

SUPPORTING PLANNING STATEMENT

***Application for Certificate of Lawfulness
(under Section 192 of the Town & Country Planning Act)
for 161, Brynheulog, Pentwyn, Cardiff for use as a Class
C2 (residential care home) for up to 2 parents and 2
children supported by 2 members of staff***

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1.0 INTRODUCTION

This statement is submitted in support of an application made under ***Section 192 of the Town & Country Act for a Certificate of Lawfulness of Proposed Use of Development (CLOPUD)*** to certify that the use of 161, Brynheulog, Pentwyn, Cardiff CF23 7JE, as a Residential Family Centre for up to 2 mothers / parents and 2 children looked after by 2 staff members. The existing authorised use of the premises is as a Class C3 dwelling house. The proposed use as a Class C2 Family Care Centre is not materially any different, in operational terms, from the existing authorised use.

1.1 This supporting statement demonstrates that, even though the proposed use does not fall within the same Use Class as the current authorised use of the property, there is no difference between the two uses and, consequently no planning permission is required.

1.2 This Supporting Statement should be read in conjunction with the covering letter, application site plan & illustrative internal layout arrangement plans.

2.0 THE SITE

2.1 The premises subject of the application is 161, Brynheulog, Pentwyn, Cardiff CF23 7JE. The property lies in a semi-detached dwelling in a row of 5 properties. The surrounding area is entirely residential in character but, as with the entire overall area of this part of Pentwyn is of a somewhat dated street layout.

2.2 The property is a traditional family home which has been vacant for approximately 2 years. During this time the property has undergone extensive refurbishment works.

2.3 The property is a double and a single bedroom residential property with a bathroom at first floor level. The ground floor has an open plan kitchen / diner plus a large living room. Externally there is a small garden area laid to lawn with a patio area.

2.4 The property lies within a reasonable distance to local facilities such as shops, a surgery and schools. Public transport services are also available close by. It is therefore in a sustainable location for families who may not have access to private car transport.

3.0 THE PROPOSAL

3.1 The property will be leased by the applicants ICL Care Ltd and will operate a Residential Family Centre in accordance with the ***Regulations and Inspection of Social Care Act (RISCA) Wales 2016***. ICL Care Ltd have been operating children's homes for the last three years while being assisted by its directors who have vast experience in operating in social and healthcare sector. ICL Care Ltd is developing Residential Family Centres in the Cardiff area as there are a great need for a localised provision. This is evidenced by the increased numbers of applications for such outlets in the city. Currently there are few such services available in the locality.

3.2 Internal layout plans are supplied in support of the application. The 2 double bedrooms would be used as accommodation for the residents. The third bedroom would be used as a staff room and for any 'sleep-in' staff should that become a requirement. The ground floor has a communal space of lounge, kitchen / diner and cloakroom. Outside there is a garden area to the front and rear together with a shed which can be used for storing prams, cycles etc.

4.0 THE APPLICATION

4.1 The application seeks formal confirmation under ***Section 192 of the Town & Country Act (as amended)*** that the proposed use of 161 Brynheulog as a residential care home would not require planning permission.

4.2 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 establishments for a 12-16 week period in which their parental capacity is assessed. ICL Care Ltd is desirous of supporting 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 Up to 10 staff (overall) would be employed. They would work on a “shift-rotata” basis. Two members of staff would be on site at any one time and they would share the communal facilities with the families.

4.6 The composition of households will vary meaning that the occupants may be different depending on the circumstances and size of the families. There will always be two staff supporting the parents with other visiting professionals attending by appointment. The centre will then provide family assessments for the courts whilst supporting families to gain confidence and skills for effective parenting.

4.7 The existing property has the layout, facilities, and services of the character of a “normal” residential dwelling house. The proposed use would not change this nature and the external appearance of the building would not be altered. The proposes use will bring back a long standing vacant property into effective use and provide for a much needed service in the community.

5.0 LEGISLATIVE CONTEXT

5.1 **Section 192 of the Town & Country Planning Act** allows for an application to be made to the local planning authority to ascertain whether any proposed use of the land or building would be lawful. Should such an application provide sufficient information to satisfy the LPA that the proposed use would eb lawful at the time of the application such a Certificate should be issues. It is within context that the current application is made.

