

MC/23/0321

Date Received: 9 February 2023
Location: 7 Eglington Drive Wainscott
Rochester Medway
Proposal: Retrospective change of use from a C3 Dwellinghouse to a C2 Residential Institution (Children's Care Home).
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Case Officer: Arron Nicholls
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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 7th June 2023.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Received 09 February 2023:

EGD-CHH-ZZ-DR-A-0004 - Proposed floor plans
EGD-CHH-ZZ-DR-A-0005 - Proposed elevations
EGD-CHH-ZZ-DR-A-0006 - Existing and proposed sections

Received 15 March 2023:

REVISED EGD-CHA-XX-DR-A-0001 REV A - Location and block plan

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 The number of children cared for and residing on the premises shall not exceed 2 at any one time.

Reason: To ensure that the development would not prejudice the amenities of the residents nearby in accordance Policy BNE2 of the Medway Local Plan 2003 and paragraph 130f of the National Planning Policy Framework 2021.

For the reasons for this recommendation for Approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

This application seeks retrospective planning permission for the change of use of a single dwelling (Class C3) to a children's care home (Class C2), for two children aged between 9 and 17 years old to accommodate short-term, long-term and emergency. There will be up to two staff members working in the care home on a shift basis depending on the needs of each young child/young person.

There would be no proposed changes to the building, and the layout would be occupied as current arrangement with the first floor as bedrooms for 2 children with two bathrooms and one bedroom/office for staff, the ground floor as a W.C, lounge and kitchen/diner being shared space by all the occupants as a household sharing facilities. The intended group will be brought together by mutual need. To the front 2 car parking spaces are provided for staff and visitors.

Relevant Planning History

None relevant.

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties.

Four letters of objection have been received raising the following:

- Impact on neighbouring amenity
- Noise disturbance
- Additional traffic problems
- Anti-social behaviour
- Additional Car parking issues in locality

Frindsbury Extra Parish Council have raised the following objection:

- Fire Safety
- Lack of Car parking
- Unsuitable location

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2021

(NPPF) and are considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

Planning Appraisal

Use Class

To determine whether this proposed children's home requires planning permission, it is important to define the use.

The term 'dwellinghouse' is not expressly defined in the Use Classes Order (UCO 1987 (as amended)). Whether a particular building can be held to be a dwellinghouse will therefore depend on the facts of that case. The criteria for determining Class C3 classification include both the manner of the use and the physical condition of the premises. In this case, the current primary use of the land is as a domestic dwelling, which according to the UCO falls within use Class C3 (a) (residential dwelling).

The proposed care use could fall within either Class C3 (b) (residential dwelling with an element of care) or Class C2 (residential institution). To determine which class is applicable the facts/details of the proposed use need to be considered in light of the current guidance and case law.

Class C3 (b) *Dwellinghouses* provides for houses where the use is by no more than 6 residents living together as a single household (including a household where care is provided for residents). Direction on the definition of a C3 (b) single household may be deduced from the Court of Appeal case of *R (Hossack) v Kettering BC and English Churches Housing Group 25/06/2002*. Here it was found that the precise relationship between residents, although clearly a material consideration, was not necessarily a determinative matter and even where residents were not a preformed group, they could live as a single household, in this case where they were brought together simply by mutual need. The lesson from *Hossack* is that, regardless of the origins of a given group of people, a fact and degree assessment is required as to whether, in the circumstances, they live together as a C3 (b) single household receiving care or the use is a C2 care home.

Each case must be determined on its own circumstances as a matter of fact and degree. In this case, the children will live in a homely environment where all facilities are shared. They will have their own bedrooms and the mode of living would be communal. The communal areas will allow for the cooking and sharing of meals, socialising, and entertainment. They would have commonality as each child would be cared for and live within a communal setting as one household, sharing facilities and household tasks. However, the number of residents is key and the level of support to be provided is a factor.

Care provision

In the case of *R v Bromley LBC EX p Sinclair [1991]* it was confirmed that if carers are resident then they must be included as residents for purposes of numbers.

Turning to the extent of care, according to the design and access statement submitted with the application, the accommodation will be for up to 2 children aged between 9 and 17 years old.

A total of two staff would work on a shift basis to care for the children in a setting that would provide a home for children, all staff are to be trained to meet the needs of the service as regulated by Ofsted. Any staff members residing in the property at night would have a separate bedroom allocated for them.

The occupants will live as a family but with the support needed to assist them in daily living would be beyond that considered of a foster home, as such this would be outside the definition of C3(b).

Principle

Paragraph 8 of the NPPF supports strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. Paragraphs 60 and 62 of the NPPF are also relevant and seek to significantly boost the supply of homes and support the provision of housing for different groups. A care home falls within the housing need for the Council and the emerging evidence of the Local Plan suggests that there is a need in coming years for more specific care needs within the Medway Towns. Policy CF2 of the Local Plan also supports the introduction of new community facilities subject to amenity, access, and size while Policy H8 of the Local Plan sets out the criteria for residential institutions.

