Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/24/0035
33 Stanford Orchard, Warnham, West Sussex, RH12 3RF

DESCRIPTION:

Application to confirm use of flat as Sheltered Residential Accommodation (Lawful Development Certificate – Proposed)

RELEVANT PLANNING HISTORY:

WN/57/87	Erection of 33 sheltered residential units consisting of 12 x 2 bed houses, 12 x 2 bed flats.8 x 1 bed flats. 1 warden flat & garages	Application Permitted on 12.07.1988

SITE LOCATION & APPLICATION DESCRIPTION

The application site comprises Stanford Orchard, which is a retirement scheme that comprises 33 Sheltered Residential Units including 1no. flat which is identified as a Warden Flat. The sheltered residential development comprises a mix of both houses and flats, constructed in late 1980s. The site is not within a conservation area and there are no Article 4 Directions covering the site.

The application seeks to confirm the use of the Warden Flat as Sheltered Residential Accommodation.

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.

Applicant's Case

The Applicant has submitted a Planning Statement which outlines that the purpose of the Certificate of Lawful Development Proposed is for the use of the Warden's Flat known as Flat 33, Stanford Orchard, Warnham as a sheltered residential unit. The proposed change of use/conversion is solely of an internal nature and relates only to the use of the property. There are no changes to the elevations or alterations to the existing floor layouts. The Planning Statement continues that there are no restrictions in the original planning permission reference WN/57/87, where no conditions were imposed to restrict the number of sheltered residential units or restrict the use of the Wardens Flat. In addition, there is no known s106 Agreement limiting or defining the same.

The Planning Statement outlines that the development at Stanford Orchard (of which the subject unit forms part) is considered to fall under Use Class C2 Residential Institution. The Warden Flat is considered to be ancillary to the wider C2 residential use of the site, where the Planning Statement outlines that the proposed use would not be deemed to amount to a material change of use. The Planning Statement concludes that in the absence of any planning condition or obligations restricting the use of the Wardens Flat, the use of this unit for sheltered residential accommodation would be considered lawful.

Discussion

Planning permission reference WN/57/87 related to the "erection of 33 sheltered residential units consisting of 12 x 2 bed houses; 12 x 2 bed flats; 8 x 1 bed flats, 1 x warden flat and garages. Planning permission was approved on 12.07.1988 and was subject of a number of conditions relating to the submission of details for materials and finishes; landscaping; screen walls and fences; hours of working; access and parking facilities; surface water drainage; visibility splays; wheel washing facilities; and parking and storage provision during the construction phase. Conditions were also imposed restricting extensions and alterations to to the building without express planning consent and restricting the installation of external radio, TV aerial and satellite dishes.

No conditions were imposed on the planning permission to limit the number of sheltered housing units, nor define the use class of the sheltered housing units and/or warden accommodation. In addition, there is no s106 agreement limiting the same.

The proposal seeks to confirm that the use of the Warden Flat as an additional sheltered residential unit would not represent development.

The Warden Flat forms part of the development approved under reference WN/57/87 providing residential accommodation to support the principal use of the building as sheltered residential accommodation. This residential unit forms part of the planning unit of Stanford Orchard and is not considered to be a separate planning unit independent of the wider site. It is therefore considered that the Warden Flat is ancillary to the principal use and falls within Use Class C2.

There are no restrictions in the use or occupation of the Warden Flat, with the residential unit considered to fall within the same use class. There are no proposed external changes to the property, with the change of use solely of an internal nature relating to the use of the building.

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 use of the Warden Flat for the purpose of sheltered residential accommodation would be considered to fall within the same use class (C2 Residential Institution) and in accordance with s55(2) of the Town and Country Planning Act 1990 would not be deemed to represent 'development'. The use of the Warden Flat as proposed would therefore be considered to be lawful.

Other Matters

It is noted that 8 letters of representation have been received raising concerns with regard to the lease of the estate which outlines that an estate manager lives in one of the flats. The loss of this estate manager accommodation would affect the residents. Additional comments have been provided regarding the impact on nearby buildings of historic interest and on neighbour amenity.

The points raised relate to issues outside of consideration of the Certificate of Lawful Development, so whilst these are noted, they are not material in the determination of the LDC.

Conclusion

The proposal does not represent a material change of use constituting development and as such the Lawful Development Certificate should be issued.

Recommendation: Application Permitted

Reason:

1 The use of the Warden Flat (as outlined in red on the approved plan) for the purpose of sheltered residential accommodation does not represent development under Section 55 of the Town and Country Planning Act 1990.

DELEGATED

Case Officer sign/initial Bethan Tinning Date: 06.03.2024

Authorising Officer sign/initial Tamara Dale Date: 13.03.2024