Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/0756
17 Agate Lane, Horsham, West Sussex, RH12 4BE

DESCRIPTION:
Use of dwellinghouse as a children's home to accommodate 1 child with a 24/7 care team of 3 (Certificate of Lawful Development Proposed)

RELEVANT PLANNING HISTORY:
None relevant

SITE LOCATION & APPLICATION DESCRIPTION:
The application seeks a Certificate of lawfulness for use of a residential dwellinghouse as a residence for a child under 24/7 care. The application site lies to the south of Agate Lane.

PLANNING ASSESSMENT:
The main consideration is whether the proposed use would represent a material change of use constituting development as defined within Section 55 of the Town and Country Planning Act 1990.
Section 55(1) of the Town and Country Planning Act 1990 states that:

"Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means 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."

Section 55(2) of the Town and Country Planning Act 1990 furthers that certain operations or uses of land shall not be taken for the purposes of the Act to involve the development of land. This includes:

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which—
(i) affect only the interior of the building, or
(ii) do not materially affect the external appearance of the building, and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

…

(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.

Section 55(2) of the Town and Country Planning Act 1990 states that the use of buildings or other land for any other purpose within the same class does not constitute 'development'. The Planning assessment in the case of this application will be to establish as a matter of fact and degree, whether the proposed use would constitute a change of use from Class C3 to Class C2, or whether the use would remain within Class C3.

The question of whether a particular building is a dwellinghouse will therefore depend on the facts of that case. The criteria for determining whether the use of particular premises should be classified within the C use class include both the manner of the use and the physical condition of the premises. Premises can properly be regarded as being used as a single dwelling house where they are:

- A single self-contained unit of occupation which can be regarded as being a separate 'planning unit' distinct from any other part of the building containing them;
- Designed or adapted for residential purposes containing the normal facilities for cooking, eating and sleeping associated with use as a dwellinghouse.

The property is currently a single dwelling within Class C3 (a) of the Town and Country Planning (Use Classes) Order 1987 (as amended). Class C3 (b) of the Use Classes Order allows up to six people living together as a single household and receiving care, for example supported housing schemes for those with learning disabilities or mental health problems. The Town and Country Planning (Use Classes) Order 1987 defines 'care' as personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder. In small residential care homes or nursing homes with Class C2 staff and residents would not live as a single household, and the use would therefore fall into the residential institutions class regardless of the size of the home.

The information within the application indicates that the child who would reside within the application site would be in need of 24/7 care, and in this regard it is noted that any child would be in need of 24/7 care regardless of whether they had additional (care) requirements. Three members of staff would cover the 24/7 care in shift patterns and it is clear that these staff would not reside at the property as their primary residence. This is not though considered fundamental as to whether the use would constitute a single household. In this instance it is considered that the presence of a carer on the premises would represent the 'household', and it is not necessary for carers to live at the site in order for a household to be formed. The carer would be responsible for carrying out the daily functions which would be expected in a single household, with the small number of carers and the level of daily interaction administered to a child such that the use is considered to fall within Class C3(b) rather than a Class C2 residential institution.

It is therefore considered, as a matter of fact and degree, that the use of the dwellinghouse by no more than 6 people living together as a single household and where care is provided to a child would not constitute 'development' as set out in Section 55 of the Town and Country Planning Act 1990, as amended.

Recommendation: Application Permitted

Reason:

1 The use of the dwellinghouse by no more than 6 people living together as a single household and where care is provided to a child would not constitute 'development' as set out in Section 55 of the Town and Country Planning Act 1990, as amended.

Plans list for: DC/24/0756
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Location plan			15.05.2024
Block plan			16.05.2024

Supporting Statement		Planning statement	16.05.2024
Supporting Statement		WOODLANDS LETTING AGREEMENT	15.05.2024

DELEGATED

Case Officer sign/initial Hannah Darley Date: 10/07/2024

Authorising Officer sign/initial Guy Everest Date: 30.07.2024