

MC/24/0107

Date Received: 19 January 2024

Location: 2 Second Avenue, Gillingham, Medway ME7 2HX

Proposal: Change of use from Class C3 (Dwellinghouse) to Class C2 (Children's Care Home).

Applicant: Anderson Okporho
PCS Services Ltd

Agent: Chandran Hughes Architects Ltd
Vipinachandran 16 Ardwell Avenue
Ilford
IG6 1AW

Ward: Watling

Case Officer: Amy Shardlow

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 10th April 2024.

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 19 January 2024:

SEC-CHA-XX-DR-A-0001 Site Location and Block Plan
SEC-CHA-ZZ-DR-A-0008 Proposed Ground Floor Plan
SEC-CHA-ZZ-DR-A-0009 Proposed First Floor Plan
SEC-CHA-ZZ-DR-A-0010 Proposed Second Floor Plan
SEC-CHA-ZZ-DR-A-0011 Proposed Roof Plan
SEC-CHA-ZZ-DR-A-0012 Proposed Elevations
SEC-CHA-ZZ-DR-A-0013 Proposed Elevations

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 3 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 135 of the National Planning Policy Framework 2023.

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 planning permission for the change of use of a single dwelling (Class C3) to a children's care home (Class C2), for up to 3 children aged between 11-17. Communal spaces are proposed to be shared and there is office space for staff due to the property being staffed 24/7.

There will be a maximum of 2 members of staff present in the property at one time, the submitted design and access statement outlines that staff will work at the property from 08:00 – 20:00 and then following a change over 2 members of staff will work waking nights from 20:00 – 08:00. As such the property will be staffed 24/7. It is also noted that there will always be a senior member of staff within these shifts.

The nature of the shifts is proposed to ensure that there is consistency for the children, and that there is not a huge handover of staff, which also means that the comings and goings are minimised.

There would be no proposed changes to the exterior of the building. While there are no internal changes, previously the property was a 4-bedroom unit, however one of the bedrooms measured at approximately 4.5sqm. As such it is deemed this is an unsuitable size for a bedroom and therefore it is now proposed as an office.

The proposed arrangement of the property is as follows:

Ground Floor – Living room, dining/kitchen area leading to the rear garden and small W/C.

First Floor – 2no. Bedrooms, office and bathroom.

Second Floor – 1no. Bedroom with an ensuite.

To the front of the property there is available off-road parking area to be used for staff and visitors. This provides 1 parking space.

Relevant Planning History

- MC/14/0115** Application for Lawful Development Certificate (proposed) for construction of a single storey rear extension.
Decision: Approval
Decided: 03 February 2014
- MC/23/2034** Application for a Lawful Development Certificate (proposed) for construction of a single storey rear extension - demolition of existing rear projection.
Decision: Refusal
Decided: 8 November 2023.

Representations

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

16 different householders have written objecting on the following grounds:

- The proposal will result in Parking issues on street and Increased traffic.
- Inappropriate Location/ Out of Character with Residential Street.
- Statement of purpose is missing from the online documents.
- Noise disturbance.
- Anti-social behaviour and safety concerns for existing neighbouring properties.
- Concerns regarding the level of security including boundary treatments recommended by Kent Police.
- Occupant levels increasing.
- Infringement to privacy with regard to CCTV.
- Not receiving a consultation letter.
- Crime rates within the area means that the location is unsuitable for this type of use.
- Internal works are already being undertaken.
- Not in accordance with the Local Plan policies.
- Overdevelopment within the area.

Some other matters raised such as property devaluation are not planning considerations.

In response to the above objections **the Agent** has provided a response to the above objections summarised below.

- Parking Concerns - Staff members will use public transport to access the property. The children will not have access to cars. The 1 space on the existing driveway to be used by the Social Worker to which the frequency of visits has been reduced to once a month. This would, therefore, be less use than an average family home.
- Noise and Disturbance – The fire strategy has been updated and monthly fire drills will not be required. Instead regular testing of the smoke and fire alarms

will be undertaken as per any household with fire and smoke alarms. Staff change overs are similar to that of any adult comings or goings in a household.

