



Planning

Planning Statement

Client:

Storyy Homes and Group

69 Eastcourt Avenue

Earley, RG6 1HH

Certificate of lawfulness to demonstrate that no development is occurring in the use of the dwelling for supported accommodation.

Gareth Jones **BSc (Hons) MSc MRTPI**

www.etplanning.co.uk

CIL | Enforcement | Land Promotion | Planning | Sequential Tests | Viability

Contents

1.	Introduction	2
2.	The Applicant	3
3.	Site Location and Description	3
4.	Development Proposals and Contextual Information	4
5.	Assessment of Proposal	7
6.	Conclusion	11

List of Appendices

Appendix 1 254 Old Worting Road

Appendix 2 38 Impstone Road

Appendix 3 Silver Birches

Appendix 4 Cap Dor

Appendix 5 Willowbrae Decision notice

Appendix 6 40 Ensbury Park Road Decision Notice

Appendix 7 12 Taverner Close

Appendix 8 99 Labrador Drive

Appendix 9 33 Mayfield Road

Appendix 10 Childrens Home falls into C3 use appeal

Appendix 11 - 3 Measham Way, Liverpool L12 0NL Appeal Decision

1. Introduction

- 1.1 This statement is produced to support an application for a Certificate of Lawfulness at 69 Eastcourt Avenue, Earley, RG6 1HH ('the site') on behalf of Storeyy Homes and Group ('the applicant').
- 1.2 The Certificate seeks to establish that a material change of use is not occurring from the lawful use of the site as a dwellinghouse, and that no material change of use would occur thereby negating the need for planning permission.
- 1.3 The proposal is for 6 individuals to live at the property. The individuals are between 13-18 in age. In addition, there will be a minimum of 4 members of staff at the property at any one time. A minimum of 2 staff members will be at the property would be at the property between 10 am and 10 pm. Additional staff members including a home manager would be at the property between 9-5 to bring up to the 4 no. staff members.
- 1.4 In addition to this planning statement, the application is accompanied by the appropriate application forms and ownership certificate, duly signed and completed, as well as a Location Plan, outlining the extent of the site.
- 1.5 The relevant application fee will be submitted by the applicant separately.

2. The Applicant

- 2.1 Storyy Homes and Group was established in 2022.
- 2.2 The company have 4 other supported accommodation properties (16+) and 1 children's home across the wider region, with a certified OFSTED registration. This was passed following an inspection in the first quarter of the year.
- 2.3 The company aims to provide high quality homes for children and young people so that they have a stable and nurturing environment to enjoy their childhood and achieve the best possible outcomes for their future.
- 2.4 In this respect, the applicant aims to create a home that replicates the typical functioning of a nuclear family dwelling so as to give the young people who live there as normal a life as possible especially for when they are unable to live with their parents through no fault of their own.

3. Site Location and Description

- 3.1 The application site comprises a 6-bedroom detached property located on Eastcourt Avenue.
- 3.2 The surrounding area is characterised by dwellings of a similar built form and architectural style.
- 3.3 The site benefits from being in a sustainable location with bus stops along Church Road which provide onward connections to the surrounding area.

- 3.4 The site is in close proximity to a number of amenities including Bulmershe Leisure, Goals Reading and Bulmershe Park.

4. Development Proposals and Contextual Information

- 4.1 The site relates to an existing 6-bedroom dwellinghouse which is in Class C3 use.
- 4.2 The proposal is semi-independent living for up to 6 children under the ward of the Local Authority to live at the property. For the purposes of OFSTED, children are classified as such up to 18. Regardless of their age, the intended occupants would live together as one nuclear family akin to a typically family home.
- 4.3 There will be a minimum of 2 no. permanent members of staff at the property during the day (further details mentioned above) during the day. There are 6 bedrooms at the property and dedicated office for staff to use during their time at the property.
- 4.4 Whilst the duration of the stay for individuals will vary as this will depend on the needs of the individual child, it is anticipated that the property would be the long-term home for the individuals, where the minimum stay will likely be one year. The property would be the individual's primary living accommodation for the duration of their stay.
- 4.5 In terms of staffing there will be a rota system with no more than 4 members of staff at the property at any one time. The rotas are planned to ensure minimal changes the occupants and a consistent 'parenting' group. Once the staff member arrives in the home, they do not leave for at least a 12-hour period which reduces staff movement in and out of the home.

