

**MC/25/0259**

**Date Received:** 11 February 2025  
**Location:** 35 Maidstone Road, Rochester, Medway, ME1 1RL  
**Proposal:** Change of use from residential (Class C3) to children's home (Class C2).  
**Applicant Agent:** Dionne Bradshaw  
LUX Architecture  
18 Merlin Road  
Redhills Road  
Corby  
NN17 5FQ  
**Ward:** Rochester West & Borstal  
**Case Officer:** Jacky Olsen  
**Contact Number:** 01634 333056

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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 7 May 2025.**

**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 11 February 2025  
Site Location Plan  
LUX\_045-20 00 01-P01 - GA Plans as Proposed

Received 3 April 2025  
LUX\_045-90 00 01-P01 - Proposed Cycle Store  
LUX\_045-90 00 01-P02 - Cycle Storage Plan as Proposed

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 135 of the National Planning Policy Framework 2024.

- 4 The cycle storage shown on drawings LUX\_045-90 00 01-P01 Proposed Cycle Store and LUX\_045-90 00 01-P02 Cycle Storage Plan as Proposed shall be implemented in accordance with the approved details prior to the first occupation of the care home hereby approved and thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown for cycle storage facilities.

Reason: All new development requires provision of adequate accommodation for cycle storage to accord with Policies BNE1 and T4 of the Medway Local Plan 2003.

- 5 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any order amending, revoking and re-enacting these Orders with or without modification the use hereby permitted shall be restricted to use for a care home and/or nursing home and for no other purpose within Class C2.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity and highway safety, in accordance with Policies BNE2, T1 and T13 of the Medway Local Plan 2003.

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

### **Proposal**

The proposal is for a change of use from residential (Class C3) to Children's Care Home (Class C2). The home would cater for up to four children between the ages of 7-17 and four adult carers with one home manager. There are no proposed changes to the existing layout and the accommodation will comprise:

Basement: Meeting/training room, cinema room, games room, gym, bathroom.

Ground Floor: kitchen/living room, office, dining room, utility and WC.

First Floor: 3X children's bedrooms (2X ensuite) and shared bathroom.

Second Floor: Adult sleeping area/office, children's bedroom and shared bathroom.

There is a courtyard/garden available for use by the residents.

There is no parking proposed as part of the development but the property has a single parking permit which allows parking along Maidstone Road. This will be utilised for the home car.

## Relevant Planning History

MC/13/1844	Alteration of existing courtyard to East Row into car parking for one car together with vehicular crossover and landscape area (Resubmission of MC/12/3023). Decision: Refused Decided: 2 December 2013
MC/12/3023	Alteration of existing courtyard into car parking for one car together with vehicular crossover. Decision: Refused Decided: 5 March 2013
MC/11/0409	Change of use from Class A3 (Restaurant) with residential accommodation over to Class C3 (Dwelling) together with the new iron gate and railings to side with pitch roof over side addition. Decision: Approval with conditions Decided: 11 May 2011

## Representations

The application has been advertised on site, in the press and by individual neighbour notification to the owners and occupiers of the neighbouring property.

**16** letters of representation have been received objecting to the application raising the following concerns:

- Impact on parking
- Impact on conservation area
- Increase in traffic and road safety issues
- Potential for anti-social behaviour, particularly in the alleyway behind the dwelling
- Loss privacy
- Change in character of the street from family housing
- Proximity and effect on listed buildings

**7 letters of representation** have been received in support of the application giving the following reasons:

- Suitable location for a children's care home close to educational facilities and the town centre for other amenities
- Good access to transportation
- Would contribute to the supply of care homes where there is a shortage

**Kent Police** have welcomed further discussions with the applicant/agent about site specific designing out crime approaches and have provided additional advice with respect to lighting and natural surveillance, security and boundary treatments and other approaches that could be implemented within the development.

## 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 2024 (the NPPF) and are generally considered to conform. Where non-conformity exists, this will be highlighted and addressed in the appraisal section below.

