

MC/23/0471

Date Received: 24 February 2023
Location: 65 Holcombe Road Rochester
Medway ME1 2HX
Proposal: Change of use of residential dwelling (Class C3) to a children's care home (Class C2) together with access ramp with railings front and rear and new pedestrian access and gate - resubmission of MC/22/0593.
Applicant Mr Okikola Ayamolowo
Ward: Rochester East and Warren Wood Ward
Case Officer: Hannah Rusbridge
Contact Number: 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 5th July 2023.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

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

Received 1 March 2023:

001 Existing and Proposed Floor and Roof Plans
002 Existing and Proposed Elevations and Sections

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

- 3 The number of residents cared for and residing on the premises shall not exceed 4 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 130 of the NPPF.

- 4 The use shall be operated in accordance with the submitted Planning Statement received 1 March 2023 and Facility Management Plan received 15 March 2023.

Reason: In the interests of amenity protection in accordance with Policy BNE2 of the Medway Local Plan 2003 and paragraph 130 of the National Planning Policy Framework 2021.

- 5 Prior to first use as a Class C2 care home, photographic evidence of the new internal layout of the first floor, including measurements, shall be submitted to and approved in writing by the Local Planning Authority. The care home shall be maintained in accordance with the agreed details and maintained as such thereafter.

Reason: To ensure that the development would not prejudice the amenities of future occupiers in accordance Policy BNE2 of the Medway Local Plan 2003 and paragraph 130 of the NPPF.

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 full planning permission for the change of use of the dwellinghouse (Class C3) to residential children's home (Class C2) together with access ramp with railings to the front and rear and new pedestrian access and gate.

The application site is a two-storey terraced property in a cul-de-sac with no off-street parking. The dwellinghouse comprises a lounge and kitchen at ground floor and three bedrooms and a shower room at first floor level.

This application proposes the provision of a children's home for 2 young people (aged up to 17) with 1 to 1 support 24-hour care. It is proposed that 2 live-in carers will reside at the property for 7 days straight to minimise the movements in and out of the property. The staff team will be adequately trained to meet the needs of the service related to working with children with special needs regulated by Ofsted.

Externally, the proposal incorporates front and rear changes to facilitate disabled access for future provision of children who suffer emotional and behavioural disorders, who are also physically disabled. A ramp is proposed to the rear of the property and the maximum height will not exceed the highest part of the existing rear steps. Supporting railings measuring approx. 1m in height are proposed to the front and rear of the property. A new pedestrian access and gate is proposed. The floor will be raised to the front.

The internal works consist of a reconfiguration of the walls to allow for adequately sized bedrooms for both the children and the carers.

Relevant Planning History

MC/22/0593

Change of use of residential dwelling (Class C3) to children's care home (Class C2) together with access ramp with railings front and rear and new pedestrian access and gate.

Decision: Refusal

Decided: 7 June 2022

Representations

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

15 letters of objection have been received relating to:

- Impact on parking.
- Anti-social behaviour.
- Noise and disturbance.
- Proximity to school.
- Loss of a single-family residential property.
- Overlooking.
- Unsuitability of the area for the use.
- Increased vehicle activity.
- Lack of public transport.
- Safety of residents and school students.

The headmaster of the nearby Primary School has raised concerns regarding:

- Parking availability.
- Proximity to school and exposure to antisocial behaviour.
- Potential for antisocial behaviour.

Cllr Edwards and Cllr Murray have raised an objection with regard to the unsuitability of a mid-terraced house as a care home, the impact on parking and traffic, concerns regarding antisocial behaviour, and the potential noise impact on neighbours.

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 generally considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

Planning Appraisal

Background

This is a resubmission of planning application MC/22/0593 which was refused for the following reason:

“By virtue of the floorspace shown by the carers room, the proposal would result in a poor level of occupier amenity and cramped living conditions for the carers, contrary to Policies BNE2 and H8 of the Medway Local Plan 2003 and paragraph 130f of the National Planning Policy Framework 2021.”

This proposal aims to overcome this refusal reason by reconfiguring the internal walls to create larger bedrooms creating a better level of occupier amenity for both the children and the carers.

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, the accommodation will be for up to 2 children aged between 9 and 17 years old.

A total of two staff would reside at the property but on a 7-day shift and so would not be permanent residents for the consideration of class C3(b). The 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. Paragraph 61 of the NPPF states that planning authorities should take account of the housing need for different groups in the community, including affordable housing, families, older people, students and people with disabilities. A care home falls within the housing need for the Council and from 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.

Policy H8 of the Local Plan states that within a proposal for a change of use, the dwelling concerned would need to be too large for the use of a single household. The three-bedroom nature of the property means that it can be used as a single-family dwelling. However, due to the specific nature of the care use and the need for specialist accommodation, there is no objection based on the size of the property in this regard. Consequently, the loss of the dwelling in single household occupation would be acceptable in principle, as it would provide alternative housing to meet the Council's housing need.

The application site is located within the urban area and is situated approx. 20 min walk from Rochester town centre, as such services and public transport links are relatively easily accessible for residents who do have a degree of independence. The proposal would result in the loss of a 3-bedroom family dwelling however it would provide care for up to two people with two carers.

Design

Paragraphs 126 and 130 of the NPPF emphasises the importance of good design and 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. Railings are proposed to the front and rear of the property.

A ramp is proposed to the rear of the property and the maximum height will not exceed the highest part of the existing rear steps. Supporting railings measuring approx. 1m in height are proposed to the front and rear of the property. A new pedestrian access and gate is proposed. The floor will be raised to the front to allow for a smooth transition to the front door. It is not considered that this would be detrimental to the appearance of the property and therefore the proposal is in accordance with Policy BNE1 of the Local Plan and paragraph 126 of the NPPF.

Given the relatively minor nature of these external alterations, the proposal is considered to 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 involves minor alterations to the internal layout of the property which are not considered to result in the loss of neighbouring amenities regarding sunlight, daylight, outlook or privacy.

Given that the dwellinghouse could be occupied by up to 5 people as a family dwellinghouse (Class C3), as two bedrooms are an adequate size for a double bedroom, it is not considered that the noise and disturbance resulting from two carers and two children would warrant refusal in this instance.

A condition is recommended limiting the number of residents (those being cared for and their carers) at any one time to a maximum of four to ensure occupier and neighbouring amenity.

Amenity for future residents

The previous application was refused due to the fact that one of the bedrooms was only 4.2sqm in size which was considered inadequate for either one of the children or one of the carers. The other bedrooms are 12.7sqm and 14sqm in size.

The current proposal seeks to move internal walls (which are non-load bearing) to re size the bedrooms to 13sqm, 9sqm and 8sqm which is considered satisfactory to meet the needs of the occupiers and meets the nationally prescribed internal space standards. The children will be in the single bedroom rooms with the careers in the larger twin room.

Highways

The application site does not benefit from off-road parking and therefore the proposal is reliant on on-street parking. Given that the children proposed to be cared for are under the age of 17, it is unlikely that there would be more than 2 vehicles (for the carers) at any one time and therefore it is considered that the use would not impact on the highway or parking in the area, over and above what is experienced from the existing C3 use.

As such, the proposal is in accordance with Policies H8, T1, and T13 of the Local Plan and paragraph 111 of the NPPF.

Bird Mitigation

As the application would not result in the creation of any additional planning units no objection is raised with regard to 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 this is a change of use application and not a new build there is no requirement to provide details in support of the planning application. 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 and is recommended for approval.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of representations received expressing a view contrary to officer's recommendation for approval and

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/>