

BOARDMAN PLANNING LTD.

SUPPORTING STATEMENT

42 Aberfan Road, Aberfan, Merthyr Tydfil, CF48 4QL

November 2024

Disclaimer: *This report has been prepared for the use of NEXTGEN Pathways and may not be relied upon by any other party.*

INTRODUCTION

- 1.1 This certificate of lawfulness application is prepared on behalf of NEXTGEN Pathways and seeks confirmation that the use of the dwelling, at 42 Aberfan Road, Aberfan, as a children homes does not constitute a change of use from a C3 use class and, therefore, permission is not required.
- 1.2 This document will describe the proposed use and outline the relevant case law which supports the certificate application.
- 1.6 To clarify, no external works are proposed. Minimal internal works will be undertaken to introduce fire measures but these works will not change the internal configuration of the property and do not require planning permission.
- 1.5 The application is accompanied by the following information:
 - Application Forms;
 - Site Location Plan;
 - Existing Floor Plans; and
 - Proposed Floor Plans.

SITE CONTEXT

- 2.1 The property is 3no. bedroom semi-detached dwelling located on Aberfan Road, Aberfan. The property fronts directly onto Aberfan Road with no front curtilage area. The property has an enclosed garden to the rear.
- 2.2 Pedestrian access to the property is achieved off Aberfan Road. The property also has access to the rear off a vehicular lane, however, the property has no dedicated off-street parking provision. Car parking is available on street.
- 2.3 The site is current a C3 dwelling house

PROPOSED USE

- 3.1 The proposed use of the property is a children's home. It is acknowledged that children are not capable of forming a household and, therefore, the use of a property for such a purpose would typically falls outside of a C3 use and to be considered a C2 use. Despite this, case law advises that a change of use only occurs if there is a material change of use. 'Development' in planning terms, therefore, only occurs if the use of the property as a children's home is materially different than the existing C3 use. This section will outline the proposed use and describe how it operates in the same manner as a C3 dwelling.
- 3.2 The proposed use requires no physical external changes and minimal internal alterations to achieve fire safety. The existing property is laid out as a typical dwelling house. The layout includes a living room, kitchen and bathroom at ground floor level and 3no. bedrooms on the first floor. Bedrooms will be lockable for security purposes but staff will hold keys and be able to enter the rooms when needed. The care provider has confirmed that it is highly unusual for the child to lock their doors and they are seldom used in practice. Despite this, it is extremely common for households to have locks on bedrooms. A lock on a bedroom door itself is not indicative of a change of use and this is confirmed in case law, including Nottinghamshire DS. 200-004-885. The proposed dwelling is laid out as a typical C3 dwelling.
- 3.3 Due to the size of the property, it is only suitable for to accommodate a maximum of 1no. child and 2no. carers. Staff working patterns will be:
- Staff will work 48 hour shifts. For example, 2no. staff starting 8am on Monday until 8am on a Wednesday, this shift pattern will then be repeated (i.e. 8am Wednesday to 8am Friday, and so on). Each shift will have a shift leader who will stay for approximately 15 mins at the end of their shifts to handover to the relieving staff.

- 3.4 Staff will park on Aberfan Road which is available for on street parking. The maximum number of cars at the property will be limited to 2no. cars which is similar to the level of cars associated with its use as a family home.
- 3.5 The child and carers will take all meals together and tasks around the property will be shared out appropriately between the child and staff (providing the child is age appropriate to carry out tasks within the property). The child will attend the local school and be transported to school either by carer or by public school transport, depending on age of the child and their ability to travel to school unaccompanied by a carer.
- 3.6 The child will be housed at the property due to them not being able to live with their biological families. The child placed in the house will not have additional care or special needs. The child may, due to their backgrounds, have additional emotional needs but this would not require specialist care to be provided within the property. They will not require third party interventions. The child will, however, require routine appointments and these will take place outside of the property, for example, dentist, doctors, etc.
- 3.7 The child placed in the home will stay on a long term basis and likely to be in excess of 18 months. The Care Provider has confirmed that the process of accepting children to the home is via referrals from Social Services and these referrals will be noted as either short term or long term. The care provider will only accept children with a long term placement need since the facility is not to provide interim care but a stable home. The ability for the care provider to select only long term placements can be checked with Social Services. The purpose of the home, as stated above, is to create a normal family environment. A referral process will be formed which again will outline the need to take

long term placements only. Prior to any referrals being accepted the care provider will see a copy of the care plan from the local authority, this is standard practice and required under Care Planning Regulations 2010. There will be no emergency placements and a thorough referral process will be followed to ensure the child is not only suitable for the home but compatible with the services provided by the care provider. The aim is to create a homely environment for the child to grow up in with the long term goal for the child to be capable of living independently as an adult or, in some cases, return home. As such, the stability of the group at the household would be maintained and consistent.

3.8 Staff will support the child in their routine during the days and will sleep during the night. The proposed routine will be a typical daily routine including:

- Breakfast at the property;
- School;
- After school activities (if applicable)'
- Evening meal; and
- Bedtime routine.

3.9 During the weekends, the child will have typical hobbies, parties or other standard childhood activities.

3.10 The property will have a small office in one of the bedrooms whereby paperwork will be stored and staff will carry out administrations tasks associated with the home. This will include tasks such as payments of bills, utilities, child's appointments. The office will also be used to administer the running of the home and the paperwork associated with this including staff rota, etc.

