

REPORT FROM: ASSISTANT DIRECTOR, PLANNING, BUILDING CONTROL
AND REGULATORY SERVICES

TO: COLNE AND DISTRICT COMMITTEE

DATE: 5TH OCTOBER 2023

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO COLNE AND DISTRICT COMMITTEE 5TH OCTOBER 2023

Application Ref: 23/0559/CEA

Proposal: Certificate of Lawful Development (S.192 Proposed Development): Proposed use of dwelling (Use Class C3) to provide care and support for 2 no. young persons (Use Class C2).

At: Hey Fold Barn, County Brook Lane, Foulridge

On Behalf of: First Blue Healthcare

Date Registered: 14/08/2023

Expiry Date: 09/10/2023

Case Officer: Laura Barnes

Site Description and Proposal

The application site is a four bedroom dwelling, accessed off County Brook Lane.

This application is for a Lawful Development Certificate for the proposed use of the dwelling as a home to provide care for up to two children.

This application seeks to establish that the existing and proposed uses both fall within Use Class C3 (dwelling house) and as such the proposed use does not represent a material change of use requiring planning permission.

Planning History

23/0357/CEA: Certificate of Lawful Development (S.192 Proposed Development): Proposed use of dwelling (Use Class C3) to provide care and support for 2 no. young persons (Use Class C2).
Refused

Consultee Comments

None relevant

Public Response

Multiple members of the public have objected to the certificate on the following grounds:

- This would be the second home within this hamlet
- Traffic disruption
- The company are reluctant to share their ofsted reports, which raises concerns
- There are a number of visitors, including family members
- Incorrect information in the statements
- Children do not attend mainstream school
- Anti-social behaviour of the individuals living at the property
- Sense of community will be lost, amongst residents

- There have been a number of incidents over the last few years, which have required the police to attend
- Location Plan is incorrect – it includes land which is not belonging to the applicant
- Isolated location
- The current landlord has control over the type of individual that is accommodated in the current facility. They intend to move so this would not be the case going forward

Officer Comments

The consideration in determining this Lawful Development Certificate is whether the use proposed would constitute a material change of use requiring planning permission. The benefits or desirability of having the facility there are not relevant to this application and cannot be considered as part of the determination. The sole issue is whether the use proposed would or would not be lawful.

The C3 and C2 uses are in separate parts of the use Classes Order. However the courts have effectively said that where a C3 and a C2 use are indistinguishable from each other no material change of use takes place. It is the phrase material which is important in considering these applications. There is case law surrounding the type of use proposed. Although the uses C2 and C3 are in separate use classes, the courts have in effect concluded that no change of use would occur if the nature and character of the use of the premises is indiscernible between the two uses.

The residential property is lawful to be used as a house under Class C3

The onus is on the applicant to provide sufficient information to be able to prove that a certificate should be issued. The applicant has put together a statement which sets out their operational procedures, they have supplemented this with “additional supporting information”. They have included information about the age range of the children who would be receiving care at the facility. They have also set out the typical pattern for education, weekend activities and health care / additional learning requirements which the children may need. Their statement sets out that First Blue, the applicant, has a team which consists of: a registered manager, a deputy manager, team leaders and residential support workers. The statement sets out that there will be six staff employed by the home in addition to one manager. The staff will work on a shift rota on a 24 hour basis, so that there would be two staff at the home at any one time. There would be a maximum of two children on site living in the unit. The statement also sets out that children would be expected to attend mainstream school and the manager’s shift patterns would be set up around school hours.

Having two staff and two children on site during a 24 hour period would be no different to parents and two children living in a house.

The applicant has provided details surrounding the working patterns of the staff and the numbers of staff that would be on site with the children. Up to two children would live at the house at any one time, with two staff members accompanying them. This would not be the main residence for any of the staff. Given that there are to be two staff members this would effectively be the same as a mum & dad looking after children in a typical family setting. Although it is acknowledged that there would be a change over of staff at certain hours, this would be at a set time each day and would be similar to a parent taking a child to school or setting off to work. It would not result in a discernible difference from that of a C3 Use Class.

There is another care home for children adjacent to the application site which was also granted under a certificate of lawful development (20/0093/CEA). Unless they operated together the existence of another similar unit has no bearing on the characteristics of the use of this house.

The applicant stated that these two properties would operate independently and would not share staff etc. The circumstances of neighbouring properties would not have a bearing upon the current application.

Comments have been made about antisocial behaviour of future occupants. There is no evidence that this would occur with two children living at the property. The property is not to be used as a detention centre but as a home for 2 disadvantaged children. Comments relating to the isolated position of the property and the loss of sense of community are not material matters that are relevant to the consideration of whether the use would or would not be lawful and should not be considered.

On the balance of probabilities, the proposed use would not result in a material change of use from the Use Class C3.

Other Matters

Some comments have been received that the red edge on the Location Plan does not accurately indicate a ginnel and part of a wall which has been removed, where there is a right of way for landowners to inspect the spring water supply. The issues raised are of ownership and rights of access, rather than land use planning. As such, they are not a material consideration in the determination of this Certificate of Lawfulness.

Reason for Decision

On the balance of probabilities and in accordance with the submitted details the proposed use would not constitute a material change of use requiring planning permission.

RECOMMENDATION: Approve lawful development certificate

Application Ref: 23/0559/CEA

Proposal: Certificate of Lawful Development (S.192 Proposed Development): Proposed use of dwelling (Use Class C3) to provide care and support for 2 no. young persons (Use Class C2).

