Nov 26 | AM | J.193

CERTIFICATE OF LAWFULNESS

REGARDING THE PROPOSED USE OF

POND VIEW, WOKINGHAM ROAD, HURST RG10 0SB

STATEMENT ON BEHALF OF THE APPLICANT

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Appendix 1 - Ilford Appeal Decision

1. Introduction

1.1 This Statement is submitted in support of an application for a Certificate of Lawfulness regarding the proposed use of the property at Pond View, Hurst Road, Wokingham.

1.2 The property has been used as a Care Home for children since a Certificate of Proposed Lawful Use was granted for such a use in 2009. However, that Certificate included reference in the description to no more than two staff being on site at any one time and prevented any on site therapy sessions and family visits. Following amendments to Ofsted requirements, the property now needs to enable up to 3 staff to be present on site and provide a closer connection with family and professional networks. As a result, the current application is to alter the Certificate that was issued in 2009, in order to enable the ongoing use of the premises in accordance with Ofsted's latest requirements.

1.3 The Council (Adam Davies, Wokingham Service Director for Homes, Care and Provision) have previously confirmed the need for such children's care home provision, due to the demand for places and shortage of supply in the area. They have confirmed their support of Pond View providing such care in writing to Ofsted.

1.4 The specific proposed use of Pond View is as follows;

Use of the premises as a residential care home for no more than 3 children, cared for by no more than 3 care workers at a time, working in shifts, with no material alterations being carried out to the property.

1.5 This Statement will explain why such a use does not require planning permission.

2. Site Description

2.1 The application site consists of a two-storey brick building with hipped roof, set deep within its plot and associated private garden area to the front. Vehicular access is taken directly from Wokingham Road with a detached car barn and large parking and turning area to the side of the dwelling.

2.2 When viewed from the road, a glimpse of the house and parking area is obtained when passing the access point, but established planting along the site frontage means that views of the site are not easily apparent from the highway.

2.3 The building is one of many detached properties in the vicinity within this part of the village.

3. Planning History

3.1 The planning history in this instance is directly relevant to the current application. It is the wording of the previously approved Certificate that requires alteration in order that the premises can continue to provide care for children in accordance with the latest Ofsted requirements.

3.2 Permission was initially granted for a two-storey dwelling at the site at appeal in 2007.

3.3 In 2009, under reference CLP/2009/1823, a Certificate of Proposed Lawful Use was issued at the site for the following;

'Use of the premises as a residential care home for no more than 3 children, cared for by no more than 2 care workers at a time, working in shifts, with therapy sessions to be held off-site, with no material alterations being carried out to the dwellinghouse, and whereby the families of the children do not attend the site.'

3.4 As set out within both the Certificate itself and the associated Officer's Report, the Council concluded that planning permission was not required for such a use because there was no material change from the authorised C3 dwellinghouse, even though it was a use that fell within use class C2 rather than C3.

3.5 The Officers report for CLP/2009/1823 set out the relevant case law at the time, which informed the Council's approach to the application, and decision made. The report commented that *'the materiality of the change of use to a care home thus needs to be assessed in terms of impact on the character of the area, highway safety and on the amenities of neighbouring properties'.*

3.6 The report concluded that there was not a material change and as a result no planning permission was necessary and the Certificate was issued.

4. Assessment of the Proposal

4.1 It is strongly considered that the difference from the previous 2009 Certificate to that which is now proposed, ie the change in number of staff and removal of constraints on therapy and family visits, will similarly not result in any material change to the use that is now established on site.

4.2 The established use on site is that of a Care Home for children (C2), which due to its scale and operation, is not materially different to that of a C3 dwellinghouse – as confirmed by the previous Certificate. The alteration of the operation to enable up to three members of staff on site, as opposed to two, and relaxation of therapy and family visits will have no material impact on how the site operates. This can be assessed by breaking the potential impact down into the different areas assessed by the Council in 2009, these being impact on the character of the area, highway safety and amenities of neighbouring properties.

4.3 Before turning to such an assessment, it is however useful to clarify a number of points about the proposed operation.

4.4 The ability to accommodate three staff on site does not mean there will always be three staff on site. There will typically be less than three staff on site if there are only two children on site. And even if there are three children on site, it will often be appropriate to manage the three children with only two members of staff, as has historically happened. Ofsted require the ability to have 3 staff on site for some situations when this might be required, but this will depend on the specific children receiving care at the premises and the most appropriate way to manage such care.

4.5 The ability to provide therapy sessions on site does not imply all therapy sessions will take place on site. And not all children will require therapy. Detailed programmes will vary from child to child, subject to their needs, and for those who require provision, therapy away from the site may still occur. The amount and type of therapy will vary from child to child, but on average one visit to site every two weeks (lasting for less than an hour) is likely.

4.6 With regards family visits, this will again vary from child to child. Sadly, some children will receive no family visits at all for a variety of reasons. Some will

receive a visit every couple of months. Even the most regular family visitors would not visit more than once a week.

4.7 Consideration is now given to the impact that the proposed changes in operation will have, using the Council's own areas of assessment from 2009.

4.8 The character of the area is currently that of a residential part of a village, which includes primarily detached good-sized two storey properties. The operation of the Care Home at Pond View since 2009 has been entirely consistent with that character and the potential increase in staff on site and relaxations re therapy and family visits will have no impact upon such character. The changes will clearly have no effect on how the property appears within the village and they will have no material impact upon how the site operates. The minimal impact of an extra member of staff or a therapy professional sometimes being on site, arriving and leaving from the site, and potentially using a parking space on site, will not have any impact on the character of the area. An occasional family visit will similarly not alter the character of the property away from that of a normal household.

