

DELEGATED OFFICER REPORT

Site Address: 78 London Road, Cowplain, Waterloooville, PO8 8EW
Proposal: Certificate of Lawful Development for the proposed change of use of the property to Use Class C3(b) by up to 5 adults living together as a single household and receiving care.
Application Type: Certificate of Lawfulness
Application No: APP/25/00201 Expiry Date: 12/05/2025
Applicant: Miss Palmer
 Acorns (Southern) Propco
 Limited
Agent: Mr March Case Officer: Lesley Wells
 Southern Planning Practice
Ward: Cowplain

Recommendation: **GRANT A CERTIFICATE OF LAWFUL USE**

1 Site Description

78 London Road lies on the south west side of London Road opposite the junction with Longwood Road. The property is a 6 bed detached chalet style house, with a hard surfaced area to the front to provide off-road parking and garden area to the rear.

2 Planning History

06/70329/000 - Single storey rear extension., PERM,04/05/2006
06/70329/001 - Retention of brick wall (height 1.8m) and proposed sliding gate (height 1.830m). , PERM,15/01/2007
07/70329/002 - Change of use from dwelling to nursery., WAD,16/10/2007
07/70329/003 - Change of use from dwelling to dwelling and day nursery. (Revised application.) , REF,22/01/2008
APP/17/00509 - Loft conversion including raising of roof and front extension with porch., PERM,17/08/2017
APP/18/00620 - Application for non-material change to planning permission
APP/17/00509 relating to change to approved plans for front elevation and alterations to windows at first floor level. , PERM,10/07/2018

3 Proposal

Certificate of Lawful Development for the proposed use of dwelling as supported living accommodation for 5 persons within use Class C3 (b).

No changes are proposed to the internal structure or external appearance of the dwelling.

4 Policy Considerations are not applicable to the application.

5 **Statutory and Non Statutory Consultations**

Councillor Andrew Briggs - No Comment

Councillor D Keast - Cowplain - No Comment

Councillor Neil Bowdell - Cowplain - No Comment

Havant Council Tax - No Comment

6 **Community Involvement**

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 0

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

Comment	Officer Comment
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7 **Legal Considerations**

7.1 The proposal is seeking a legal determination as to whether the current use of this residential dwelling, Use Class C3 (a), may be lawfully used as supported living accommodation for up to 5 persons (aged over 18) within Use Class C3 (b).

7.2 The definition of Class C3 in Schedule 1 of the Town & Country Planning (Use Classes Order 1987) (as amended) states:

Class C3. Dwellinghouses, used as sole or main residences 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).

Within the Interpretation at Section 2, it states:

"care" means 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;"

- 7.3 Acorns Health Care (AHC) is the applicant, that provides personal care for severely mentally impaired people with learning difficulties in supported living accommodation. Such accommodation is currently provided across 6 properties in Southampton, Winchester, Eastleigh/Fair Oak areas.
- 7.4 AHC has advised that the care provided is generally one-to-one and operates in a supervisory capacity, helping them to make choices and ensuring they are safe. Support would be provided around the clock 365 days per year. It is envisaged that there would be between 5- 8 staff during the day, with 4-5 overnight, with two 12 hour shifts (day and night shifts). An Area Manager would also attend the property daily.
- 7.5 Each of the tenants living in the property would have their own Assured Shorthold Tenancy (AST) agreement. They would receive housing benefit, which pays for their rent. They also receive disability benefit. Their individual care packages are funded jointly by the local authority and the Department of Health. The occupiers would live together as a single household and share facilities, and would be responsible for certain household activities. Residents would have their own personalised bedrooms and communal areas to encourage social activities.
- 7.6 As to the accommodation the existing ground floor layout would remain exactly the same, with the large kitchen / diner and lounge at the rear of the property. There are also 3 bedrooms, one with an en-suite, and a shared bathroom.
- 7.7 No internal changes are proposed to the first floor where there would be two further bedrooms, one with en-suite, and another shared bathroom. The 6th bedroom would be used as the staff office / sleeping room, which support staff will use to complete paperwork and take breaks, as well as a rest / sleeping area for overnight staff. Staff will not reside at the property. The provision of 24 hour care by non-residents is not a barrier to a use falling within C3(b), as set out in the case of *Crawley Borough Council, R (on the application of) v Helberg (t/a The Evesleigh Group)* [2004] EWHC 160 (Admin) (23 January 2004).
- 7.8 Based on the information provided, the future occupiers of the property would live together as a single household where care would be provided 24/7. The current lawful use of the property is Class C3 (a) dwelling. The Use Classes Order 1987 confirms that the change of use within the same use class is not development requiring planning permission.

Conclusion

- 8.1 The proposed development would fall within Use Class C3 (b) of the Town & Country Planning (Use Classes) Order 1987 (as amended) and falls within the same use class as C3 (a) and is not development under Section 3(1) of The Town & Country Planning (Use Classes) Order 1987 (as amended). Therefore, a Lawful Development Certificate can be issued.
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9 RECOMMENDATION:

That the Head of Place be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/25/00201

FIRST SCHEDULE:

This certificate relates to the following development:

Certificate of Lawful Development for the proposed change of use of the property to Use Class C3(b) by up to 5 adults living together as a single household and receiving care.

SECOND SCHEDULE:

This certificate relates to land at 78 London Road, Cowplain, Waterloooville, PO8 8EW as shown edged red on the submitted Location Plan received 17 March 2025.

OTHER IMPORTANT INFORMATION:

- (1) This Certificate is issued solely for the purpose of Sections 192 of the Town and Country Planning Act 1990 (as amended). It does not relate to any other application that may be required under any other part of the Town and Country Planning Act, the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6571.
- (2) It certifies that the development specified in the First Schedule taking place on land described in the Second Schedule would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) on the specified date and thus would not have been liable to enforcement action under part 7 of the 1990 Act on that date.
- (3) The certificate only applies to the extent of the development specified in the First Schedule taking place on land described in the Second Schedule and identified on the attached plan. Any development which is materially different from that described or which relates to other land may render the owner/occupier liable to enforcement action under section 172 of the 1990 Act.
- (4) The effect of the certificate is also qualified by the provision in section 192(4) of the 1990 Act (as amended), which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matter relevant to determining such lawfulness.
- (5) Your attention is drawn to the attached information regarding your right to appeal to the Department for Transport Local Government and the Regions, if you are aggrieved by the Council's decision.