

Officer's Report

Application Number	HGY/2023/1207
Type	Lawful development: Proposed use
Location	8 Chalgrove Road, Tottenham, London, N17 0NP
Proposal	Certificate of Lawfulness for the proposed change of use from C3 to C3(b) (use as a dwelling house by not more than six residents living together as a single household, including a household where care is provided for residents)
Case Officer	Laina Levassor
Valid Date	04/05/2023
Applicant	Mr Baazi Abu
Agent	- Divi-Design Ltd

RECOMMENDATION

Refuse

RELEVANT LEGISLATION

The application has been made under section 192 of the Town and Country Planning Act 1990 and relevant amendments. This not a planning application but instead the applicant seeks confirmation that the proposed development is lawful.

The Town and Country Planning (Use Classes) (Amendment) Order 2005 (amended further in 2010) distinguishes a range of uses of buildings and specifically permits changes of use from one use to another within individual classes.

CONSIDERATIONS RELEVANT TO THE USE OF A PROPERTY AS C3(B)

Use Class C3 Dwellinghouses, is formed of three parts - C3(b) reading as:
Use as a dwelling house (whether or not as a sole or main residence) by — (b) not more than six residents living together as a single household where care is provided for residents.

Several interpretations of Use Class C3(b) have been heard at appeal since the division of the C3 Use Class however, it is generally held that whether a change of use is material or not, is a matter of fact and degree for the assessing planning authority to determine, having considered the individual facts of a case.

On this basis, the assertion of the Council is that in order to be considered as falling within the definition of Use Class C3(b), any such proposal should meet the following criteria:

- i. The carrying out of operations in order to facilitate C3(b) use, must not amount to a material change of use;
- ii. The operation of the premises should offer and afford to occupiers, the functionality of the council's definition of a 'single household';
- iii. The proposed use would include care provision (for not more than six residents), within this criterion.

Proposed Operations / Proposed Use:

First it is to be established whether the use as described in this submission fits the criteria held for use as C3(b) as described within the Order and whether the individual facts of the case meet the LPA assertion of this use class.

The use is described within the supporting statement as follows:

“We provide care and support to Domestic Abuse victims;

The proposed use of the home for 6 adults living together as a single household where care is provided for the individuals. They are looked after by a permanent occupant of the dwelling. This gives a total no more than 6 residents on site (including permanent occupant of dwelling).

Existing use as a single - family dwelling house and the proposed use for 6 adults living together as a single household, with care provided throughout the day and night by a permanent occupant of the dwelling. The permanent occupant of the dwelling (1 staff) would also share the communal facilities as part of the single household and would participate in domestic and leisure activities with the residents.

This is an application for an LDC to the effect that the use of the property as a dwelling house by not more than 6 residents living together as a single household, with 24 hour non - residents care (Class C3(b)), would not constitute development as defined in the Planning Acts, such that the proposed use could be carried on in the property without the need to apply for planning permission”.

Whether use as C3(b) dwelling would constitute or amount to a material change of use:

The change of use of land or buildings will require planning permission where it is considered the change would constitute a material change of use. There is no statutory definition of a ‘material change of use’ however, considerations are given to the significance of proposed changes and the resulting impact on the use of the building. Such considerations as to whether a material change of use is proposed, is determined on the individual merits of a case.

Consideration is given as to whether in order to be used as C3(b) works associated with such use are required which would externally alter the appearance of the building and whether the operation of the premises would differ to that of a dwelling, by means of increased coming and goings and disturbance not typically associated with a residential dwelling, as well as meeting the criteria for care provision for not more than 6 residents.

Floorplans provided show that the building would not change the form of its current layout – at GF is a living room, bedroom, bathroom, at FF is 2 x bedrooms and a bathroom. In offering access to a communal living space and kitchen, the layout is generally considered as typical of a family home where a ground floor room could be used as a bedroom. This does not however determine that the activity as a result of the use would not give rise to material change.