Policy H8 sets out that residential institutions and hostels will be permitted subject to the following criteria:

- (i) the proposal would not adversely affect nearby residential amenity; and
- (ii) in appropriate cases, where the occupants have a degree of mobility and independence, the property is within reasonable walking distance of shops, public transport and other facilities; and
- (iii) adequate amenity space is provided for residents.
and
- (iv) parking is adequate for staff, visitors and service vehicles, taking into account the accessibility of public transport; and
- (v) for changes of use, the property is too large to reasonably expect its occupation by a single household.

The property, while suitable for use by a single household is for the use by up to two children (aged 9 to 17) and is not a large institution that would require more rooms. As a 3-bed property it could already be used for a family including at least 2 children. All the other criteria in policy H8 are met with the proposal. The space within the

property will provide ample communal space and an office for meetings as well as including a rear garden area. The property is well located within the urban area in terms of proximity to local facilities and public transport. Therefore, it is considered that there will be no additional amenity impact and noise disturbance generated.

It is therefore considered that the loss of the dwelling in single household would be acceptable in principle, as it would provide alternative housing to meet the Councils housing need.

Design

Policy BNE1 of the Local Plan states that development should be satisfactory in terms of scale and mass and should respect the visual amenity of the surrounding area, further emphasised by paragraph 130 of the NPPF.

The proposal would not result in any additional harm in terms of the appearance of the host dwelling or the surrounding area and would therefore be in accordance with Policy BNE1 of the Local Plan and paragraphs 126 and 130 of the NPPF.

Amenity

There are two main amenity considerations, firstly the impact of the proposed development on neighbours and secondly the living conditions for the future residents of the development itself. Policy BNE2 of the Local Plan and paragraph 130 of the NPPF relates to the protection of these amenities.

Neighbouring Residential Amenity

The proposal will make provisions for a maximum of two children/young people. There will be up to two staff members working in the care home on a shift basis depending on the needs of each young child/young person. For example, if a child/young person required a higher level of care, then the dwelling would only accommodate 1 no. child/young person, with the other bedroom being utilised by staff for overnight accommodation. If the needs assessment required a lower level of care, then the maximum no. of children/ young people accommodated would be two, with staff on Waking Nights. Therefore, the maximum number of occupants including young people and staff members at a given time would be four. By virtue of the level of occupation of the care home and there being no external alterations, there would be no detrimental impact on neighbouring amenities regarding sunlight, daylight, outlook or privacy.

Due to the care, they will receive from members of staff there is not considered to be an unacceptable impact on neighbouring amenity in terms of noise and disturbance. Should a capacity of two residents be reached, it is not considered that the proposal would generate significantly more activity above what would be expected from the comings and goings of the residence being in single household occupation given the age of the residents.

Amenity of Future Occupiers

The proposal (which is retrospective) does alter the internal layout of the property and as such the development would not result in the loss of residential amenities such as daylight or outlook. There is also an external garden area to meet the needs of the proposed residents. It is considered that the property is of a sufficient size to suit the requirements of this specific care home need.

In view of the above and in the interests of amenity it is therefore considered appropriate to impose conditions restricting the number of children residing at the premises to no more than 2 at any time. Subject to this condition there is no objection raised to with regard to Policy BNE2 of the Local Plan or paragraph 130 of the NPPF.

Highways

As there will not be an increase in occupants from the current C3 to the proposed C2, this will not be considered to generate a level of visitors to the site that would adversely impact the local highway network.

The proposal would result in a maximum of 1:1 ratio of carer to child being on site resulting in 2 members of staff being present on site at any one time. The proposed development would utilise the existing parking to the front which can accommodate 2 cars for the use for staff and any visitors. In addition to this there is on street car parking available in the direct vicinity which could further accommodate visitors to this site.

In consideration of this, no objection is raised with regards to the objectives of Policies T1 and T13 of the Local Plan and paragraph 111 of the NPPF.

Bird Mitigation

In consideration of the nature of the use, whilst the site falls within the catchment area for developer request towards Wildlife Mitigation, no request has been made as no additional planning unit would result from the development. No objection is therefore raised under Policies S6 and BNE35 of the Local Plan and paragraphs 180 and 181 of the NPPF.

Climate Change and Energy Efficiency

Regarding climate change and energy efficiency as the proposal is for a change of use and not new build, there is no requirement for the applicant to submit a statement relating to energy efficiency and climate change. However, it would be expected that the proposal would comply with Part L of building regulations as minimum which considers the conservation of fuel and power in dwellings.

Conclusions and Reasons for Approval

In summary, there is no objection in principle to the proposed change of use to a children's care home and the impact of the development with regard to the design, impact on amenity and highways safety is acceptable. The proposal is in accordance

with Policies CF2, H8, BNE1, BNE2, BNE35, T1, T13 and S6 of the Medway Local Plan 2003 and paragraphs 8, 60, 62, 111, 126, 130, 180 and 181 of the NPPF.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the extent of the representation received expressing a view contrary to the recommendation.

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/>