

## **DELEGATED OFFICER REPORT**



**WOKINGHAM**  
**BOROUGH COUNCIL**

|                                                                                                                                                                                                                                                                           |                                                 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| <b>Application Number:</b>                                                                                                                                                                                                                                                | 251628                                          |
| <b>Site Address:</b>                                                                                                                                                                                                                                                      | 595 Reading Road, Winnersh, Wokingham, RG41 5HQ |
| <b>Expiry Date:</b>                                                                                                                                                                                                                                                       | 19 February 2026                                |
| <b>Proposal:</b> Application for a certificate of lawfulness for the proposed change of use of the property from C3 to C2 for use as home as a residential institution for a maximum of 4 children, with associated operational development comprising 2no. side dormers. |                                                 |

### **Planning History**

| Application No. | Proposal                                                                                                              | Decision Date | Decision | Relevant Conditions |
|-----------------|-----------------------------------------------------------------------------------------------------------------------|---------------|----------|---------------------|
| 141718          | Proposed erection of single storey side extension to dwelling.                                                        | 22/06/2014    | C/A      | None                |
| 971534          | Proposed Front Dormer Extension To Dwelling (Revision To Approval 96/63537/F)                                         | 16/12/1997    | C/A      | None                |
| 960666          | Proposed Increased Roof Height With First Floor Rear Extension Loft Conversion And Dormer Window To front of dwelling | 24/04/1996    | C/A      | None                |
| 42818           | Detached garage                                                                                                       | 07/07/1994    | C/A      | None                |

### **APPRAISAL**

**Context:** The existing site comprises a modest bungalow situated within a residential area, with hardstanding parking area to the front and typical residential private amenity space to the rear. The property sits on a road of other residential properties.

The proposal comprises two components:

- To establish that planning permission is not required for the change of use from C3 to C2.
- The establish that the construction of 2no. dormers fall within the remit of permitted development.

It should be noted at this stage that a submission of this type is generally supported by a detailed statement explaining the intended operations of the C2 use and why this would not result in a material change of use and thus does not require planning permission. Despite regular requests for further information, no such statement has been provided. To date, the only relevant information the LPA have been provided is the following extract from the Planning Agent:

*“Also, the property is a residential property and being remodelled to create 4 Bed HMO style accommodation and 1 Office/Bedroom for carer. It is to support resident's some of whom may have health issues / disabilities.*

*The application was put in not for a change of use, but primarily because of the dormer construction. We would not necessarily need a Full Application considering the no of bedrooms we are providing."*

#### **Assessment:**

##### Use

The Agent has referred to both C2 and a small HMO C4 which differ. Use Class C2 applies to residential institutions where people live communally under care, supervision or within a managed institutional setting, such as care homes or supported accommodation with onsite support. In contrast, a small HMO (Use Class C4) is for shared housing occupied by three to six unrelated individuals who live independently and share basic facilities, with no care or institutional oversight. The key distinction is that C2 involves residents who require care or structured supervision, whereas C4 involves independent living by unrelated adults in a domestic setting. There is lack of clarity as to what is being applied for therefore a full assessment cannot be made. Based on the description of development C2 is sought; however the justification relates to an HMO use. However the below assessment is made predominantly based on the application form which identifies a C2 use.

The first matter to determine is the Use Class of the proposal and whether this falls within a C3 or a C2 use. It has been established by case law that where care is provided and this is not the main residence of the carers, the use falls within C2. This is not a matter up for debate in this instance, with the applicant confirming the proposed use of the property would fall into a C2.

The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) does not generally allow a permitted change from a C3 to a C2 use class.

It is therefore assumed, although not made explicitly clear from the submission or subsequent correspondence, that the application has been made on the basis that the proposal does not constitute development. 'Development' is defined in section 55(1) of the Town and Country Planning Act 1990 (1990 Act) as including 'the making of any material change in the use of any building or other land'. It therefore follows that if a change of use is not a 'material' change of use then it would not constitute 'development' and could be lawful due to the provisions set out in 191(2) of the 1990 Act.

Relevant to this matters, an Inspector's decision (APP/K5600/X/16/3146855 and APP/K5600/W/16/3146856) set out the application of principles regarding whether a material change of use had occurred, based on the judgment (R (oao) The Royal Borough of Kensington and Chelsea v (1) SSCLG (2) David Reis (3) Gianna Tong [2016] EWHC 1785 (Admin)). The appeal decision stated that the following factors (*inter alia*) should also be taken into account when determining whether a material change would occur:

- *The extent to which an existing use fulfils a proper planning purpose is relevant in deciding whether a change from that use would amount to a material change of use. Thus, the need for a land use, such as housing or a type of housing in a*

*particular area is a planning purpose which relates to the character of the use of land;*

- *Whether the loss of an existing use would have a significant planning consequence(s), even where there would be no amenity or environmental impact, is relevant to an assessment of whether a change from that use would represent a material change of use;*

The difference in use class C3 and C2 fulfils a proper planning purpose, in particular by calculating and addressing housing land supply requirements, the types of housing required and for whom. This is key function of the planning system set out in section 5 of the NPPF. Therefore, the change between C2 and C3 is not inconsequential for strategic planning and housing delivery. It highlights that there is crucial and legitimate planning purpose for a separate C2 and C3 Use Class and the different uses would materially affect the character of the use of land.

Whether the use is subject to different policies is also an indicator of whether a change of use has occurred. Policy TB09 refers specifically to care homes, and this is not applicable to C3 dwellings. C2 accommodation is also calculated differently for housing land supply purposes and impacts the boroughs housing stock. The loss of C3 dwelling is also contrary to Core Strategy policy CP3.

