

MC/23/1445

Date Received: 28 June 2023

Location: 22 Sunnymead Avenue Gillingham  
Medway ME7 2DY

Proposal: Change of use from residential dwelling (Class C3) to a children's care home (Class C2) for a single child placement.

Applicant Ant and Bex Lodgings Ltd  
Ms Rebecca Dacosta

Agent Visionary Planning UK  
Mrs Helen Morris-Ruffle Trevean  
2 Penmelen  
Camelford  
PL32 9UH

Ward: Watling

Case Officer: Amy Shardlow

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 25th October 2023.**

**Recommendation - Approval with Conditions**

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

Received 28 June 2023:

22SG2023 Proposed Site Plan

22SG2023 Site Location Plan

22SG2023 Proposed Southwest Elevation

22SG2023 Proposed Section AA

22SG2023 Proposed Northeast Elevation

22SG2023 Proposed Roof Plan

22SG2023 Proposed First Floor Layout

22SG2023 Proposed Ground Floor Layout

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

- 2 The use shall be operated in accordance with the submitted Management Statement received 8 September 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.

- 3 The number of residents cared for and residing on the premises shall not exceed 1 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 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 a single child placement property. The ages of the child will be between 8 – 17 Years of age. The property will be the child's permanent place of residence, and this will be for medium to long term placements. Communal spaces will be shared, and the adult supervisors/carers will eat together, and all will sleep at the property.

There will be a maximum of 3 members of staff present in the property at one time dependent on the needs and requirements of the child being cared for.

The management statement outlines that it is anticipated that staff will stay overnight and potentially work 2 days on and 4 days off, however this could vary to accommodate individual care needs of the child who will be homed here. Each child / young person will be always supervised by at least one adult and only one staff member will be sleeping at the property at one time. The nature of the shifts is proposed to ensure that there is consistency for the child, and that there is not a huge handover of staff, meaning that the comings and goings are minimised.

There would be no proposed changes to the building or layout and it would be occupied as per current arrangement with the first floor having 3 bedrooms and 1 bathroom, the ground floor comprising of a porch leading to the entrance hall, a living room, shower room, utility area, sitting room and kitchen/dining area which then leads out to a private rear garden.

To the front of the property there is an available off-road parking area to be used for staff and visitors.

### **Relevant Planning History**

None found.

### **Representations**

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

**Eight different householders have written a letter** of objection raising the following:

- Lack of consultation
- Noise disturbance
- Devaluation of property
- No other commercial uses or care homes within the street scene
- Traffic and parking concerns
- Antisocial behaviour/crime
- Unsuitable property layout for a care home
- Nonconformity with Planning Policy
- Financial resources
- Incorrect details in the transport statement.
- The use has already commenced.

In response to the numerous letters of objection the **agent** has submitted a letter outlining their position summarised below:

- Devaluation of the properties is not a material planning consideration.
- Financial resources of the company are not a material planning consideration.

- The use of the property as a care home for a single child placement is not considered to make the area less desirable nor is it considered the property to be a business use, it is caring for a child in the community.
- The use is not considered to destabilise the community.
- Errors within the Transport Statement has been rectified.
- The hours of staff movements are no different to shift workers and vehicle movements cannot be dictated.
- The allegation of crime does not hold any substance.
- Local and National policy does support this use.

The **applicant** has also provided staff qualifications and training provided in an email dated 04 September 2023.

**Childrens Commissioning** have been consulted and have advised they support approval for planning for this use at this property but have suggested a restrictive condition to limit the occupants of the property due to its size and the limited parking.

**Kent Police** have been consulted on this application and have recommended additional security measures. *An informative will be added to the decision notice for the applicant's attention.*

**Southern water** has advised that they require a formal application to connect to public foul and surface water sewerage system. They advise that a sewer deemed to be public could be crossing the development site and that should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. *(As no changes are proposed to the property these comments are not considered relevant)*

## **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 2023 (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) *Dwellings* 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 child will live in a homely environment where all facilities are shared with the adults present. The child will have its own bedroom and the mode of living would be communal. The communal areas will allow for the cooking and sharing of meals, socialising, and entertainment. 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 management statement and design and access statement submitted with the application, the accommodation will be for 1 child aged between 8 and 17 years old.

A maximum of 3 members staff is proposed and would work on a shift basis to care for the child in a setting that would provide a home for the child. 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. It has also been noted in the management statement that there will only be one member of staff sleeping at the property at one time.

An example of shift patterns proposed has been outlined within the management statement shown below.

- *Day 1 - Start time 08:00 – end time 23:00 (staff member to sleep over in the Property)*
- *Day 2 – Start time 07:30 – end time 23:00 (staff member to sleep over in the Property)*
- *Day 3 – Start time 07:30 – end time 08:00 (staff member go home).*

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 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 for 1 child (aged from 8 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 as well as including a rear garden. 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 1 child/young person. There will be up to three staff members working in the care home on a shift basis depending on the need of the child/young person. The maximum number of people within the property at one given time will be 4 including the child/young person and staff members. 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. 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 does not 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 1 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 what could be expected under a C3 use to the proposed C2 use, this is not 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 3 members of staff being present on site at any one time. The proposed development would utilise the existing parking to the front for the use for staff and any visitors. In addition to this the management statement outlines that staff will be encouraged to use public transport which in this instance the closest rail station is Gillingham Train Station which is approx. 0.6 miles away and the closest bus stop being 0.3 miles away.

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

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

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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 on Medway Council's Website <https://publicaccess1.medway.gov.uk/online-applications/>