5.2 Within the **Town & Country Planning (Use Classes) Order 1987** (as amended) Section C deals with the definitions of relevance. The appropriate classes are C2 & C3. They are as follows:-

Class C2 (residential institutions) is defined as:

“Use for the provision of residential accommodation and care to people in need of care (other than within Class C3 (dwelling house). Use as a hospital or Nursing. Use as a residential school, college or training centre”.

Class C3 (Dwelling houses)

“Use as a dwelling house (whether or not for sole residence) by:

- A single person or by people to be regarded as forming a single household;
- No more than six residents living together as a single household where care is provided for residents; or
- No more than six residents living together as a single household where no care is provided to residents (other than use within Class 4)”.

5.3 There is therefore within these Classes a differentiation between dwelling houses where residents live together in different circumstances including small houses in multiple occupation and includes specific reference to a household of 6 or fewer people where care is provided.

5.4 The Development Management Manual – Revision 2 (May 2017).

This document reiterates ***Section 192 of the Town & Country Planning Act*** on Lawful Development Certificates stating:

“Anyone can apply to an LPA for a certificate that confirms whether operations or uses are lawful for existing or proposed developments. ***Section 192 of the 1990 Act*** allows an LPA to certify that existing operations are lawful in that they either do not need planning permission or would be within the limitations of an existing planning permission. ***Section 192 of the 1990 Act*** enables a certificate to be issued in respect of existing development. Existing operations and uses may also be “lawful” where they become immune from enforcement action”.

6.0 PLANNING CONSIDERATIONS

6.1 Firstly, of particular relevance to this submission, is the North Devon District Council and the First Secretary of State (Queens Bench Division) – 30 January 2003 – (2003) J.P.L. 1191 case which provides very useful indicators for determination of this application. In addition, the specific circumstances of this case are a primary consideration.

6.2 The applicant does not propose any significant changes to the physical condition of the premises and it would retain all the elements for day to day

private domestic existence when used as a residential care home. Therefore, in terms of its physical condition, the premises would retain all the characteristics of a dwelling house. In terms of occupation of a dwelling house (Class C3(a)), such a household may comprise adults and children living together with the children being cared for by either their parents or foster parents and possibly a nanny, governess or au-pair.

6.3 The outcome of the North Devon Case, is that despite there being a change of use between Class C3 and C2: that change was not material and planning permission was therefore not required. Mr Justice Collins KT made it clear that his judgement was based on the individual facts of the case and that whether or not a change is material is a matter of fact and degree. Therefore, in respect of the application site at 162 Brynehulog, Pentwyn, Cardiff it must be determined whether the change of use from a single family dwelling to a residential care home proposed would be a material change, based on the facts of the specific case. It is considered that the change is not “material” and therefore planning permission is not required.

6.4 The existing dwelling is capable of accommodating a family of up to six adult house-sharers living as a single household in accordance with Class C3; or perhaps a family of two adults and one or more children. It has three bedrooms and generous living accommodation, so this level of occupancy is a realistic expectation. The level of care in the home would be supervisory in nature and is not to be a secure unit. The application site would be a home of the children and their parents residing with them. They would develop social attachments to each other, to their care staff and within the local community. The manner of the use of the dwelling would not be materially different in planning terms to its use as a single household and therefore it should be concluded that no material change of use would occur.

6.5 The carers who would support the residents at Brynehulog would not be residents living on a permanent basis. The staff would change on a rota basis and therefore not form part of the household.

6.6 The nature of the proposed use will provide an environment resembling a traditional family home. It would not therefore have any materially different impacts in planning terms on the locality. Vehicular movements would not be unacceptable to the area as traffic movements would again be akin to a normal family residence.

7.0 CONCLUSION

7.1 In light of the above it must be concluded that no material change of use would occur and whilst there is a technical change of use from Class C3 to Class C2, this change is not significant and as such planning permission is not required.

7.2 In light of the above therefore it is advanced that a Certificate of Lawfulness should be issued.

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20 April 2021