- Security and Surveillance – Kent Police has recommended CCTV to be installed. A ring doorbell has been installed to the front door as per many households. 1.8m high fences are standard fence heights for rear gardens used in the majority of domestic rear gardens.

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 December 2023 (NPPF) and are considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

Planning Appraisal

The current primary use of the land is as a domestic dwelling, which 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 submitted Design and access statement received outlines that the accommodation will be for up to a maximum of 3 children/young person(s) aged between 11 and 17 years old.

A maximum of 2 members of staff is proposed and would work on a shift basis to care for the children in a setting that would provide a home for the child. It is noted that the staff are trained to ensure they are able to provide the care required for the children/young people with additional needs.

The proposed shift patterns are as followed.

- 2no members of staff from 08:00 – 20:00
- 2no. members of staff from 20:00 – 08:00

In this case, due to the age of the occupants it is not considered that they would be able to 'form a dwellinghouse' by themselves. While the carers do not live in as part of the household, they will be in the property 24/7 on a shift basis. So, the carers are neither living in as part of the dwelling nor are they merely calling in to provide care and leaving. As such the proposed development cannot fall within a C3b use and would be considered as a C2 use in this instance.

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 63 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 and consequently there is not currently an overprovision. Policy H8 of the Local Plan sets out the criteria for residential institutions.

Policy H8 states that residential institutions will be permitted subject to the following criteria:

- The proposal would not adversely affect nearby residential amenity; and
- 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
- Adequate amenity space is provided for residents; and
- Parking is adequate for staff, visitors and service vehicles, taking into account the accessibility of public transport; and
- 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 3 child/young person and is not a large institution that would require more rooms. As a 4-bedroom property it could already be used for a family including at least 3 children.

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 paragraphs 131 and 135 of the NPPF.

As the development would not result in any external alterations to the property, 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 131 and 135 of the NPPF.

Amenity

Paragraph 135f 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 nearby residential amenity and to ensure adequate amenity space is provided 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 proposed development would not result in any external changes to the dwelling and as such no concern is raised in relation to privacy, daylight and sunlight.

The property has 4 bedrooms (3 of which are double) which could be occupied by a family of 2 parents and at least 3 children, some of whom could be of teenage age or older. Similarly, the property could be converted to a C3b use without planning permission for up to 6 unrelated individuals living as a single family or a C4 use which is a small HMO for up to 6 unrelated individuals who share basic amenities such as bathroom and kitchen. Therefore, in terms of noise and activities levels, due to the property being occupied by up to 3 children with a maximum of 2 members of staff at the property at one time it is not considered that the activities levels within the property would be above and beyond that of a C3 or C4 residential dwelling. In addition to this,

the shift pattern of 08:00 to 20:00 would be considered reasonable within a residential area.

Taking the above into consideration it is not considered that the change of use would be detrimental to neighbouring amenity.

Amenity of Future Occupiers

While the proposal does not alter the internal layout of the property, one of the bedrooms at 4.5sqm is not considered suitable for use as a bedroom. That then leaves 3 bedrooms of usable size for prospective occupants and accordingly a condition is recommended to limit the number of children to 3. 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.

Subject to the recommended condition there is no objection raised to with regard to Policy BNE2 of the Local Plan or paragraph 135(f) of the NPPF.

Highways

As there will not be an increase in occupants from what could be expected under the existing C3 it 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 2 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 agent in an email dated 12 March 2024, has advised that Staff will utilise public transport and children do not have access to cars.

It is also noted that there is unrestricted on street parking provision at the proposal site and bus stops nearby.

In consideration of this, no objection is raised with regards to the objectives of Policies T1 and T13 of the Local Plan and paragraph 115 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.

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 H2, H8, CF2, BNE1, BNE2, BNE35, T1, T13 and S6 of the Medway Local Plan 2003 and paragraphs 115, 131, 135, 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.

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/>