

Planning Statement

**Lawful Development Certificate for confirmation that the
use of the property a Residential Family Assessment
Centre for 3 parents and 3 children would be lawful**

The Cricketers, Basingstoke Road, Spencers Wood, Reading RG7 1AP

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I. INTRODUCTION

- I.1 Plande has been appointed to submit a supporting statement for a Lawful Development Certificate, submitted under Section 192 of the Town and Country Planning Act 1990 (TACP 1990), for confirmation that the use of the property as a Residential Family Assessment Centre for 3 parents and 3 children would be lawful at The Cricketers, Basingstoke Road, Spencers Wood, Reading RG7 1AP.
- I.2 This statement, which should be read in conjunction with the supporting information submitted with the application, aims to give an appraisal of the planning issues and merits in context with planning and other policies, guidance, and material considerations. The content herein, including but not limited to the Scheme Assessment and Conclusion, represents the author's opinions, not factual assertions, except where explicitly stated and independently verified.
- I.3 This planning statement seeks to provide an overall summary of the existing site and surroundings; the relevant planning history of the site, and to provide justification for the proposed use, in order to support Wokingham Borough Council in the determination of this application and demonstrate that the proposed use would be lawful. The report is structured in the following format:
 - Section 2: Site & Surroundings
 - Section 3: Planning History
 - Section 4: The Proposal / Background & History
 - Section 5: Relevant Legislation
 - Section 6: Scheme Assessment
 - Section 7: Conclusion
- I.4 This statement has been prepared for the exclusive use of the applicant as part of their Lawful Development Certificate application and in accordance with the agreed scope of the project. The document may not be reproduced in whole or in part, without the prior written consent of Plande. The copyright in this document (including its electronic form) shall remain vested in Plande. Plande will not be liable for the contents or use of this document by any person for any purpose.

2. SITE & SURROUNDINGS

- 2.1 The application property known as The Cricketers, located on Basingstoke Road, Spencers Wood, Reading RG7 1AP, is a two-storey detached property of traditional masonry construction, comprising a ground floor commercial unit, currently occupied by an Estate Agents, and residential accommodation.
- 2.2 At the front of the property is a small garden area partially enclosed by timber fencing, and an area of hardstanding in front of the commercial unit. A driveway at the north of the property leads to a detached outbuilding and good sized rear garden.



Figure 1: Location Plan



Figure 2: Google Street View

- 2.3 To the north of the property are residential dwellings along Basingstoke Road. To the west are the rear gardens of residential dwellings along Halfacre Close. To the south is St Michael's and All Angels Church and its associated car park. To the east, across Basingstoke Road, are residential properties located on Stanbury Gate.
- 2.4 Spencers Wood village centre is located approximately 1km to the south of The Cricketers, providing local shops and services. The town of Reading lies approximately 7km to the north, which serves as the

nearest major urban centre offering a broader range of commercial, educational, and civic facilities. The village of Shinfield is situated around 2.6km north-east of the site.

- 2.5 Local bus services operate along Basingstoke Road, with the nearest bus stops located within 100 metres of the property, providing regular connections to Reading town centre, Wokingham, and other surrounding settlements. The nearest train station is at Reading, situated c. 7 km away, offering rail services with frequent connections to London, Southampton, and the wider rail network. destinations.
- 2.6 The site is not within the Green Belt. The flood map illustrates that the application site is in Zone 1, an area with a low probability of flooding. The site is not within a Conservation Area, and the building is not a Listed Building nor in proximity to a Listed Building. The site has no specific local plan designation.

3. PLANNING HISTORY

- 3.1 A planning history search illustrates the following relevant planning applications for the site:
 - 120776 - Proposed erection of single storey rear extension to dwelling. Approved 02 May 2012
 - 202968 - Full application for the change of use from (C1) Bed and breakfast to Residential use (C2). To provide provision of accommodation for the vulnerable and it is intended that this property will be used as a mother and child assessment centre. Application Withdrawn 21 December 2020
 - It is understood that the current use is for Supported Living for young people 16 to 18 regulated by Ofsted. The Applicant has 5 young people residing in the property looked after by one staff member on 12 hour shifts. It is understood Managers visit weekly and social workers, for the young people, visit monthly