## Planning Appraisal

### *Background*

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) 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 would live in a homely environment where all facilities are shared with the adults present. The children will each have their 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 Supporting Statement submitted with the application, staff would be in the property 24/7, however, this would be on a shift rota pattern. Four members of staff would work in the home. Two members of staff would work on a 24 hour shift arriving and departing at 10am-10am each day. A third member of staff would work from 10am -11pm each day and a manager would work from 9am-5pm each day. Two members of staff would work on the night shift and a sleeping area is proposed for staff within the property.

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

### *Principle*

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

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 61 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 including looked after children. 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 H2 of the Local Plan relates to the retention of housing and states that the loss of existing residential accommodation will not be permitted unless the proposal would provide facilities of significant benefit to the immediate local community.

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 H2 of the Local Plan states that the removal of family housing will not be supported. Policy H8 of the Local Plan sets out that residential institutions would only be supported where they are too large to reasonably expect occupation by a single household. The reasoned justification to the policy states that a dwelling of more than 120sqm is large enough for conversion.

In this case, the property was a pub/restaurant between 1911- 2011 after which it was converted to a large 5 bedroom residential property, spread over 4 floors. It is a large property covering 434sqm and is very close to support services and the centre of Rochester, including open space, schools, public transport, leisure facilities etc. There is a significant need for small care homes which facilitate children being supported in an environment as close to that of a “normal” family and this would facilitate that. The principle of conversion is considered acceptable.

### *Heritage and Design*

The application site is located on the corner plot on the junction between Vines Lane, Maidstone Row and East Row. It is located within the urban area of Rochester close to the town centre and within the Historic Rochester Conservation Area. The area is a mix of detached and terraced housing, some flats and school buildings and open space within the vicinity of the property with many historic buildings of differing styles and periods.

The property is a prominent two-storey, detached building with accommodation over 4 floors, including a basement and within the loft space, and of Edwardian style with large windows and a first-floor roof terrace on the rounded section on the corner of the street. The property was originally a public house and then restaurant before being converted to residential around 2011. There is a small courtyard sited to the east of the property separated by the alleyway that runs behind the property.

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 135 of the NPPF.

The application site lies within the Historic Rochester Conservation Area. Policy BNE12 of the Local Plan states that special attention will be paid to the preservation and enhancement of the character and appearance of Conservation Areas. Policy BNE14 sets out that development in Conservation Areas *‘should achieve a high quality of design which will preserve or enhance the area’s historic or architectural character or appearance’*. Paragraph 210 of the NPPF explains that in determining applications, great weight should be given to the heritage assets conservation and the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

The application property sits adjacent to a Grade II Listed Building at 37 Maidstone Road which was built in the late 18 century in gault brick with a tiled mansard roof. Policy BNE18 of the Local Plan states that development which would adversely affect the setting of a listed building will not be permitted.

The proposal would not involve any external alterations and, as such, would not result in any harm in terms of the appearance of the host dwelling or the surrounding area and would therefore be in accordance with Policy BNE1, BNE12, BNE14 and BNE18 of the Local Plan and paragraphs 131, 135 and 210 of the NPPF.

### *Residential Amenity*

There are two main amenity considerations, firstly the impact of the proposed development on neighbours and secondly the living conditions which would be created for potential occupants of the development itself. Policy BNE2 of the Local Plan and paragraph 135 of the NPPF relates to the protection of these amenities.

### Neighbouring Residential Amenity

The proposal and accompanying submission make it clear that the use would make provisions for four children/young persons. There would be four staff members working in the care home over a 24 hour period. This could result in eleven children/young persons and staff members on site at shift changeover times. In addition, other visitors would visit the home including OFSTED, local social services and family and friends.

Two of the carers would work on a rota of 24 hour shifts with the change of staff at 10:00 each day. A third carer would work from 10:00-23:00. A manager would also visit the site each weekday between 09:00 and 17:00. This would result in six staff members arriving and leaving the premises each day. The resident children are also likely to be travelling to/from school/college. Most of these movements will be during the normal day time. The existing dwelling could accommodate nine residents and movements would not necessarily be within the set day time periods and therefore the existing use could potentially cause more disturbance during evenings and night time. It should also be noted that up until 2011 the use was as a pub and restaurant which would have brought potential disturbance particularly around closing time, including over the weekends.