- 4.6 All staff will not permanently reside at the property, with shift timings mentioned elsewhere in this statement.
- 4.7 The changeover times will be based on the specific needs of the occupants. Given the semi-independent nature of the proposal, staff will be at the property to assist with tasks. It is important to note that other tasks can be carried out by the individuals and so they will be able to undertake some tasks required to accord with the definition of a household outlined in case law.
- 4.8 The shift pattern identified meets OFSTED regulations and working time regulations for the care sector. The rota pattern is very common across such proposals to ensure a consistent group of staff and limited changeover whilst also providing a degree of independence in line with the aims of the proposal.
- 4.9 No external changes are required to the property.
- 4.10 The property will provide a much-needed family style home for vulnerable individuals who are unable to live with their families but have the capacity and skills to live alone albeit with some support. The proposed accommodation is much needed in the area.
- 4.11 It should be noted that several similar Certificate of Lawfulness applications have been approved by other Councils, representing a nationally consistent approach, and these add further weight to the proposal. Due to the nature of this application and in the interests of consistent decision making, these are relevant material considerations in the determination of this application. These examples include:

- 22/01048/LDPU – 254 Old Worting Road, Basingstoke, RG22 6PD (**Appendix 1**)
- 22/02240/LDPU – 38 Impstone Road, Pamber Heath, RG26 3EQ (**Appendix 2**)
- 20/02131/LDPU – Silver Birches, Pamber Heath, RG26 3EB (**Appendix 3**)
- 22/00631/LDPU – Cap D’or, Bramley, RG26 5BW (**Appendix 4**)
- 23/00575/LDPU – Willowbrae, The Glen, Pamber Heath, Hampshire, RG26 3DY (**Appendix 5**)
- 7 – 2023 – 11369 – A – 40 Ensbury Park Road, Bournemouth, BH9 2SJ (**Appendix 6**)
- CAPP/21/01633/K – 12 Taverner Close, Poole, BH15 1UW (**Appendix 7**)
- APP/21/00893/K – 99 Labrador Drive, Poole, BH15 1UY (**Appendix 8**)
- 7-2019-3152-J – 33 Mayfield Road, Bournemouth, BH9 1TQ (**Appendix 9**)

4.12 Supported accommodation proposals have also be supported at appeal such as:

- 3 Measham Way, Liverpool L12 0NL – APP/Z4310/X/23/3316521 (Appendix 12)

4.13 The Measham Way case is a key consideration within the determination of this application. Both individuals within this case did not have capacity under the Mental Capacity Act 2005. Despite this, the certificate was issued notwithstanding the provisions of what a household is under established case law and the Use Classes Order.

- 4.14 Using this as a lens through which to examine this proposal, similar schemes have been granted elsewhere where individuals have required more intervention than the individuals who are proposed to occupy this property. The Measham Way case therefore provides a key litmus test for proposals such as this to be tested against.

5. Assessment of Proposal

- 5.1 Section 55(1) of the Town and Country Planning Act 1990 defines the meaning of 'development'. Included within this definition is a material change in the use of any buildings or other land. Section 55(2) sets out what operations or uses of land which shall not be taken to involve the development of the land. These include:

- *(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 use class. (emphasis added)*

- 5.2 The definition of Class C3 in the Town and Country Planning (Use Classes) Order as amended reads:

- *Use as a dwelling house (whether or not as a sole or main residence)*

by —

- *(a) a single person or by people to be regarded as forming a single household;*

- *(b) not more than six residents living together as a single household where care is provided for residents; or*
- *(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).*

5.3 The North Devon District Council v First Secretary of State and Southern Childcare [2003] goes onto state that the definition of a household is not exclusively related to the number of people.

5.4 The consideration is therefore turned to whether the proposal comes under Class C3 (notably (b)) or a change of use has occurred, in particular to Class C2 (residential institution) which is:

- *Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).*
- *Use as a hospital or nursing home.*
- *Use as a residential school, college or training centre.*

5.5 North Devon District Council v First Secretary of State and Southern Childcare [2003] explored the definition of a household (it concluded that this is not exclusively related to the number of people). Therefore, consideration as to whether residents make up a single household will depend on the specific facts of each case.