4. THE PROPOSAL

- 4.1 This Lawful Development Certificate seeks confirmation that the use of the property as a Residential Family Assessment Centre for 3 parents and 3 children would be lawful.
- 4.2 The centre will provide family assessments for Local Authorities and the family courts whilst supporting families to gain confidence and skills for effective parenting. The aim of the scheme is to provide families with an environment which is as close as possible to a traditional family home, with normal day to day facilities but with an element of care and supervision.
- 4.3 At present families who have been directed by the courts are required to travel for hundreds of miles to find services like the proposed to be assessed for a 12–16-week period during which their parental capacity is assessed. The applicant aims to support these families, who often have difficult and traumatic experiences, in trying to keep the families together while safeguarding the vulnerable children and their parents. The ethos of the service is to provide a safe environment where the service can support parents and offer advice for them to achieve their set objectives.
- 4.4 The environment within the premises allows for structural assessments to take place in a natural, normal living environment, supplemented by a support network. The operation allows for families to bond, care and develop parenting skills with their children in a surrounding akin to a normal dwelling environment.
- 4.5 A maximum of three families will be accommodated at any time, with each family consisting of one adult parent and one baby / child aged between 0-5 years old.
- 4.6 Residents would stay at the property for a maximum of 12 weeks while social workers complete the parenting assessments. Residents would retain their existing home elsewhere, and return to their own accommodation once the assessment has been completed.

- 4.7 It is suggested that there is a huge shortage of such services with no such services in the Wokingham area and nearby areas such as Reading and West Berkshire despite this resource being needed badly by local authority children services departments as well as local vulnerable families.

THE ORIGINAL PROPERTY

- 4.8 The original property is a 5 bedrooomed property, with 4no bedrooms with ensuite facilities on the first floor. At ground floor level there is an additional bedroom with ensuite facilities as well as the kitchen, dining and living rooms.

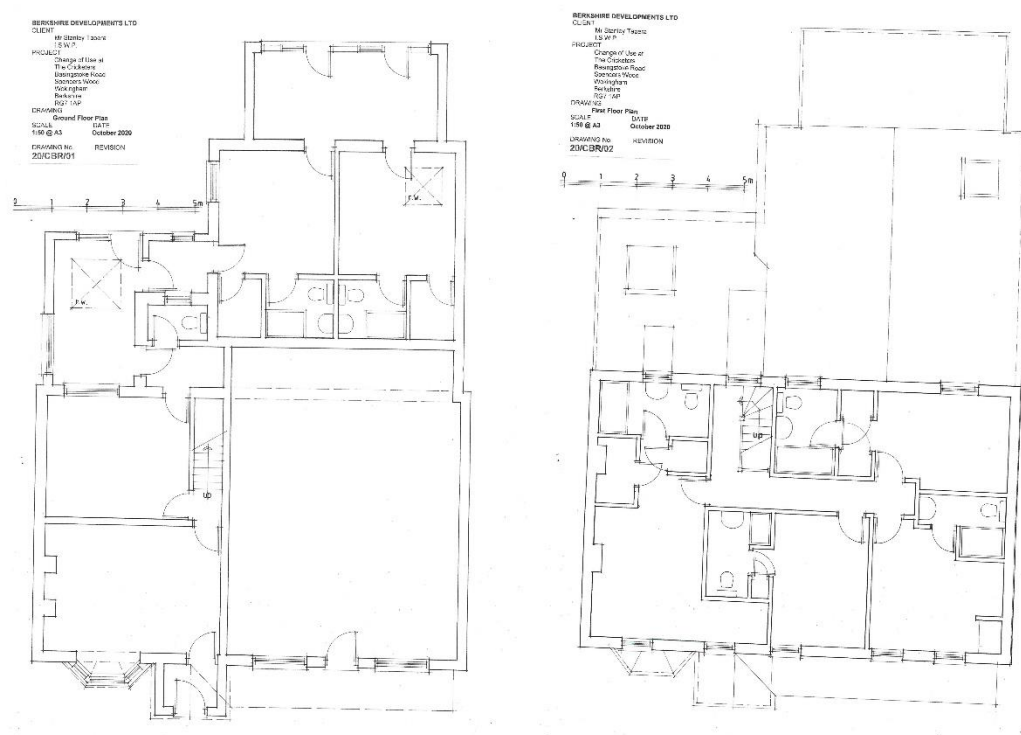


Figure 3: Existing Ground and First Floor Plans

- 4.9 In recent years, the building has been used for number of residential purposes, including as an HMO, however it is suggested that the existing lawful use of the property falls under Use Class C3.
- 4.10 The original property is self-evidently “a single, self-contained unit of occupation which can be regarded as being a separate ‘planning unit’ designed for residential purposes-containing the normal facilities for cooking, eating and sleeping associated with use as a dwellinghouse”.
- 4.11 There is currently no Article 4 Directive in place covering the property. As such the use of the property can change from Use Class C3 to Use Class C4 without the need for permission. Furthermore, the change back, from Use Class C4 to Use Class C3 is also lawful.
- 4.12 The original, and potential, use of the property falls within Class C3 of Town and Country Planning (Use Classes) Order 1987 (as amended).