Applying for different C Use Classes would also cause a decision maker to give weight to that particular use based on the need for it. For example, a lack of care homes bed spaces may give rise to a decision maker giving greater weight to such a use than a C3 dwellinghouse.

Referring back to the appeal decision and judgement above, it is clear that there is a material difference in character between the existing C3 dwelling and the C2 Care Home use proposed. It is important to note that one of the principles highlighted states that *'even where there would be no amenity or environmental impact, is relevant to an assessment of whether a change from that use would represent a material change of use'*. Therefore, even if there are no additional environment impacts as a result of the proposal, a material change of use can occur.

It is further highlighted in the *Sage v Secretary of State for Housing, Local Government and Communities [2021] Judgement*, that treating environmental impacts as a crucial issue when determining whether a change of use would occur is not consistent with established law. The judgment states:

*'a material change of use can be made without any adverse environmental impact at all. Treating environmental impact as the seemingly crucial issue for the judgment as to whether a material change of use has occurred, or a purpose is reasonably incidental is not consistent with clearly established law. The crucial test is whether there has been change in the character of the use. Environmental impact can be relevant as evidence that a material change has occurred, because a use of the new character may be capable of yielding environmental impacts or have done so already. The Guidance [PPG] as written is apt to mislead as to what the real question is, and as to the true but limited relevance of environmental impact.'*

Ultimately, in accordance with all the above, a change of use from C3 to C2 is generally considered development as defined within section 55 of the 1990 Act. Whilst it is accepted that there may be circumstances that could warrant this not being the case, the lack of information to support this argument restricts the LPA from being able to make an assessment on this basis.

The application fails to provide sufficient or consistent information to allow the Local Planning Authority to determine the proposed use of the property. The submission and subsequent correspondence refer both to Use Class C2 and to a small HMO falling within Use Class C4, which are materially different uses. As the justification provided relates to an HMO use, but the description of development implies C2, it is unclear which use class is sought.

Due to this lack of clarity, the LPA is unable to establish whether the proposal constitutes a material change of use from the existing C3 dwelling or whether it is claimed that no development would occur. Case law confirms that a change between C3 and C2 normally results in a material change of use due to the differing planning purposes and implications for housing supply and policy. In the absence of clear information to demonstrate otherwise, the proposal is considered to result in a material change in the character of the use of the land for which planning permission is required.

### Operational Development

The 2no. dormers proposed have been assessed against the following relevant criteria:

|                        |    |                                                                                                                                                                                                                            | Yes | No |
|------------------------|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|
| s.55                   | 1  | Does it constitute development?                                                                                                                                                                                            | ✓   |    |
| s.191                  | 2  | Would it be contrary to an enforcement notice?                                                                                                                                                                             |     | ✓  |
| s.187a<br>Art.3<br>(4) | 3  | Would it be contrary to any condition imposed by any planning permission granted or deemed to be granted?                                                                                                                  |     | ✓  |
| Art.3<br>(5)           | 4  | Are the building operations involved in the construction of the original building lawful?                                                                                                                                  | ✓   |    |
| Art.4                  | 5  | Is there an 'Article 4 Direction' in effect for the site?                                                                                                                                                                  |     | ✓  |
| Sch.2<br>Pt. 1<br>B    | 6  | Does it consist of the enlargement of a dwellinghouse by addition or alteration to its roof?                                                                                                                               | ✓   |    |
| B.1(a)                 | 7  | Has permission to use the dwellinghouse as a dwellinghouse been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use)?                                                                  |     | ✓  |
| B.1(b)                 | 8  | Would any part of the dwellinghouse, as a result of the works, exceed the height of the highest part of the existing roof?                                                                                                 |     | ✓  |
| B.1(c)                 | 9  | Would any part of the dwellinghouse, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway?                           |     | ✓  |
| B.1(d)                 | 10 | Would the cubic content of the resulting roof space exceed the cubic content of the original roof space by more than:<br>(i) 40 cubic metres in the case of a terrace house, or<br>(ii) 50 cubic metres in any other case? |     | ✓  |
| B.1(e)                 | 11 | Would it consist of or include:                                                                                                                                                                                            |     |    |

|        |    |                                                                                                                                 |  |   |
|--------|----|---------------------------------------------------------------------------------------------------------------------------------|--|---|
|        |    | (i) the construction or provision of a verandah, balcony or raised platform?                                                    |  | ✓ |
|        |    | (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe?                                      |  | ✓ |
| B.1(f) | 12 | Is the dwellinghouse on Article 2(3) land? (inc. conservation areas)                                                            |  | ✓ |
|        | 13 | Would it affect a TPO'd tree?<br><i>* Does not affect Article 3 permission but separate TPO approval will likely be needed.</i> |  | ✓ |

Permitted development rights schedule 2, Part 1 Class B only apply to C3 dwellinghouses. As it has been determined that there is a proposed material change of use and the dormer window facilitates this change of use; these rights do not exist.

**The Public Sector Equality Duty (Equality Act 2010):** In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

## RECOMMENDATION

|                                    |                  |
|------------------------------------|------------------|
| <b>Conditions agreed:</b>          | N/A              |
| <b>Recommendation:</b>             | Refuse           |
| <b>Date:</b>                       | 18 February 2026 |
| <b>Earliest date for decision:</b> | 8 August 2025    |

|                                                                 |                                                                                     |
|-----------------------------------------------------------------|-------------------------------------------------------------------------------------|
| <b>Recommendation agreed by:</b><br><b>(Authorised Officer)</b> |  |
| <b>Date:</b>                                                    | <b>19 February 2026</b>                                                             |