5.6 Case law and appeal decisions demonstrate the idea of living together as a single household is determined by several of the criteria below:

- *Living conditions – general layout of the dwelling house is that of a conventional residential dwelling for private domestic use.*

- *Communal use of areas such as a living room, kitchen, bathrooms /shared utilities amongst the residents;*
- *Carrying out of household duties together such as cooking, cleaning, shopping / an agreed rota;*
- *The residents are capable of running the house as a conventional residential dwelling;*
- *The nature of the relationship between the residents (a material consideration but it is not determinative);*

5.7 The North Devon Case Law outlines there also needs to be an assessment of whether a material change of use would occur from the existing situation. As such, this is a two-stage assessment process. In particular this would assess whether the change of use was material taking into account the activity of the site compared with the use as a dwellinghouse.

5.8 Furthermore, in an appeal in Brecon Beacons National Park (reference APP/P9502/X/12/2205394, decision date 18/02/2014) (**Appendix 10**), it was found that the change of use from a family dwelling to a community home for 5 young persons would not be material at that, as such, it would not require planning permission. The Inspector concluded at paragraph 19 that the proposal would display many features of a family dwelling, for example it was intended that staff would seek to provide a stable family environment for those in care, and that the overall number of children was small, and that the coming and going of staff and family would not materially impact on the surrounding area.

5.9 Consideration around whether the individuals form a single household and therefore whether the property as a whole can be assessed under C3b is a key consideration.

5.10 The leading judgment on the meaning of '*living together as a single household*' remains R.(oao Hossack) v Kettering BC [2002] EWCA Civ 886. In that case, Mr Justice Lightman had, at first instance, determined that for people to be considered to be living together as a single household, they must be bound by a relationship that of '*a common need for accommodation, support and resettlement*' (para 7 of the judgment).

5.11 Further, the Court of Appeal held that the smaller the number of occupants, the more likely it is that they are living together as a household:

If there are no more than six residents living together in the same house, it seems to me altogether more likely that they are doing so as a single household than if there are (significantly) more than six: the smaller the number of occupants, the more intimate, integrated and cohesive their occupancy is likely to be and the more apt, therefore, to describe it as a single household.

5.12 That is particularly relevant here, given that there are no more than 6 permanent members of the household.

5.13 Further, the judgment in R (oao Crawley BC) v FSS & the Evesleigh Group [2004] EWHC 160 (Admin) is particularly relevant, wherein Mr Justice Richards held as follows:

In my judgment, the correct position is that, in every case, the judgment to be made in the application of the criteria in Class C3 depends upon the specific facts of the individual case. There

may indeed be cases where, having regard to the nature of the disability suffered and the degree of care required, persons resident in a house cannot sensibly be said to constitute a household. But there will be other cases, and in my judgment this is one of them, where persons resident in a house can sensibly be said to constitute a household notwithstanding that they have some disability and need care. That is so even if the need is for full-time care. I would reject any suggestion that in a case where care is needed for those under a disability, Class C3 can apply only if the carers are in residence in the same property as those for whom they are caring. That would seem to me to run counter to the language of Class C3 itself and to the underlying policy.

Thus, even if full-time care is required (which is not the case here), that does not preclude the property from being a Class C3(b) use. To suggest otherwise would mean that Class C3(b) is reserved for those residents who require care, but only up to some ill-defined limit. There is no such restriction within Class C3(b), nor would such a finding be consistent with the public sector equality duty.

6. Conclusion

- 6.1 This statement has demonstrated that the proposal accords with C3(b) of the Use Classes Order. If the Council are of the view that the use falls within C2, this statement has also demonstrated that the use of the property would not constitute a material change of use compared to its lawful use (as per *North Devon District Council v First Secretary of State and Southern Childcare* [2003]) and other relevant case law.

