

PLANNING STATEMENT

REMOVAL OF CONDITION 1
OF 85/03323/0311/P AND
CONDITION 1 OF
85/03323/0464/P AT
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Contents

1.	Introduction	2
2.	Site and Surrounding.....	2
3.	The Proposal	2
4.	Legislation and the NPPF	3
5.	Conclusion	5

1. Introduction

- 1.1. This Planning Statement has been prepared by Aida McManus on behalf of Steps Together Alcohol and Drug Rehab Nottingham (“the Applicants”). I hold an Honours degree in law, a Master’s degree in Town Planning, an Enforcement Certificate from Cambridge University, and am a Member of the Royal Town Planning Institute (MRTPI) and National Association of Planning Enforcement (NAPE). I am the Managing Director of AM Planning Consultants Limited, and have over 20 years’ experience in planning, within both local authorities and in private practice.
- 1.2. The application is for the removal of Condition 1. of 85/03323/0311/P dated 8th May 1985 for the change of use from private residence to home for the elderly and Condition 1. of 85/03323/0464/P extension to form 8 bedrooms for the elderly and alterations to form Home for the elderly dated 8th May 1985.
- 1.3. On the basis, that no material change of use will occurred an application to remove the restrictive conditions preventing the permissible change of use from the home for the elderly (Use Class C2) to private secondary care facility for people recovering from addictions and stress (Use Class C2) is considered to be sufficient to enable the proposed use to take place at the site.

2. Site and Surrounding

- 2.1. The application site comprises a large detached property situated on the southern side of Church Hill Avenue. The properties in this area are mainly large individual designed detached and semi-detached dwellings with front and rear gardens. The application site was used as a residential care home for up to 16 elderly people with needs associated with ageing or a dementia type illness.
- 2.2. There are residential properties to the north, south, and east of the application site, with Church Hill Road to the west and Yeoman Park.
- 2.3. The area is a residential area outside of the town centre but with good connection to sustainable modes of transport. There are four parking spaces provided on site for staff/visitors.

3. The Proposal

- 3.1. The Section 73 planning application seeks to remove Condition 1. of 85/03323/0311/P dated 8th May 1985 for the change of use from private residence to home for the elderly and Condition 1. of 85/03323/0464/P extension to form 8 bedrooms for the elderly and alterations to form Home for the elderly dated 8th May 1985.

- 3.2. The proposed use is for secondary care facility which would reduce the number of residents to a maximum of 13 who would reside at the property for between 1-6 months following their treatment at one of the company's private rehabilitation centre.
- 3.3. The age range would be between 18-75 years old, no detox or medical staff would be required, but the residents would be provided with talking therapy and holistic therapy to continue their care until they feel confident to live within their own home environment.
- 3.4. A mini bus would be used to transport the residents to any appointments, meetings, the gym, leisure facilities, college, shopping etc.

4. Legislation and the NPPF

- 4.1. The description of the proposal on the decision notice 85/03323/0311/P states change of use of private residence to home for the elderly and condition 1 states:

`The premises shall be used as a home for old people and for no other purpose (including any other purpose in Class XIV of the Schedule to the Town and Country Planning (Use Classes) Order 1972, or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order).`

- 4.2. Condition 1 of 85/03323/0464/P for an extension to form 8 bedrooms for home for the elderly states:

`The extension hereby approved shall be used as a home for old people and for no other purpose including any other purpose in Class XIV of the schedule to the Town and Country Planning (Use Classes) Order 1972, or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order`

- 4.4. This condition was reiterated in the decision notice for amendments to 85/3323/0464 extension to form 8 bedrooms for the elderly application ref. no. 85/03323/1088 through condition 1 which state:

`This permission is an amendment and shall be read in conjunction with planning permission reference 85/3323/0464/P.`

- 4.5. On the basis of the above the use of the premises as a residential care home for old people the proposed use would technically be in breach of conditions 1, of the respective planning permissions.

- 4.6. However, national planning policy contained within the National Planning Policy Guidance frowns upon such conditions and Paragraph: 017 Reference ID: 21a-017-20140306 17 states:

Is it appropriate to use conditions to restrict the future use of permitted development rights or changes of use?

Conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#), so that it is clear exactly which rights have been limited or withdrawn. Area wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. The local planning authority also has powers under [article 4 of the Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) to enable them to withdraw permitted development rights across a defined area.

- 4.7. The use of such a condition under the present National Planning Policy would not pass the test of necessity as no exceptional circumstances existing.
- 4.8. The Government clearly understood and accepted that residential institution where located within residential areas when it considered whether it was appropriate to allow a flexible change of use under C2 Residential institutions when it categorised the types of uses under this class i.e.

“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.

- 4.9. In addition to defining the Use Classes above, the Order provides a definition of care which states: "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".
- 4.10. Technically, there is no change of use within class from a residential care home for the elderly to secondary residential institution for people with past or present dependency on alcohol or drugs and certainly no “material change of use” would occur.

- 4.11. There is no change in the operation of the use as both provide residential care with full-time and part-time staff with on-site parking.
- 4.12. The number of residents would be reduced to no more than 13 and none of them would have cars available on site
- 4.13. Local Plan Policy H6 Specialist Housing states that:

Development proposals for specialist housing which falls within Use Class C2, such as sheltered and extra care accommodation, will be supported on sites within existing or proposed residential areas provided they are:

a. conveniently situated in relation to local retail, community services and public transport facilities; and

b. are of a design, layout and accessibility suitable for occupation by people with disabilities and people with care needs.

On the basis that the use of the site has already been accepted as suitable as a residential institution the use of the site is supported and accords with local Plan policy.

5. Conclusion

- 5.1. There is no material change of use that has occurred and neither are there exceptional circumstances which would prevent the removal of Condition 1 of 85/03323/0331/P or Condition 1 of 85/03233/0464/P.
- 5.2. The use of such conditions is not supported by the Governmental National Planning Guidance or policy and should not be retained to restrict a change of use which is permitted under the Use Classes Order.
- 5.3. The proposal accords with the provisions of National and Local Planning Policy without having a detrimental impact which would outweigh the benefits of granting planning permission.