

OFFICER REPORT FOR DECISION UNDER DELEGATED AUTHORITY

APPLICATION NO: D0371.23

WARD: Rainham & Wennington **Date Received:** 21st August 2023

ADDRESS: 15 ORCHARD AVENUE
RAINHAM

PROPOSAL: Certificate of Lawfulness for proposed change of use from use class C3(a) to use class C3(b)

DRAWING NO(S): 19/412/001
19/412/002

RECOMMENDATION: It is recommended that a **Certificate of Lawfulness not be issued in this case** for the reason(s) given at the end of the report

SITE DESCRIPTION

The application site comprises a detached 2-storey property which is currently in use as a single dwelling house in Class C3a use. The site is neither listed nor within a Conservation Area.

DESCRIPTION OF PROPOSAL

A Certificate of Lawfulness is sought for the use of the subject property for C3(b)- a maximum of two persons with learning difficulties receiving care with 24/7 support workers not living at the house. The applicant explains that there would be 1 or 2 adults over the age of 18 occupying the premises with the intention that the house would provide semi-independent living accommodation for the adults with learning difficulties and unable to manage their own day-to-day living without a 24/7 care team. There would be one or two care workers at any one time who would be non-residential staff to supervise the resident(s) on a 24 hour shift system.

The current application would need to satisfactorily evidence that the proposed operations would be within the same use class as the current lawful use, per the Town and Country Planning (Use Classes) Order 1987 (as amended). or notwithstanding this that a material change of use would not occur.

RELEVANT HISTORY

None.

CONSULTATIONS/REPRESENTATIONS

An application for a Certificate of Lawfulness is a request to the Council to confirm that the development as specified is Lawful. In assessing this application, the Council is making a determination of fact. As such, it is not considered to be necessary to undertake a public consultation.

RELEVANT POLICIES

Pursuant to the Town and Country Planning (Use Classes) Order 1987 (as amended), planning permission is required for 'the carrying out of any development of land'. 'Development' is defined in the Town and Country Planning Act (1990) at Section 55(1) as: the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

The success of the current application rests principally upon whether the proposed operations are within the same use class as the existing lawful use, or that a material change of use would not occur. The principle as well as the scale and nature of the activities requires consideration.

MAYORAL CIL IMPLICATIONS

N/A

STAFF COMMENTS

A Certificate of Lawfulness of proposed use or development can be sought where any person wishes to ascertain whether any proposed use of buildings or other land; or any operations proposed to be carried out in, on, over or under land, would be lawful they may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

It states that if, on an application under this section, the Local Planning Authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

Class C3(b) is effectively a subsection of the C where effectively it is recognized that there would be no material difference between any of the subsection and hence, there would be no changes of use moving between the sub-classes. Therefore, if the applicant is able to successfully demonstrate a C3(b) use, it would not be regarded as a material change to the current and established use of the dwelling and planning permission would not be required.

C3(b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.

The applicant has provided a statement outlining the proposed use and contends that it would align with the meaning of C3(b). The use is described as being comprised of 1 or 2 resident adults over the age of 18 occupying the premises with the intention that the house would provide semi-independent living accommodation for the adults with learning difficulties and unable to manage their own day-to-day living without a 24/7 care team. There would be one or two care workers at any one time who would not reside at the property.

The indication is that the property would be occupied and run as a single home with a home environment for the residents. The residents would have use of a bedroom, kitchen, bathroom and lounge / dining area. The support workers would work in shift patterns and they would provide support for the residents, such as support with cooking, maintaining the home and environmental / social support. The third bedroom would be a sensory room.

In this case, staff would not live in the property. The evidence indicates that they would offer support, care and assistance to occupiers of the dwelling-house. Shift patterns are proposed and hence there would be a turnover of different support staff from one day to another. As the carers would not be full time residents, they would not form part of a single household. The issue is, therefore, whether those that would receive care or support for learning and other difficulties would themselves constitute a single household. The residents would be receiving one to one care on a 24/7 basis so this suggests that the proposal would not therefore involve a proper functioning of a single household. The proposal would provide semi-independent living accommodation for the adults with learning difficulties who are unable to manage their own day-to-day living without a 24/7 care team. The degree of care and support that would overall be needed for individual residents, over a 24-hour shift period, is such that the proposed use could not reasonably be construed as being one that would involve a single household. Therefore the proposed use would not fall within Use Class C3(b) of the UCO but would amount to a use falling within Use Class C2 of the UCO. Consequently, the proposal would amount to a material change of use from Use Class C3(a) to Use Class C2 for which planning permission would be required.

The proposal would be removed from that of a single dwelling house and would therefore not remain within the C3 grouping and would therefore not be compliant with the Town and Country Planning (Use Classes Order) 1987 as amended.

KEY ISSUES/CONCLUSIONS

In light of the above it is the view of officers that the certificate be refused.

RECOMMENDATION:

It is recommended that a **Certificate of Lawfulness not be issued in this case** for the following reason(s)

1 Cert of Lawfulness - Reason for Refusal

The proposal would not fall within class C3(b) which covers up to six people living together as a single household receiving care. In particular the carers would not be residing within the dwelling and hence they would not form a household with those receiving care. Further the individual residents would be receiving one to one care which means they would not form a

household consequently the proposal would fall outside class C3 grouping and would therefore not be compliant with the Town and Country Planning (Use Classes Order) 1987 as amended.

Authorising Officer:

Habib Neshat

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4th December 2023