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.

Therefore, the proposal is considered acceptable in regards to neighbouring amenity and in accordance with Policy BNE2 of the Local Plan and paragraph 135f of the NPPF.

### Future Occupiers Amenity

The proposed bedrooms have been considered against the Technical Housing Standards - Nationally Described Space Standard dated March 2015 (the national standard). The gross internal floor area (GIFA) for the property has been measured from the submitted floor plans and totals 434sqm which exceeds the minimum GIFA of 138sqm for a 6 bedroom, 8 person, 3 storey dwelling. All habitable rooms have been provided with adequate outlook. All the bedrooms exceed the minimum requirements for floor area when compared to the National Standard minimum of 7.5sqm.

The layout of the care home would provide the children with a large living/kitchen area and dining room on the ground floor, as well as, gym, games room and cinema room in the basement. Additionally, there is an outdoor garden with a garden room that the children can use. For the staff, a meeting/training room, office space and two sleeping rooms would be provided. Overall, the premises is considered to offer a generous amount of space with provision to allow the children to live as one household, eat together and socialise together, as well as, offering the staff office and sleeping space.

As such, it is considered that the premises would offer a high level of occupier amenity in accordance with Policies H8 and BNE2 of the Local Plan and paragraph 135f of the NPPF.

### *Highways*

Policy H8 states that residential institutions should provide adequate parking for staff, visitors and service vehicles taking into account the accessibility of public transport. Whilst Policy T13 relates to vehicle parking standards and states that proposals will be expected to make vehicle parking provision in accordance with the adopted standard.

Medway Council parking standards would require two parking spaces for a C3 dwelling of this size. No parking is proposed as part of the application although the applicant has stated that the home, like the surrounding properties, has access to a single parking permit, which allows parking along Maidstone Road. This would allow the home car to occupy the permit parking, allowing the children to have access with the carers for school commuting/days out. It is noted that this will be the only permit allowed at the site but given the sustainable location of the property along with the number of long-stay car parks within an 8-minute walk of the home, this is considered adequate. It is considered that carers, the home manager and visitors can utilise the available parking provision in the area, as and when required.

The Kent Cycle Parking Standards state that there should be 1 cycle parking space per five children. Although the site does not currently meet this threshold, considering the vehicle parking situation and the sustainable location of the site, some cycle parking is expected from the development. The applicant has provided four cycle parking spaces within covered, lockable storage that would be sited within the garden area that would meet with the requirements.

Therefore, in relation to highway considerations, it is considered that the proposal is in accordance with Policies T1, T4 and T13 of the Local Plan for the reasons set out above.

### *Biodiversity Net Gain*

As of 2 April 2024, all sites were subject to Biodiversity Net Gain (BNG) as per the conditions of Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).



Notwithstanding, de minimis exemptions wherein BNG does not need to be provided are set out in the Biodiversity Gain Requirements (Expeditions) Regulations 2024, confirming within subsection 4:

- “(1) The biodiversity gain planning condition does not apply in relation to planning permission for development which meets the first and second conditions.*
- (2) The first condition is that the development does not impact an onsite priority habitat.*
- (3) The second condition is that the development impacts:*
  - (a) less than 25 square meters of onsite habitat that has biodiversity value greater than zero; and*
  - (b) less than 5 metres in length of onsite linear habitat.”*

In this instance, both of the above conditions set out by the Act are considered of relevance, therefore, the application does not meet the threshold for the requirement of a BNG statement and therefore no objection is raised to this with regard to paragraph 193 of the NPPF.

### ***Conclusions and reasons for Approval***

The proposal for a change of use from residential (Class C3) to children's care home (Class C2) will provide much needed accommodation for young people in an appropriate "family" environment close to services and facilities. There will be no unacceptable impact on neighbour amenity and the amenity for the proposed occupiers will be very good. In this central location there is not considered to be a highway/parking issue. The proposal is not considered to be contrary to Local Plan Policies H2, H8, BNE1, BNE2, BNE12, BNE14, T1, T4 and T13 and paragraphs 131, 135 and 210 of the NPPF and is therefore recommended for approval.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of objections received expressing views contrary to this 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 in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>