The applicant failed to provide elevation drawings which denote/reveal external alterations however the statement provided states “There are no internal or external alterations to the proposed to the building and as such the front, side and rear elevations of the host building remains unchanged”. The Council require the submission of a full set of plans, inclusive of elevations in order to establish whether or not there would be alterations,

The use is described as a situation where a 'permanent occupant' would serve as the main carer (a live-in member of staff) – with no more than 6 occupants on site – inferring there would be 5 other occupants – or in total - "6 adults living together as a single household".

The comings and goings of 6 adult occupants and any resultant disturbance is likely to depend on lifestyle and working patterns. In any situation where there are several adults residing in one property, it would be expected that residents would enter/exit the site at different times of day to other residents. This is considered alongside the fact that 6 adults, may be likely to receive visitors, also that the garden amenity space is to be accessed by all residents and their visitors which would lead to increased activity in excess of that of a typical family dwelling.

In addition to this, where there are adult occupants, the use could give rise to transport issues which are considered materially different to a normal dwelling. If each occupant were to be a car owner, parking provisions would be required in excess of that of a typical family home. This application does not detail parking provisions which satisfy the LPA the potential rise would not result in a material difference.

Whether the operation of the premises as C3(b) offers the functionality of a 'single household':

Communities and Local Government Circular 08/2010 (Department for Communities and Local Government) provides guidance as to the general scope of C3(b) stating these include 'provision for supported housing schemes, such as those for people with disabilities or mental health problems' – also recognising that in 'small residential care homes', staff and residents will 'probably not live as a single household'.

Within this circular, guidance on what constitutes a 'dwellinghouse' includes: 'buildings that ordinarily afford the facilities required for day to day private domestic existence' – 'where they are designed or adapted for residential purposes – containing the normal facilities for cooking, eating and sleeping associated with use as a dwellinghouse'.

It is generally accepted that the layout of the property offers the functionality and use of a 'dwellinghouse'.

The key element in the use of a dwelling house for 'non-family' purposes is the concept of a single household. It is considered that a premises can properly be regarded as being used a single dwelling house where they are used as a dwelling by a single person, a family or more than one person living together like a family, as a single household.

Circular No 13/87, issued contemporaneously with the 1987 Use Class Order states that the 'single household concept' may relate to small group homes which allow people to live as normal lives as possible in touch with the community, families or people living together under arrangements for providing care and support within the community and other groups of people who choose to live on a communal basis as a single household.

The Housing Act 2004 states that persons are to be regarded as not forming a 'Single Household' unless – They are all members of the same family and/or; Their circumstances are circumstances of a description specified for the purposes of the act, where each member of the group has a prescribed relationship, or at least one of a number of prescribed relationships, to any one or more of the others, as defined within the Act.

The submitted planning statement states that residents (and a live-in carer) would share communal facilities and participate in domestic and leisure activities – other than the provision of communal areas, the information provided does not support the notion that residents could be considered a 'single household'.

Whether care is provided, within the C3b criterion:

The application states that the use seeks to 'provide care and support to Domestic Abuse Victims'. Details of the proposed level or nature of the care provided for occupants of the site, nor details of the proposed occupants (such as ages, specific care needs etc) have not been included.

For a property to be registered for the provision of care, the Care Quality Commission requires the submission of a Statement of Purpose which sets out all the details needed to establish the use. This statement should normally be provided to the LPA where a C3(b) use is proposed; however the applicant has failed to provide a statement of any kind that would allow the nature of the proposed care to be assessed. No information has been provided to assure the LPA that an appropriate standard of care would be provided to the proposed occupants, in line with Class C3(b).

Other Matters

It is considered that the proposed floorplans/layout and internal configuration of the property do not match the proposal use as described.

The floorplans present a 3 bedroom property with the maximum extent, were the living room to be used as a bedroom, available as a 4 bedroom property – it would not be seen those 6 adult occupants, albeit those living as a single household, would be expected to share bedrooms or bed spaces.

SUMMARY AND CONCLUSION

For the reasons described above, the Council is not persuaded that the use proposed in the application falls within Class C3(b): not more than 6 residents living together as a single household where care is provided for residents.

Refusal Reasons:

The application does not demonstrate that the proposed change of use of the property would constitute a lawful change of use.