

**MC/23/1615**

**Date Received:** 19 July 2023  
**Location:** 25 St Georges Road Gillingham, Medway ME7 1JG  
**Proposal:** Retrospective application for the change of use from dwellinghouse (C3) to care home (C2).  
**Applicant Agent:** Mrs V Amadasun  
Mr Tim Spencer  
Birchmere  
South Road  
Hythe  
CT21 6AT  
**Ward:** Gillingham North  
**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 22nd November 2023.**

**Recommendation - Approval with Conditions**

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

Received 19 July 2023:

Site Location Plan	
23039VA-PP-02-00-A1	Proposed Floor Plans
23039VA-PP-03	Block Plan

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

- 2 The number of residents 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 130 of the National Planning Policy Framework 2023.

**For the reasons for this recommendation for 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). This will be to support

2 children up to 18 years of age. The property will be the child's permanent place of residence.

The layout of the property comprises of:

Ground Floor: Office, Living Room, Kitchen, W.C and utility room which leads out to the rear garden.

First Floor: 2x Bedrooms and 2x bathrooms.

Second Floor: One Bedroom.

The submitted Design and Access Statement reference 23039VA received 9 October 2023, outlines that the two bedrooms on first floor level are to be occupied by the child/young person being cared for (one child in each room) and the 3<sup>rd</sup> bedroom at second floor level being used as additional living space. The ground floor areas will be shared with staff members, with the exception of the office where those being cared for can enter with invitation.

The property will be staffed 24 hours a day, with shift patterns being outlined as 8pm until 8am and 8am until 8pm. There will be a maximum of 2 members of staff for each shift pattern which is assessed for each child/young persons needs. There is no sleeping area provided for staff nor has it been deemed necessary in this instance. However the office can be used for privacy.

There would be no proposed changes to the external building while internally the layout has been altered to allow space for the office at ground floor level.

### **Relevant Planning History**

No relevant history.

### **Representations**

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

**Childrens Commissioning** have been consulted and have advised they support approval for planning for this use at this property. They have also provided comments supporting the provider offering the care home stating that the company has "often gone above and beyond in supporting social services to place children and young people".

**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)*

**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.*

**6 letters of objection** have been received raising concerns of:

- Impact on parking available on street.
- Noise impact on amenity of neighbours.
- There are already C2 uses within the immediate area.
- The proposal will result in anti-social behaviour.

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

## **Planning Appraisal**

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 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 design and access statement submitted with the application, the accommodation will be for 2 children/young persons aged up to 18 years old there is however the potential for this to go beyond if necessary. The statement outlines that the company support “young people who have learning disabilities, autism, behaviours that challenge, or other complex needs, and help them to live safely and as independently as possible.”

An email dated 10 October 2023 sought clarification regarding the Design and Access Statement and confirmed that 2 members of staff are proposed to be in the property at one time and would work on a shift basis to care for the children/young persons in a setting that would provide a home for the children/young person(s).

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

*8am – 8pm and then the next shift 8pm – 8am. This would be 7 days a week.*

The occupants will live as a family but the support needed to assist them in daily living would be beyond that considered of a foster home and 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 2 children/young persons and is not a large institution that would require more rooms. As a 3-bedroom property it could already be used for a family including at least 2 children. In addition, the property will provide much needed accommodation for young people in accommodation that is as close as possible to a family environment.

The property is well located within the urban area in terms of proximity to local facilities and public transport.

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 proposed development would not result in any external alterations to the property and as such 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*

Paragraph 130f of the NPPF states that achieving well-designed places should include creating a high standard of amenity for existing and future users. Policy BNE2 of the Local Plan expects all development to secure the amenities of its future occupants and protect those amenities enjoyed by neighbouring properties. The design of the development should have regard to privacy, daylight and sunlight, noise, vibration, light, heat, smell and airborne emissions and activity levels and traffic generation. Policy H8 also seeks to protect amenities of neighbours and to ensure adequate space for prospective residents.

There are two main amenity considerations, firstly the impact of the proposed use on neighbouring amenity and secondly the living conditions which would be created for the potential occupants of the development itself.

### *Neighbouring Amenity*

The proposal will make provisions for a maximum of 2 children/young person(s). There will be up to 2 staff members working in the care home on a shift basis depending on the need of the children/young person(s). 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 number of the residents. In addition, the property could be converted without the need for planning permission, to a C3b or C4 use which could result in 3-6 unrelated adults living at the property.

### *Occupant amenity*

The internal layout of the property has been altered to allow for an office at ground floor level however this is the only alteration internally within the property however it is not considered that the introduction of the office in its location would result in the loss of residential amenities such as daylight or outlook.

The space within the property will provide ample communal space on ground floor level as well as including a rear garden. There is additional living space on the second floor for residents within the property. It is considered that the property is of a sufficient size to suit the requirements of this specific care home need.

It is however noted that there is the potential for the 3<sup>rd</sup> bedroom to be used for an additional resident which would require a further assessment as to the increase to amenity impact. In view of this 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 Policies H8 and BNE2 of the Local Plan or paragraph 130 of the NPPF.

### *Highways*

The proposal would result in a maximum of 2 members of staff being present on site at any one time and whilst the site offers no off-street parking there is on street parking available.

It is considered that as there will not be an increase in occupants from what could be expected under a C3 or C4 use and the site is considered to be within a sustainable

location near Gillingham Train Station which is approx. 0.5 miles away and the closest bus stop being only 150 yards away located on Trinity Street.

It is not considered that the proposal will generate a level of visitors to the site that would adversely impact the local highway network.

In consideration of this, no objection is raised with regards to the objectives of Policies H8, T1 and T13 of the Local Plan and paragraph 111 of the NPPF.

### **Conclusions and Reasons for Approval**

In summary, there is no objection in principle to the proposed change of use to a 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.

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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/>