



Officer Report

Application Number:	HGY/2023/0688
Application Type:	Lawful development: Proposed use
Address:	60 Perth Road, Wood Green, London, N22 5QY
Proposal:	Certificate of lawfulness for proposed change in use class from C3(a) to C3(b), to provide accommodation for 'not more than six residents living together as a single household where care is provided for residents'.
Case Officer:	Nathan Keyte
Valid Date:	09/03/2023
Applicant:	Mr Derrick Darcy
Agent:	Mr Peter Ottery

RECOMMENDATION

Approve

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:

“supported living business where we support individuals for independent living.”

Within the draft contract for the lease of the site provided, the purpose and intended use of the property are described as:

- a) The property shall be used for the provision of supported living services;
- b) The target demographic for the supported living services shall be individuals with learning disabilities, autism, and challenging behavior;
- c) The maximum capacity of the Property shall be six individuals,
- d) Collaborative Care shall provide 24-hour care on-site to ensure the well-being and safety of the residents.

There is a nearby care facility run by the same company, at no. 47 Perth Road, granted Certificate of Lawfulness for existing use of the property as a care home within the C3(b) Use class for up to 6 residents under HGY/2020/0164 on 18.02.2020. The Planning Statement states that both properties can be run administratively from no. 47 Perth Road.

Officers note that the Applicant's Company Collaborative Care Ltd is registered with the Care Quality Commission (CQC) for the service of Supported Living, specialising in caring for adults under 65 years and with learning disabilities.

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 change to remove the individual kitchens from each bedroom. No external changes are proposed to the existing building.

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”. Five bedrooms are shown on the proposed floor plans, and the comings and goings are not anticipated to be to an extent that would qualify as a 'material change' in use, in particular considering that the use class of C3(b) falls within that of C3 Dwellinghouses.

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 spaces, and participate in domestic and leisure activities. A combined kitchen/ living area is shown on the ground floor, and which adjoins an outdoor garden area.

The occupiers will share the services of the live-in carer and will be under the care of a CQC organisation, registered for supporting those with learning difficulties, reinforcing the occupation of the property as a group of people living together, as opposed to individually. The draft lease agreement provided reinforces this, with the Purpose of Intended Use repeated below:

- A. The Property shall be used for the provision of supporting living services.
- B. The target demographic for the supporting living services shall be individuals with learning disabilities, autism, and challenging behaviour.
- C. The maximum capacity of the Property shall be six individuals.
- D. Collaborative Care shall provide 24-hour care on-site to ensure the well-being and safety of the residents.

Whether care is provided, within the C3b criterion:

The application has provided a draft lease agreement between the owner of the property and Collaborative Care Ltd. Collaborative Care Ltd is registered with the Care Quality Commission, which lists the business as caring for adults under 65 with learning disabilities. A review of the Collaborative Care Ltd website supports this, as does the wording of the draft lease agreement under 'Purpose and Intended Use' – the points of which are listed earlier in this report.

SUMMARY AND CONCLUSION

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