LAYOUT OF THE PROPERTY

- 4.13 No material changes are to be made to the dwelling-house which needs no adaptation to facilitate the proposed use.
- 4.14 The property will therefore continue to be used as a traditional “dwellinghouse”.

- 4.15 The 4 bedrooms upstairs will be used by parents and their children. One bedroom downstairs (5th bedroom) will be used as a staff sleeping room. The communal space kitchen, dining and seating area and garden space outside and bathrooms will be shared between staff and residents.
- 4.16 The existing property has a good-sized rear secure garden and car parking. It has good public transport links and benefits from being close to local shops, services, leisure centres and educational facilities.
- 4.17 The property also features a single storey outbuilding. No changes are proposed to this outbuilding and it is proposed that this use remains incidental to the proposed use.

THE OCCUPIERS & DAY TO DAY LIFE IN THE PROPERTY

- 4.18 In terms of the residents' comings and goings, it is suggested that there would be little difference from the current use as a large family house to influence its character or impact on neighbouring amenity.
- 4.19 It is proposed that the property will operate as a single, integrated household. The residents in care and the carers will share all communal facilities, such as the living room and kitchen. The continuous presence of carers on-site is a key factor that will ensure the property functions as a single household.
- 4.20 The level of support to be provided and the degree of dependency of the residents is low. Carers will be present to support the residents with daily life skills rather than for specific or acute nursing requirements. It is noted that the residents (specifically the parents) will be primarily responsible for their own care and that of their child, supported by staff.
- 4.21 Given these operational characteristics, the Applicant considers that the proposed use, described as an "assessment centre", falls to be classified within Use Class C3(b) as a dwellinghouse.
- 4.22 It is considered that the nature of the use will not result in a material increase or change in vehicle or pedestrian movements to and from the site, or in the number of people coming and going especially when compared to the maximum potential for the existing use as a 6-person HMO or as a large family home. As a family home the house could accommodate several adults, such as two parents and over 17-year-old children who all have their own cars and travel independently to work, school, for hobbies, social visits, and to receive visitors. Under Use Class C4 the property could contain up-to 6 adults all living independently.
- 4.23 2-4 staff members will be employed on site, working on a shift basis, 24 hours a day, seven days a week. Staff work in pairs, working either 08.00-20.00 hours, or 20.00-08.00 hours. In addition, a manager would be present Monday to Friday, 09.00-17.00 hours.
- 4.24 Ad-hoc visits to the property from social workers or managers would generally be once or twice a week or as required to support the residents, on an appointment basis. Visits by outside professionals like local authority social workers, health visitors, occupational therapist will be not any different to normal visits they complete for a normal family in the community, and would likely be once a month.

5. RELEVANT LEGISLATION

- 5.1 Section 55(1) of Town and Country Planning Act 1990 (The Act) defines the meanings of the term “development” and which includes the making of any material change in the use of any buildings.
- 5.2 Section 57(1) of The Act provides that “planning permission is required for the carrying out of any development of land” which includes buildings.
- 5.3 Section 55(2) set out what shall not be taken to involve development and further states in (f) that “in the case of buildings ... 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 of any part of the buildings ... for any other purpose of the same class.”
- 5.4 Section 192 of The Act (as amended) makes provision for an application to be made to the local planning authority to ascertain whether any proposed use of a building is lawful.
- 5.5 It is suggested that the use of the property could be considered as either as falling within the use classes of C2, C3 or C4 as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended).

Class C2. Residential institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Class C3: Dwellinghouses

Use as a dwellinghouse (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).