4.9 The impact of occasional additional staff would be no different to, for example, an elder child of a standard family home having a boyfriend/girlfriend who visits the house from time to time. And with regards potential family visits, relatives or friends, whether individually or as a larger group, will often visit a standard residential dwelling. It may mean the site has more comings and goings than a quiet, small household would experience, but it would be consistent with larger, more active households and the character of the area will remain as one of detached residential properties.

4.10 With regards highway safety, the introduction of an additional staff member (at times) will mean an extra person travelling to and from the site (at times). This is partly relevant for some occasional therapy visits, albeit if 'home' visits are taking place it will mean that 'off-site' visits are not needing to be arranged, so any vehicle movements generated by the therapy member of staff visiting the site would be cancelled out by the child not needing to be taken 'off-site' to attend therapy visits elsewhere.

4.11 Staff may use a car to visit the site but will also sometimes cycle or use public transport. There is a bus stop within 300m of the site on School Road providing connections with Wokingham and Reading.

4.12 The site was clearly deemed to have appropriate visibility splays when permission was granted for the house at Pond View, and whilst the introduction of an additional staff member (at times) will result in the potential for additional vehicle movements, any such increase will not be significant in terms of highway safety. With regards family visits these will typically occur at weekends and will not coincide with any therapy visits which will take place in the week. The operators of the home will schedule such visits in advance and will thereby ensure that there are not multiple visits at the same time.

4.13 The number of movements associated with the proposed use will be within the range of that to be expected from a large family house and will probably still be less than those with older children living at home with their own car, as has become more and more common in recent years.

4.14 The site has sufficient parking and turning space to safely accommodate the potential parking requirements without any need for vehicles to park on the highway. There will not be a need for the site to accommodate 6 spaces, to allow for a 'worst case scenario' when 3 cars arrive at the same time as 3 depart, when shifts finish. There are two reasons for this; Firstly, not all staff will arrive by private car, as explained above. Secondly, shift patterns are not designed to all start and finish at the same time. There will be crossovers built into the shift pattern deliberately and only two staff members will be present overnight, one of whom will have stayed on from that day, further reducing car movements. Any therapy or family visits can be scheduled to ensure they do not coincide with a staff change over. However, even though it won't be needed, the site can accommodate 6 spaces, with room for manoeuvre to enable cars to enter and leave in a forward gear.

4.15 Parking spaces are not specifically marked out on site, as this would not reflect the character of the area and typical residential parking arrangements. But it is apparent from visiting the site (or viewing from Google Maps) that the site could accommodate 6 cars appropriately if needed. It should also be noted that the historic operation of the Care Home has never resulted in highway concerns

arising, with all vehicles associated with Pond View being comfortably catered for on site. There is no reason to suggest this will be any different if the proposed changes are introduced at the site.

4.16 With regards the amenity of neighbouring properties, as concluded when assessing the previous Certificate, the proposed use will not generate any levels or type of noise or disturbance beyond that which can reasonably be associated with a residential environment. If anything, the presence of staff on site at all times will allow for a more controlled environment than will often occur at some households. The proposed presence of an additional staff member (at times) only strengthens the suggestion that staff presence will ensure minimal disturbance to the amenity levels of neighbouring properties.

4.17 Given the above it is strongly considered that the proposed use will not be materially different to that which is authorised at the premises or to a standard C3 dwelling. Further evidence of this is provided by a recent LDC Appeal case in Ilford, the decision letter of which is attached at Appendix 1.

4.18 The Ilford appeal relates to a Lawful Development Certificate regarding the change of a dwellinghouse to a children's care home for no more than 6 residents with up to 3 children and up to 3 staff on site, with no restrictions on the operation of the care home. It is therefore fundamentally the same proposal as that being put forward at Pond View.

4.19 The Inspector concludes that the proposed use would not fall under a C3 use, as was concluded with the 2009 Certificate at Pond View. They then turn to assess whether a change of use from C3 to C2 would be material at paragraphs 10-17. The Inspector concludes that there would typically be no more than 6 people in the house at any time, and that the '*general activity in and around the dwelling would not be significantly different to that of a family house'*. They acknowledge that there may be visitors to the house as part of the operation of the care home, but that family houses have visitors too. They concluded that there would not be a material change of use, allowed the appeal and issued the Certificate accordingly.

4.20 The appeal site at Ilford was an end of terrace property with two parking spaces at the front.

4.21 All applications clearly need to be assessed on their own merits, but the findings of the appeal Inspector at Ilford are considered to be directly relevant to the current application at Pond View and add further weight to the view that the proposal will not result in any material change to the existing and authorised use.

5. Conclusion

5.1 This Statement has explained that the requirement for this Certificate application is in response to the changing Ofsted requirements regarding care provided at children's care homes. Whilst the property at Pond View has operated effectively since the 2009 Certificate was issued, a revision to the description of the Certificate is now needed to enable ongoing care to be provided, for which there is a recognised demand.

5.2 It has been shown that whilst the proposed use will be in the C2 use class as opposed to C3, the difference from a C3 use will not be material. The description of the proposed use that is put forward provides comfort on the scale of the operation, and from this it can be reasonably concluded that no material change from a C3 dwelling will result.

5.3 The proposed introduction of one additional carer on site, at times, and occasional therapy and family visits, has been shown not to result in any material change from the authorised and existing use. This position has been supported by a recent and relevant Appeal case.

5.4 It is therefore respectfully considered that the Certificate of Proposed Lawful Use should be issued. However, if Officers have any concerns or require any further details on the matter it is requested that the Agent be notified in order that this can be addressed.