

Centre has been offered for sale and the prospective owners wish to continue the use of the site to provide a specialist care facility but in this case to accommodate patients in need of Neurological Rehabilitation. The new facility will provide residential care to patients affected by accident, illness or injury, with the aim of rehabilitating these people.

4 Policy Considerations

Town and Country Planning Use Classes Order 1987 (as amended)
Section 192 of the Planning Act provides a formal route whereby an applicant can ask the Local Planning Authority to determine whether or not development (including the proposed use of land or buildings) can be undertaken without the need for a planning application.

Section 55 of the Planning Act includes the definition of development, for which planning permission is needed, and clarifies this in sub-section 2) by a list of activities that are not development.

5 Statutory and Non Statutory Consultations

Councillor David Jenner

No comment

Councillor E Shimbart - Hart Plain

No Comment

Councillor P Bains - Hart Plain Ward

No Comment

Legal

I am satisfied that the proposed use would be lawful. Please can you ensure that the certificate (with delegated officer report update to reflect) references that the proposal falls within use Class C. This is a requirement of S192(3)(B).

6 Community Involvement

Not applicable for this type of application.

7 Planning Considerations

- 7.1 The application is an application for a certificate of proposed use of the existing Respite Centre for disabled children and their families, which in planning terms is a C2 use of the
Town and Country Planning Use Classes Order 1987 (as amended), to use the site to provide a specialist care facility but in this case to accommodate patients in need of Neurological Rehabilitation. The facility would provide residential care to patients affected by accident, illness or injury, with the aim of rehabilitating these people.
- 7.2 Article 3 of the Order provides:-
3 (1) Subject to the provisions of this Order, where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or other land for any other purpose of the same class shall not be taken to involve development of

the land.

- 7.3 The Town and Country Use Classes Order 1987 (as amended), outlines that Class C2 Use, is for the provision of residential accommodation and care to people in need of care (other than within class C3 (dwelling houses). Use as a hospital or nursing home. Use as a residential school, college or training centre.
- 7.4 In order to assess whether the proposed use applied for would constitute a material change of use, it is necessary to consider whether the way the business would operate. This application is supported regarding the proposed use, this outlines that the proposal is to provide residential care to the occupants, but with a different group of residents requiring different types of care. The centre will be registered with the Care Quality Commission as an 'Acquired Brain Injury (ABI) Hospital' with a focus on rehabilitation and long-term care. A typical length of stay may be 18 months, and this could include patients subject to section under the Mental Health Act.
- 7.5 As such the focus of the new activities will no longer be restricted to children with disabilities, but instead upon adults with some form of cognitive behavioural, physical, functional, psychological, or emotional impairment due to a neurological injury or condition. It is further noted in the submission that ABI patients require specialist care and this is increasingly difficult to find. As a statistic, there were almost 350,000 admissions to hospital with a brain injury on 2013/14 or approximately 956 per day. Currently many Hampshire residents need to be placed in hospitals outside the local area, meaning there is a need for more beds locally. The aim for such patients is to treat the conditions to help recovery and hopefully so that these could then be discharged to their home.
- 7.6 The details available of the site history show that the site was permitted and has been used as a respite centre, providing residential accommodation and medical care to patients, and hence a use within Class C2. It is considered that if the business operates in the way that has been described then this use, comprising the use of the building to provide hospital beds for people suffering from a brain injury or neurological condition, receiving care from a range of staff and other healthcare professionals, is a Class C2 use.
- 7.7 As the existing and proposed uses are both within Class C2 then S 55(2) (f) of the 1990 Act, in combination with Article 3(1) and Class C2 of the Use Classes Order, specifies that no development is involved and hence there is no requirement for permission to be granted for this change in how the building will be used.

Internal changes/additional bedrooms

- 7.8 The internal changes will re-arrange how different spaces are used, and result in a net increase from 10 to 15 bedrooms. None of these will be evident externally. Section 55(2)(a)(i) provides that works which affect only the interior of the building are not development for which planning permission is required.

External building works

- 7.9 The proposal includes providing a new opening for a window, one the change from a doorway into a window and one from a window into a door. All of these changes are to the walls that face into the courtyard. Section 55(2)(a)(ii) provides that works which do not materially affect the external appearance of the building, are not development for which planning permission is required. As these works face into the courtyard, and will not be visible outside of the courtyard, there will be no change to the external appearance and hence planning permission is not required. This is clarified in

paragraph P55.17 in the Encyclopaedia of Planning Law, with reference to Burroughs day v Bristol City Council, which clarifies the appropriate test as a 'material affect', and that the change must be visible from a number of normal vantage points.

8 Conclusion

- 8.1 Based on the information provided and explained by the applicant, it is considered that the proposed use of the site as a hospital/ care facility, Class C2 use, for the residential care and treatment of patients with a neurological injury or condition, ; and (i) various internal changes to the building to re-arrange the accommodation and create additional bedrooms; and (ii) alterations to the external fabric of the building shell to create one new opening (a window), to change one doorway to a window, and change one window to a door, does not constitute a material change of use from the approved C2 use, and the proposed internal and external alterations are excluded from the definition of development by S55(2), and consequently that these changes can be made and undertaken without the need for a planning application. Therefore, planning permission will not be necessary and a Certificate of Proposed Lawful Use can be granted.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/20/00346

subject to the following conditions

FIRST SCHEDULE:

This certificate relates to the following development:

Application for a Lawful Development Certificate for the proposed use of the site as a hospital/ care facility, Class C2 use, for the residential care and treatment of patients with a neurological injury or condition, Class C2 use ; and (i) various internal changes to the building to re-arrange the accommodation and create additional bedrooms; and (ii) alterations to the external fabric of the building shell to create one new opening (a window), to change one doorway to a window, and change one window to a door, as described in the written particulars, plans and other documents submitted with your application received on 30 April 2020.

SECOND SCHEDULE:

This certificate relates to land at The Smile Centre, Hemlock Road, Waterlooville, PO8 8QT as shown edged red on the submitted Location Plan received 30 April 2020.

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.