to any part of the roof of the dwelling house
- The dwelling house was not constructed under Part 20 of this schedule.

The relevant condition related to matching materials as set out in the GDPO should also be complied with and it is recommended that this is referred to on the decision notice

## **Conclusions**

The proposed change of use would fall within Use Class C3(b) of The Town and Country Planning Use Classes (England) Order 1987 (as amended) and therefore the change of use from Use Class C3(a) to Use Class C3(b) would be permitted and not require planning permission.

The proposed extension constitutes permitted development under the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The application would normally be determined under delegated powers but is being referred for Committee determination due to the applicant being a Councillor.

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## **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>