- 3.11 The property will not require or be allowed to have a formal medication store (i.e. cooled, locked, etc.) and medication will not be administered on site by staff. There will be a first aid box with over the counter medicines (may include calpol, paracetamol, etc) and this will be kept out of reach of the child. This is typical for any household.
- 3.12 The maximum persons at the dwelling will be a child and up to 2no. adults. This is a typical size of family which you expect to live in the dwelling house subject to this certificate application. The activities that will be undertaken by the child and staff will reflect the typical activities which a family would carry out and will be almost identical to that of a family. The operation of the property will not be materially different to the existing C3 use. Indeed, it is unlikely the operation of the property as a children's home would be noticeable to those unaware of the use.

Case Law

- 3.13 There is a large body of case law which confirms that children's homes which operate similarly to a C3 dwellinghouse do not result in a material change of use and, therefore, it is appropriate for a Certificate of Lawfulness to be issued.
- 3.14 An appeal decision where the facts were similar to this case is Wolverhampton (15/09/2006 DCS No 100-044-775). This case involved a dwelling house which was used as a children home for 3no. children with emotional and behavioural difficulties (please note, in this case the children will not have specialist needs). The property was three bedrooms and was occupied by children between 10 and 16. Care would be provided on a 24-hour basis with staff being rotated in shifts of eight hours each. The children would, where appropriate, attend schools in the area and would also be visited by therapists from time to time. The inspector decided that the use did not strictly fall within Class3(b) of the Use Classes Order because the children would require care and could not in the true sense be regarded as living together as

a household because the carers would not live within them, being rotated every eight hours on a shift system. The Inspector stated, however, that this did not mean that planning permission was required and that it was also necessary to assess whether in planning terms the use triggered a material change in the use of the premises. He noted that the children would occupy the premises for between six months and two years, the day-to-day activity associated with the use would be similar to that of a dwellinghouse and traffic/pedestrian movements associated were typical of a C3 use. He also noted that the maximum number of cars at any one time associated with employees would be three and this was similar to a dwelling house. The Inspector concluded that this would not be materially different from its use as a dwelling issued a LDC. The facts of this case are similar to those included within this certificate, albeit, the number of children is less and will not have specialist care needs and third party appointments (for example, therapists) will not be ordinarily be required.

- 3.15 A enforcement appeal known as Fenland 20/10/2000 DCS No 036-592-653 is also relevant to this case. In Fenland, the property to was used to care for up to three children who were cared for by between two and three members of staff. There were no substantial alterations to the interior or exterior of the building required to facilitate the use. Staff associated with the use worked in shifts the coming and goings were no different from that associated with many dwellinghouses. The Inspector noted that, in accordance with the judgment in *R v Bromley L.B.C. ex parte Sinclair [1991]*, the fact that carers did not sleep in the building, did not alter the nature of the use. Nor was the that fact that staff were paid prevented the premises from being considered as a single household. The enforcement notice alleging that a dwellinghouse was in use as a children's home was quashed and the use not deemed to be a change of use.

3.16 Crewe and Nantwich 24/04/2006 DCS No 100-042-095 is also a similar case. In Crewe and Nantwich, an inspector considered the use of a dwellinghouse as a children's home, concluding that it would not involve a material change in the use of the premises. The appellants proposed to use the property to house four children between the ages of 11 and 17 years who would be cared for by a minimum of two carers who would operate an 8 hour rota system. It was confirmed the use fell within Class C2 (residential institutions) of the Use Classes Order in contrast with the existing use which fell within Class C3. The matter for the Inspector to consider was whether the proposed Class C2 use would be materially different from its lawful use as a dwellinghouse. In this case, the main issues the Inspector considered was whether the lack of any carers living within the property materially changed the character of the property as a dwellinghouse. The Inspector concluded that the although the carers, when visiting the site, would increase the number of comings and goings, this would not disturb local residents or affect the character of the area. In this case, it was also noted that although local residents were fearful about the children committing anti-social acts or increasing crime levels, this behaviour was not inherent in the character of a children's care home. He concluded on this point that the proposed use of the property would have an adverse impact upon the local community and welfare services and would not affect its character. Whilst this case is similar to the proposal subject to this application, the staff movements will be restricted given the long shift patterns proposed, thus further limiting the impact of traffic movements. Additionally, the number of children is far less thus further limiting the activity at the property.

3.17 It was also noted in Crewe and Nantwich, that the property would be fitted with an office and fire alarm. The Inspector concluded that this was not uncommon and many dwellinghouses around the country had

such features and these factors would not materially alter the basic character as a dwellinghouse. The Inspector also noted that children at the home would have to obey a set of written rules but in his view it was not uncommon for a family to have its own set of unwritten rules and simply committing them to writing did not change its character. In this case the certificate was granted.

3.18 The case law on this subject is clear in advising that a children's homes within dwellinghouses that operate similarly do not trigger a change of use despite them typically being considered a C2 use. In this case, the proposed use is similar in operation to a C3 dwellinghouse and, therefore, would not result in a material change of use outside of the C3 use class.

3.19 This statement has provided detailed information regarding the operation and the case law position. The applicant, if needed, can provide further information if required to assist the Local Planning Authority in reaching their decision.

CONCLUSION

4.1 This application is for a certificate of lawfulness for the proposed use of 42 Aberfan Road, Aberfan as a children's home has been prepared on behalf of Mason & Young Property Investments Limited.

4.2 It has been evidenced throughout this that the proposed use will not result in a material change of use from a C3 dwellinghouse.

4.3 It is respectfully requested the Certificate of Lawfulness for the proposed use is granted.