Class C4: Houses in multiple occupation

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

- 5.6 Schedule 2, Part 3, Class L of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) confirms that the change of use “from a use falling within Class C4 (houses in multiple occupation) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule” is permitted development.
- 5.7 The Government issued a circular (08/2010) in November 2010 entitled “Changes To Planning Regulations For Dwellinghouses And Houses In Multiple Occupation” which “... gives guidance on planning regulations, in particular on changes of use for dwelling houses and houses in multiple occupation following changes to legislation in April and October 2010. The general effect of these changes is to allow changes of use between dwellinghouses and houses in multiple occupation to take place without the need for an application for planning permission unless a local authority has specifically identified an area in which planning applications will be required.”
- 5.8 The Circular provided the following guidance which is useful in assessing which use class the relevant use falls:
 - 5.8.1 *“Changes of use within a class do not require an application for planning permission.”*
 - 5.8.2 *“ ...for the purposes of C3(b) and (c) single household is not defined in the legislation.”*
 - 5.8.3 *“... in broad terms, the new C4 class covers small shared houses or flats occupied by between 3 and 6 unrelated individuals who share basic amenities.”*

- 5.8.4 “... a change of use from a dwellinghouse (class C3) to a house in multiple occupation (Class C4) and from a house in multiple occupation to a dwellinghouse is possible under permitted development rights and planning applications are not needed.”
- 5.8.5 “C3(b) continues to make provision for supported housing schemes, such as those for people with disabilities or mental health problems.”
- 5.8.6 A “single household” under C3(a) can be formed by a variety of people including “...a carer and the person receiving care ..”
- 5.8.7 “It remains the case that in small residential care homes or nursing homes, staff and residents will probably not live as a single household and the use will therefore fall into the residential institutions class (Class C2), regardless of the size of the home. Local planning authorities should include any resident care staff in their calculation of the number of people accommodated.”
- 5.8.8 “Care homes and children’s homes” are excluded from the C4 use class
- 5.9 In addition, the Town and Country Planning (Use Classes) Order 1987 (as amended) defines “care” as “personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in-class C2 also includes the personal care of children and medical care and treatment”
- 5.10 It is suggested that the use is not that of C2A (Secure Residential Institutions) as there is no security preventing the residents from leaving.
- 5.11 It is further suggested that the proposed use is not that of C4 as, although the residents are unrelated by birth or marriage etc, there is an element of care and the individual bedrooms are not self-contained bed-sits.
- 5.12 It is therefore considered that the occupiers within the property, therefore, meet the definition of “receiving care” as defined in Class C3(b) in that they will require “care”.
- 5.13 Where the use of a dwelling house is for “non-family” purposes the concept of a single household is key in order to establish a lawful use as Class C3(b), although as above, there is no statutory definition.
- 5.14 Whether the use of the dwellinghouse, particularly where 24-hour care is provided, falls within Class C2 or C3 requires careful consideration and has been the subject of various Lawful Development Certificates, planning appeals and case law, including:
- 5.14.1 North Devon District Council v First Secretary of State [2003] which confirmed that children could not on their own be considered to constitute a fully functioning household without a resident carer living full-time in the property.
In this case even though a change of use from C3 to C2 had occurred at the property it was not deemed to be a material change of use and that as such, planning permission was not required. The Judgement clarified that “if the children happen to be disabled or to suffer from mental disorder, then care for them will fall within class C3(b).”
- 5.14.2 R v Bromley London Borough Council ex parte Sinclair (1991) which stated that staff providing care do not necessarily have to be resident at the property in order to be still classed as forming part of the household
- 5.14.3 R (Hossack) v Kettering BC [2002] EWCA Civ 886 concerned what could be construed as a single household and concluded that “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”. In addition, it was stated, “the smaller the number of occupants, the more intimate, integrated and cohesive their occupancy would be likely to be and the more apt, therefore to describe it as a single household.”

5.14.4 Planning Appeals:

- Enfield 11/7/06 – 4 people with mental health problems with three staff on shift system sharing a kitchen, living room, dining room, toilet and bathroom
- Croydon 8/1/03 – 5 people with learning difficulties with staff on a shift system with staff and residents sharing facilities and taking meals together.
- Crewe & Nantwich 24/4/06
- DCS reference: 200-004-885 – Hearing in 2016 for mentally disabled residents living together under Class C3b. 5 bedroom house with locks on bedroom doors with day and night support workers. Purpose of carers to largely assist as opposed to undertaking day-to-day tasks
- APP/E2205/X/16/3161037 – LDC allowed for use of the house for 4 people and their carers (up-to 2)

