

Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant
PO9 2AX

Our Ref: H242 -NM
Your Ref: PP -13855858
Email: neil@southernplanning.co.uk
Date: 14 March 2025
Status: LDC supporting letter

Dear Sir / Madam,

Lawful development certificate application – Confirmation that the proposed use of the property by up to 5 adults living together as a single household and receiving care falls within Use Class C3(b) at 78 London Road, Cowplain, Waterlooville, PO8 8EW

Southern Planning Practice Ltd has been instructed by Acorns (Southern) Propco Ltd to apply for a Certificate of Lawfulness for a Proposed Use or Development (CLOPUD) in order to confirm that the proposed use of the property as Class C3(b) is lawful at 78 London Road, Cowplain, Waterlooville, PO8 8EW .

The property is currently listed for sale as a 6 bed dwelling (see attached estate agent brochure at Appendix 1).

The proposal is that it would be occupied by up to 5 persons (over the age of 18) with learning difficulties, living together as a single household and receiving personal care , which falls within Use Class C3(b).

The change of use within the same use class is not development (under Section 3(1), The Town and Country Planning (Use Classes) Order 1987 (as amended)).

Confirmation is therefore sought that the change of use of the property from its existing C3 use to its proposed C3(b) use would be lawful.

The application submission comprises the following documents:

- This supporting letter
- Appendix 1 – Estate agent brochure
- Appendix 2 – Extract from CQC 'Easy to Read' summary report
- Appendix 3 – Property information for 78 London Road, Cowplain (Council Tax)

Southern Planning Practice Ltd

Registered Office: Youngs Yard, Churchfields, Twyford, Winchester SO21 1NN
Tel: 01962 715770 E-mail: info@southernplanning.co.uk Website: www.southernplanning.co.uk
Registered in England and Wales No. 3862030

Supporting letter from Hayden Foster, Director/Registered Manager , Acorns Health Care
Location Plan
Block Plan
Existing and proposed floor plans

Introduction

The applicants own a number of properties in the Southampton / Winchester / Fair Oak/Eastleigh area, which are used to provide supporting living to people with learning difficulties. Such is the continuing demand for placements they are looking to expand their portfolio.

The personal care provided to the tenants living in the properties is by Acorns Health Care (AHC), a registered provider of personal care established in 2019. They would also provide the personal care to the tenants living in 78 London Road, Cowplain .

AHC are committed to delivering exceptional outcomes, giving the individuals they support the opportunity to lead a full and active lifestyle within their local communities and continue with life -long learning and personal development.

The provision of personal care to individuals is regulated by the Care Quality Commission (CQC). Their latest inspection report is dated May 2024 and confirms that AHC

"...provides care and support to people living in their own home and in a 'supported living' setting, so that they can live as independently as possible."

An extract of the CQC's 'Easy to Read' summary report is attached at Appendix 2, which states:

' This service supports autistic people and people with a learning disability living in their own home and in a 'supported living' setting.'

Legislative provisions under which a Certificate is sought

This application is made under Section 191 of the Town & Country Planning Act 1990 (as amended) "the Act", which enables anyone to apply to the local planning authority for a decision whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land, is lawful for planning purposes. Section 191(4) of the Act provides that if, on an application under the section, the LPA are provided with information satisfying them of the lawfulness, at the time of the application, of the

use, operations or other matters described in the application, they shall issue a certificate effect.

Applications for Certificates of Lawfulness are assessed on the “balance of probabilities”.

The burden is on the applicant to prove the case.

The Town and Country Planning (Use Classes) Order 1987 (as amended)

Section 3(1) states:

“Subject to the provisions of this Order, where a building or other land is used for a purpose of any class specified in Schedule 1, the use of that building or that other land for any other purpose of the same class is not to be taken to involve development of the land.”

Schedule 1:

Class C3. Dwellinghouses, used as sole or main residences

Use as a dwellinghouse, as a sole or main residence and occupied for more than 183 days in a calendar year 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;

Previous use of the property (C3 dwelling)

Evidence of the existing lawful use of the premises as a C3 dwelling can be confirmed by reference to the Council's record of the planning history of the site.

There are number of applications on the Council's website spanning a period of 12 years (from 2006 – 2018) which confirm the use as a single dwelling:

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	Granted ; 10 Jul 2018
APP/17/00509	Loft conversion including raising of roof and front extension with porch (Householder application)	Granted ; 17 Aug 2017
07/70329/003	Change of use from dwelling to dwelling and day nursery. (Revised application.)	Refused ; 22 Jan 2008
07/70329/002	Change of use from dwelling to nursery	Withdrawn ; 16 Oct 2007
06/70329/001	Retention of brick wall (height 1.8m) and proposed sliding gate (height 1.830m) (Householder application)	Granted ; 15 Jan 2007
06/70329/000	Single storey rear extension (Householder application)	Granted ; 04 May 2006

The property is also registered for Council Tax (Band E) since 2012 (Local Authority Reference Number 100314262) as confirmed at <https://www.gov.uk/council-tax-bands>. (Appendix 3).

The following sections outlining how the property will be used and the care provided is informed by the letter submitted by Acorns Health Care as part of this application

The proposed use

78 London Road, Cowplain is currently listed for sale as a 6 bed dwelling.

The proposal involves using the property for supported living for a maximum of 5 tenants , aged over 18.

No changes are proposed to the internal structure or exterior / external appearance of the dwelling , as the existing layout is already suitable.

