

Introduction

This planning statement has been prepared to support an application for a Lawful Development Certificate for the use of 8 Beldale Park, Kirkby Park, L32 2DE as a children's home for the care of one young person under the age of 18 years old, with 24-hour care provided by carers operating on a shift basis.

This statement should be read in conjunction with the submitted floor plans, application form and the two 1st Places supporting information documents, which together make up the Lawful development Certificate application.

Application Site

The application site is a semi-detached three-bedroom property. There is a driveway to the front and garden to the rear.

The area is residential in character. There are no parking restrictions on Beldale Park and there are bus stops and a train station within easy walking distance.

The Lawful Development Certificate Application

The application seeks to establish that the existing property can be used for the care of one young person under the age of 18, with 24-hour supervision, without the need for planning permission to be granted, on the basis that the proposed use is lawful.

For the avoidance of doubt, for applications such as this, the only matters that can be considered are whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in the application process.

Case Law

The relevant case law on the subject is North Devon D.C. v FSS [2003] EWHC 157 Admin. From this established case law, two points must be taken into account in relation to this application.

Firstly, there is no doubt that the proposed use would fall within the Town and Country Planning (Use Classes) Order 1987, as amended (UCO) of Class C2 (Residential Institutions), as the carers would not be classified as residents and could not therefore form part of the household.

Secondly, and in light of the first point, that a secondary assessment has to be made, to determine whether there is indeed a material change of use, based on the facts of the case.

One of the common errors that is sometimes made, is that decision makers often consider that a change of use based on the UCO automatically requires the benefit of planning permission. However, unless a change of use is material, it does not fall within the definition of development as set out in section 55(1) of the Act, as amended. Accordingly, in all cases, a 2-stage approach should be adopted.

The applicant contends that whilst there is a change of use based on the UCO, this proposal would not result in a material change of use and would therefore not fall within the definition of development as set out in S.55(1) of The Act, as amended.

Assessment

There is no dispute that the lawful use of the property, falls within Class C3 of UCO.

Similarly, it is accepted that the proposed use of the property as a children's home, falls within Use Class C2 - use for the provision of residential accommodation and care to people in need of care - as this is consistent with the North Devon decision.

The main issue therefore is whether, as a matter of fact and degree, the proposal would be likely to result in a material change of use, whereby, there is some significant difference in character from what has gone on previously or could go on at this property.

The existing property is a three-bedroom family house (see floorplans submitted with this application) with all the associated activity and vehicular movements to and from the property for work, shopping, school, social and recreational events along with visits by friends and family.

The proposal will involve one young person being looked after by carers, drawn from a small pool of staff assigned to the dwelling, operating on a shift basis (72 hour shift pattern) and supported by a Registered Manager. There would never be more than three members of staff (two carers and a manager) at the property during the day (9am to 5pm), and no more than two member of staff (two carers) present overnight. The carers would be directly responsible for the care and welfare of the young person, supporting them in their daily routine such as helping with meal preparation, taking the child to school and activities, assisting with homework etc. Any additional visits to the property, such as by a social worker or other professionals, would be extremely limited as keeping these 'formal' visits to a minimum is considered to be an important part of ensuring that the child feel as comfortable and as relaxed as possible within the home.

It is not considered that this overall level of activity would be any greater than that of a single household with visiting friends and family and trips to work, school, shopping and family activities.

The staff will be from a small pool and so they would be familiar faces. The relationship between the staff and the children will be different to a parent/child relationship, nevertheless the carers would cook, clean, ferry the child around and care for them, such that the difference would not be suitably noticeable or materially different from the existing pattern of activity at the property or that exhibited by a traditional family.

The site has an existing drive, and there is also plenty of unrestricted, street parking such that staff and limited visitors, likely to be present at any one time, can easily be accommodated without any impact on the immediate character of the area and with no noticeable difference between the proposed use and the existing use. There will be more carers present during shift change overs, but this will only be for a limited time – approximately 10 minutes - and will be limited to one changeover every three days due to the shift pattern. In addition, the changeover will take place at 10:00am to avoid the early rush hour.

No physical changes are proposed to the property such that it will retain the appearance of standard family home.

The level of activity, associated with the proposed use, would be comparable with that which might reasonably be expected to be generated by a single dwellinghouse occupied by a large family. On this basis, it is considered that the proposed change of use from C3 to C2 would be lawful, as it would not constitute a material change of use.