5.14.5 Lawful Development Certificate Precedents:

- 2010/2137/S – Solihull – Proposed use of an existing house to a residential care home for up to 5 people
- APP/2015/0554 – Burnley - Proposed use as a residence by up to 4 young persons with care provided by two carers on a 24-hour non-residential basis
- F/YR15/1093/CERTLU – Fenland - Certificate of Lawful Use (Existing): Use of the dwelling under Class C3b (Care Home) for 3 residents and up to 4 staff on a rota basis
- 16/P/01281/CEU – Pontypool - Application for Certificate of Lawful Development to retain the existing C3b use offering supported living to a maximum of 5 residents.
- 18/0480 – Willenhall – LDC for 3 persons supervised by a carer.
- Wakefield Council – Ref: 17/02441/CPL – Four children and two staff in a six-bed detached property
- Burnley Council – Ref: APP/2015/0554 – Four children and two staff in a five-bed detached property.
- Kirklees Council – Ref: 2016/19/91341/W – Three children and three staff including fulltime manager in a four-bed detached property.
- East Riding of Yorkshire Council – Ref: 15/02533/CLP – One child and two staff
- Coventry Council – Ref: LDCP/2018/2934 - Four children and two staff providing 24-hour care.
- Trafford Council – 96180/CPL/18 - “The proposed use of 6 Harboro Grove, Sale, M33 5BA, as a children's residential home (Class C2) for up to 5no.persons between the ages of 10-18 years with a maximum of 2no. additional staff members staying overnight on a rota basis ... would not represent a material change of use and is therefore Lawful Development”.
- Trafford Council – 111821/CPL/23 - Application for Certificate of Proposed Lawful Development for change of use of existing dwellinghouse to Children's Care Home for up to 2 no. children

5.15 It is suggested that these examples lead to the conclusion that the use of the property as described above would fall under the definition of a single-household in that:

- 5.15.1 Staff, working on a shift basis, would not be resident at the property and therefore not be classed as forming part of the household or included when calculating the number of residents.
- 5.15.2 The number of people in the property would mean that the likelihood is that they would be living as a single household
- 5.15.3 Other than a bedroom, the carer or occupiers have no separate facilities with all facilities (kitchen and bathrooms etc) shared.
- 5.15.4 Use Class C3(b) places no limit on the number of non-residents or level or intensity of care received by the residents.
- 5.15.5 Use Class C2 specifically makes reference that such a use could fall under Use Class C3

6. SCHEME ASSESSMENT

- 6.1 The following section will evaluate the compliance of the proposal with the relevant legal and regulatory framework applicable to a Lawful Development Certificate. It provides an analysis of the key considerations related to the proposal.
- 6.2 In assessing the merits of the application, the appendices and the accompanying supporting evidence from the Applicant aim to illustrate that, on the balance of probabilities, the use of the property as a Residential Family Assessment Centre for 3 parents and 3 children would be lawful.
- 6.3 The premises retain the overall appearance and character of a conventional residential dwelling, and no alterations are required to facilitate this use. It is further suggested that this would not result in any material change in character or introduce levels of disturbance or amenity impacts beyond those experienced from existing lawful uses.
- 6.4 Circular 13/87 provides further information and clarification in relation to Class C3: Dwellinghouses particularly in relation to the concept of a single household and care. The Circular states: “development is not involved when a dwelling house becomes used as a small community care home, provided that all the residents live together as a single household and that they number no more than” Furthermore, it states that “it serves no-one’s interest to require planning permission for types of development that generally do not damage amenity.”
- 6.5 Specifically in the North Devon case, it is worth highlighting that the Lawful Development Certificate was granted in any case, on the basis that there was no material change of use.
- 6.6 As noted in the North Devon judgment, whether or not a change of use is material is a matter of fact and degree depending on the individual circumstances of a particular case:
 - 6.6.1 *“... the question for determination in the context of this appeal is whether the character of the use of this dwelling-house as a private residence has been changed so substantially as to amount to a material change of use. It is a question of fact and degree.”*
- 6.7 There may be a number of factors relevant to the question of whether or not a change of use is properly described as “material”. The Courts have consistently confirmed that such factors are not necessarily confined simply to the effects of a change on environmental or amenity interests. In the case of *Richmond upon Thames LBC v Secretary of State for the Environment Transport and the Regions*, the judgment confirmed the general principle that;
 - 6.7.1 *“The extent to which a particular use fulfils a legitimate or recognised planning purpose is relevant in deciding whether a change from that use is a material change of use.”*
- 6.8 It is suggested that the nature of the use will not result in a material increase or change in vehicle or pedestrian movements to and from the site, or in the number of people coming and going especially when compared to potential maximum potential for the existing use. This is because the existing use could accommodate several adults, such as two parents and over 17-year-old children who all have their own cars and travel independently to work, school, for hobbies, social visits, and to receive visitors. As such it is considered that there will be no material impact on highway safety or congestion.
- 6.9 Furthermore, the property will not physically change externally and therefore it is considered that to neighbours or the casual passer-by, there would be no impact on visual amenity.
- 6.10 The proposed use is simply to house vulnerable families in a traditional family home setting, who require somewhere to live while a family assessment is carried out. As such it is suggested that the proposed use will have no material impact on residential amenity (for example in terms of noise and disturbance) compared with the lawful use of the property.
- 6.11 The proposed use of the property will also not have a material effect on the level of supply of family housing in a local area, especially as the property currently does not function as a family home.