Southern Planning Practice Ltd

Registered Office: Youngs Yard, Churchfields, Twyford, Winchester SO21 1NN
Tel: 01962 715770 E-mail: info@southernplanning.co.uk Website: www.southernplanning.co.uk
Registered in England and Wales No. 3862030

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.

On the first floor 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.

Outside there is a good size garden and plenty of off-road parking at the front.

The tenant's bedrooms will be their own personal space. Otherwise, all other parts of the property will be shared.

Each of the tenants living in the property would have their own Assured Shorthold Tenancy agreement.

They will receive housing benefit, which pays for their rent, as well as also receive disability benefits.

They will be responsible for paying their own bills, including utility bills, buying their own food, drink and clothes and covering the cost of any activities they want to do.

Their individual care packages will be funded jointly by the local authority and the Department of Health.

Because of their mental disabilities, they will have learning difficulties, which in some cases may be severe. To lead as normal as life as possible, within the community, they therefore require the assistance of support workers who help with personal care, such as personal hygiene and dressing, managing money and bills, managing medication, shopping, cooking / preparing healthy meals, learning new skills, and accessing sports, leisure and social activities.

During the day, each of the residents will have daily routines, including undertaking basic household tasks, such as tidying and cleaning, and preparing meals under the guidance of their support worker. There may be appointments that they need to attend outside of the house.

Regular games and activities will be planned in the home so the residents can spend time and socialise together, within the confines of their disabilities.

They will also spend time outside the house, visiting local shops, parks and other green spaces, and attractions, as part of their community living experience, accompanied by their support workers.

The care provided

Support will be provided around the clock 365 days per year. The level of personal care varies slightly depending on the individual's needs. As a minimum it will be 1:1, although it can be 2:1.

There will be a minimum of 5 support workers in the property. An Area Manager will also attend the property most days. It has been explained that the suitability of placements in each of their properties is carefully assessed in order to ensure that the appropriate level of care support can be provided to the individuals living there. This includes the total number of staff needed in the property. With this property it is envisaged there being between 5 – 8 staff during the day. Overnight, less staff is usually required, although there would still need to be between 4 - 5. There are two 12 hour shifts (day shift and night shift) with staff changeover usually at 8am and 8pm.

Support staff will arrive at the property in a variety of ways. In this location it is expected that most will use / be able to use public transport, as there are bus stops close by. For those that drive, care sharing is encouraged. The staff rota is also carefully managed to take into account staff travel arrangements.

Reasons why a certificate should be granted

The planning records and Council Tax information provided confirm that the property is a lawful C3 dwelling

The Use Classes Order 1987 confirms that the change of use within the same use class is not development requiring planning permission (Section 3(1)).

The change of use from C3 to C3(b) is not therefore development requiring planning permission.

C3(b) comprises use as a dwellinghouse, as a sole or main residence and occupied for more than 183 days in a calendar year by not more than six residents living together as a single household where care is provided for residents.

The definition of care is defined to include 'personal care' for people in need of such care by reason of ... *disablement* ... *or present mental disorder*.

To qualify as C3(b), the use must therefore involve:

- the use of a dwellinghouse
- as a sole or main residence
- by not more than six residents
- living together as a single household
- with care being provided to the residents, which can include personal care due to their disablement or present mental disorder.

The introduction of the C3(b) classification, as explained in Department of Environment Circular 13/87 (para 27), was to provide more certainty over the planning position of *'... small group homes, which play a major role in the Government's community care policy which is aimed at enabling disabled and mentally disordered people to live as normal lives as possible in touch with the community.'*

The applicants have provided information detailing how the property will be used and the type of care support provided – showing that the residents will live together as a household and receive personal care within a home environment / setting.

This is also confirmed by the CQC, with reference to care and support being provided by AHC to autistic people and people with a learning disability *living in their own home* and in a *'supported living' setting*.

Each of the residents have their own Assured Shorthold Tenancy agreement and pay their own rent and cover bills.

The personal care they receive is tailored to their needs and operates in a supervisory capacity, providing support with tasks such as getting dressed and with personal hygiene, managing money and bills, managing medication, helping them undertake daily tasks within the home, preparing healthy meals, encouraging them to try to new experiences / learn new skills and accompanying them to appointments and on trips to the shops, park, etc.

The provision of 24 hour care by non-resident support staff is not a barrier to a use falling within C3(b), as confirmed 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)*.

As with other households, there will be times when residents will spend time apart doing different things / interests during the day and sometimes may prefer to spend time on their own. But, like other households, they will come together at meal times and interact and socialise together through planned activities, as well as trips out, etc.

The use of the property, as described, for supported living (for up to 5 adults living as a single household and receiving personal care) will enable its residents, who have learning difficulties, to live as normal lives as possible in touch with the community, which is a major part in the Government's community care policy as stated, and is precisely the reason why the C3(b) use class was introduced, and has been in operation, since 1987.

The case for the proposed change of use of the property from C3 to C3(b) being lawful (due to it not constituting development and not therefore require planning permission) has been made and accordingly a certificate should be granted.

Should you require any further information or evidence, please do not hesitate to get in touch.

Otherwise, as the offer to purchase the property is conditional on the proposed lawful use being confirmed, we look forward to receiving the certificate at the earliest opportunity.

Yours faithfully,

A solid black rectangular box used to redact the signature of Neil March.

Neil March, BSc (Hons) Dip TP MRTPI
Director