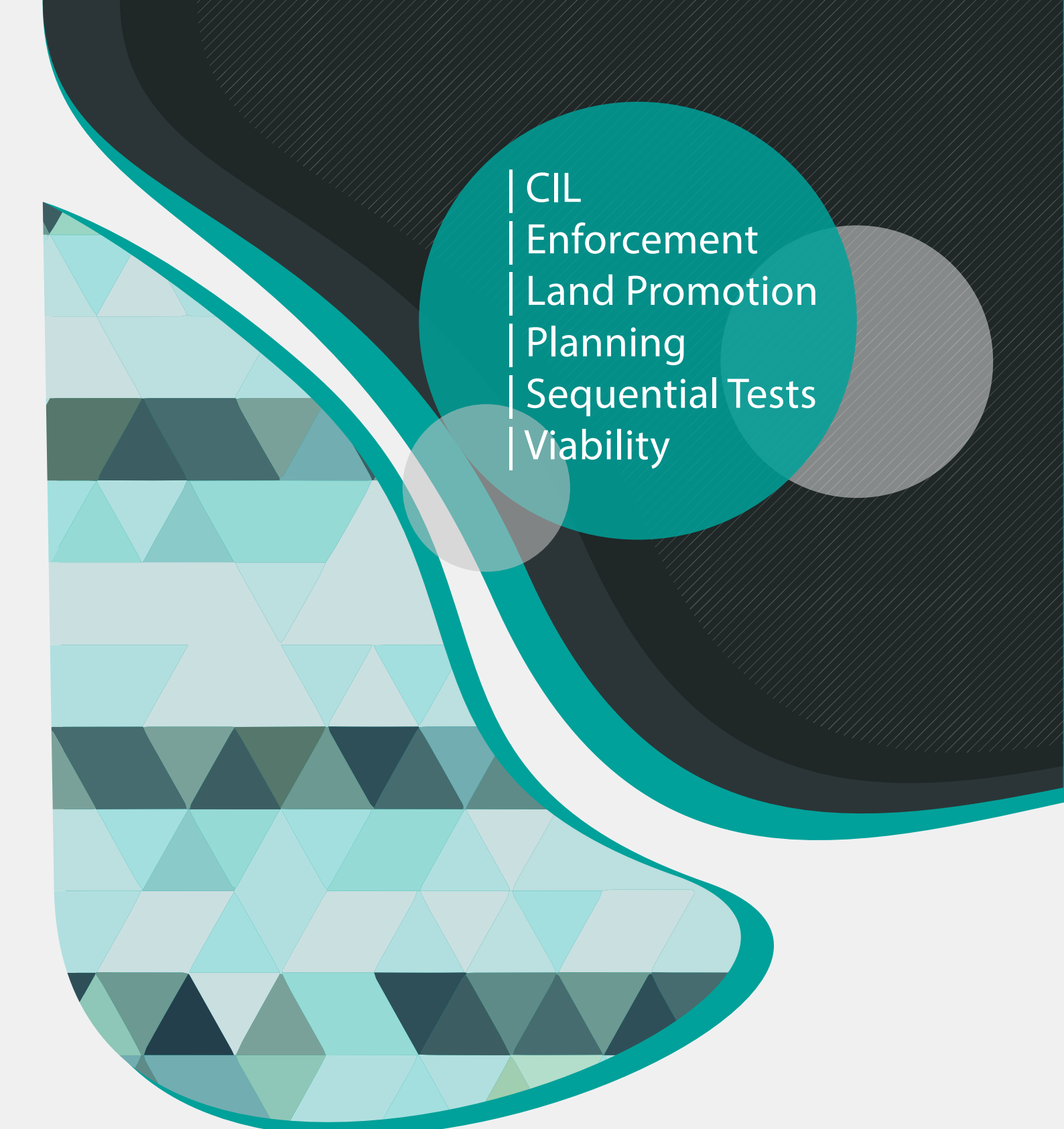
- 6.2 Regardless of how the Council seek to assess the application, the certificate for the proposed use can be granted.
- 6.3 Furthermore, relevant case law has been considered as part of this application and adds further weight to the proposed argument put forward as part of this application.

Gareth Jones BSc (Hons) MSc MRTPI

Senior Planner | ET Planning

200 Dukes Ride Crowthorne RG45 6DS

gareth@etplanning.co.uk 01344 508048



| CIL
| Enforcement
| Land Promotion
| Planning
| Sequential Tests
| Viability

Contact

Address

200 Dukes Ride RG45 6DS

Phone

01344 508048
01865 507265
01483 363950
01743 612043
01392 691384

Web & Mail

Email: office@etplanning.co.uk
ET Planning Ltd | 10646740

Web: www.etplanning.co.uk