- 6.12 The proposed use will have no material impact on the operation of nearby services and facilities and the proposed use does not require any specialist servicing or services.
- 6.13 Within Class C3(b) use, there is no mention of the level of care provided or any increase in service intensity. Therefore, it is suggested there is no basis for limiting the level of care that can be given and as such there is no support to the contention that any intensification of use would lead to a material change of use. It is suggested that there is no “normal” level of care to be considered against. This is corroborated in the Barking Appeal (APP/Z5060/C/18/3214506) which states:

“I note that the Council’s reasons for issue of the notice include harm to the living conditions of neighbours with particular regard to noise and disturbance. Whilst the planning merits of the development are not relevant to this appeal I note that it is inherent within the terms of the Use Classes Order that vulnerable groups may fall within Class C3(b) and therefore this is not an argument that suggests the residents are not living together as a single household.”

- 6.14 Furthermore, should the property be used solely for Adults, up to 6 residents could be accommodated within any level of care and support without it being a material change of use. Since the property in that scenario, would be expected to have carers visiting on a regular basis, including full-time carers, the presence of additional parking is not uncommon or particularly significant. It is therefore suggested that in comparing whether there is a material change of use in this particular scenario the consideration should be given not only to the use as dwellinghouse in the narrow sense (as in one family unit) that that for up to six residents living together as a single household and receiving care.
- 6.15 Residents in care, specifically the parents, would mostly take care of themselves and their child, share communal facilities, eat and cook together and receive practical life skills and support from the staff. It is therefore suggested that the proposed use falls to be classified as C3(b) dwellinghouse. This is reflected in the name of the proposed use as an “assessment centre”.

7. CONCLUSION

- 7.1 This Lawful Development Certificate application seeks confirmation that the use of the property as a Residential Family Assessment Centre for 3 parents and 3 children would be lawful at The Cricketers, Basingstoke Road, Spencers Wood, Reading RG7 1AP.
- 7.2 It is suggested that:
 - 7.2.1 The lawful use of the property is, or could revert to without the need for planning permission, Use Class C3: Dwellinghouses
 - 7.2.2 The dwelling house would retain its original layout and comprises “a single, self-contained unit of occupation which can be regarded as being a separate ‘planning unit’ designed for residential purposes-containing the normal facilities for cooking, eating and sleeping associated with use as a dwellinghouse”.
 - 7.2.3 The residents will live together as a single household, generally forming friendship bonds, share facilities and have communal living arrangements.
 - 7.2.4 The residents receive “care” as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) and as Class C3(b) makes provision for supported housing schemes.
 - 7.2.5 The level of activity, comings and goings and overall function of the building would be no different than associated with many dwelling houses.
 - 7.2.6 There would be no change in the character of the use.
 - 7.2.7 The purpose of the carers is to provide family assessments for Local Authorities and the family courts, whilst supporting families to gain confidence and skills for effective parenting. Care staff will assist the residents with day-to-day tasks as opposed to undertaking those tasks themselves on behalf of the residents.
 - 7.2.8 Even if a change of use from C3 to C2 occurs at the property it is not a material change of use and that as such, planning permission is not required.
- 7.3 In conclusion it is suggested that either the proposed use falls under Use Class C3(b) or that if the proposed use is determined to fall under Use Class C2, there is no material change of use that would require planning permission.
- 7.4 In light of the above, we respectfully request that the Council issue a Certificate of Lawfulness for the proposed use.