At: Hey Fold Barn, County Brook Lane, Foulridge

On Behalf of: First Blue Healthcare

REPORT TO COLNE AND DISTRICT COMMITTEE 5th OCTOBER 2023

Application Ref: 23/0569/HHO

Proposal: Full: Erection of dormers to front roof slopes.

At 57 Knotts Lane, Colne.

On behalf of: Mr Isaac Wilson.

Date Registered: 22/08/2023

Expiry Date: 17/10/2023

Case Officer: Joanne Naylor

This application has been brought before committee at the request of a Councillor.

Site Description and Proposal

The application site is a mid-terrace house located within the settlement boundary of Colne. The dwelling house has natural stone walls with a pitched natural slate roof, to the front roof slope a dormer has been erected without planning permission. To the rear of the property there is a single storey extension and a two storey outrigger, to the rear roof slope a dormer has been erected which extends the width of the property, it has a flat roof and natural slate tiles to the walls, and two windows.

The proposal is for a retrospective dormer to the front roof slope, it would have a flat roof and natural slate tiles to the cheeks and wall of the front dormer.

This planning application is retrospective.

Relevant Planning History

None relevant.

Consultee Response

LCC Highways

LCC Highways raise no objection to the front dormer, the development increases the number of bedrooms from four to five. At this terrace row off-road parking is not possible. The highway authority considers the development would not have a significant impact on highway safety or capacity in the immediate vicinity.

Parish/Town Council No comments received at the time of writing this report.

Public Response

The nearest neighbours have been notified by letter. No responses received.

Relevant Planning Policy

Pendle Local Plan Part 1: Core Strategy

Policy SDP1 takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum.

Policy ENV2 identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings.

Saved Policy 31 of the Replacement Pendle Local Plan sets out the maximum parking standards for development.

National Planning Policy Framework

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Paragraph 134 of the Framework states that poor design should be refused where it fails to reflect local design policies.

The Design Principles Supplementary Planning Document (SPD) applies to extensions and sets out the aspects required for good design.

Officer Comments

The main considerations for this application are the design and materials, residential amenity, and highways.

Design and Materials

The Design Principles SPD advises that dormers should be set below the ridgeline of the original roof by 0.2m, set back by at least 1m from the front elevation, and 0.5m from either side to avoid an overbearing effect and to have materials matching the existing roof. In addition, dormers on the front of a roof slope will not normally be acceptable unless they are a feature of other similar houses in the locality (e.g. where at least 25% of properties have front dormers in a terrace block/frontage). In this area front and rear dormers are not characteristic. The design of the front dormer would not be set in by 0.5m, would not be set back from the front elevation by 1m, and would be marginally set down from the ridgeline. The proposed dormer would appear overbearing on the front roof slope. The proposed dormer would have a flat roof located on the front roof slope where it is clearly visible from public vantage points, the Design Principles SPD clearly states that flat roof front dormers will not be acceptable. The proposed dormer would dominate the roof slope and be overbearing and have an unacceptable visual appearance on the dwelling house. The proposed material of natural slate tiles to the cheeks and walls of the front dormer and a GRP flat roof.

The Design Principles SPD advises that front dormers with flat roofs are not acceptable. The proposed dormers would dominate the roof slope resulting in an overbearing effect and the property appearing unbalanced and would be poor design.

The proposed dormer would be overbearing and poor design which would cause unacceptable harm to the character and visual amenity of the area contrary to Policy ENV2, Paragraph 134 of the Framework, and the Design Principles SPD.

Residential Amenity

The proposed front dormer would have two windows to the front elevation at second floor level. Although the Design Principles SPD requires a distance of 21m between habitable room windows facing each other, there is an existing relationship already, and the development does not detrimentally impact on those dwellings over and above existing conditions. The relationship across the public highway is also acceptable.

In terms of, the proposed dormer would have no unacceptable impact on residential amenity and would comply with Policy ENV2 and the Design Principles Supplementary Planning Document.

Highways

The proposal would increase the number of bedrooms from four to five. LCC Highways raise no objection to the front dormer and acknowledges the compromised parking that it wouldn't have a significant impact on highways amenity in the immediate vicinity.

RECOMMENDATION: Refuse

1. The proposed dormer would be incongruous and out of keeping with its surroundings and would represent poor design. This would result in unacceptable harm to the character and visual amenity of the area and would result in poor design. The proposal would be contrary to Policy ENV2 of the Local Plan Part 1: Core Strategy, Paragraph 134 of the Framework, and Design Principles Supplementary Planning Document.

Further Recommendation

The application has been made in retrospect. The development harms the character of the area and is not acceptable. Taking enforcement action would interfere with the Human Rights of the occupants under Article 8 of the human Rights Act as it would interfere with the enjoyment of their property.

That has to be balanced with the public interest which is to safeguard the appearance of our towns where poor design is nationally unacceptable.

The development has been undertaken unlawfully and as such less weight should be given to the Human Rights of the occupants basis of the unlawful nature of the development.

Overall taking enforcement action, and noting there is a right of appeal against any notice, would be proportionate and in the public interest and it is recommended that an enforcement notice is serve to require removal of the dormer.

LIST OF BACKGROUND PAPERS

Planning Applications

NPW/MP

Date: 11th September 2023