



APPEAL BY:
Mrs Stella Kahonde

AGAINST THE NON-DETERMINATION OF AN APPLICATION BY HAVANT BOROUGH FOR:

“Change of use of from a residential dwelling (Use Class C3) to a small children's home (Use Class C2).”

AT

43 Prospect Lane, Havant, Hampshire, PO9 5NH

Havant Borough Council Reference: APP/25/00148

WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

June 2025

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1. Introduction

1.1 This appeal is made on behalf of Mrs Stella Kahonde in relation to development at 43 Prospect Lane, Havant, Hampshire, PO9 5NH.

1.2 The planning application was submitted on 2 March 2025. It was given reference APP/25/00148 and sought permission for the change of use of from a residential dwelling (Use Class C3) to a small children's home (Use Class C2).

1.3 The development was not determined by the Council and is considerably beyond the statutory determination period.

1.4 That said, this Statement concludes that the appeal proposal would be acceptable in planning terms and accords with the Council's Development Plan. There is a local need for this proposal which would be met. The proposal would not harm the living conditions of nearby occupants and parking arrangements would remain acceptable.

1.5 The scheme would therefore accord with the provisions of the National Planning Policy Framework (henceforth referred to as 'the Framework'). It is sustainable development for which the Framework advocates a presumption in favour.

2. The Site

2.1 The appeal site is located on the western side of Prospect Lane, towards the northern edge of Havant. It accommodates No. 43, a two-storey, semi-detached, property located on a corner plot close to the junction with Stansted Crescent. The appeal building is constructed of a mix of materials, including facing brickwork, stonework and hanging tiles under a pitched roof. The front elevation of the appeal property is shown at Figure 1 below.



Figure 1: Principle elevation of appeal property.

- 2.2 Given the nature of the site's corner plot, it is larger than most nearby plots and No. 43 has a sizeable, wide, rear garden. This is shown at Figure 2 below.



Figure 2: Large rear garden at appeal site.

- 2.3 The immediate area is distinctly sub-urban and residential in character. Dwellings tend to be semi-detached properties. However, their materials palette and architectural composition varies. This is a relatively unremarkable residential area that is not heavily parked and not subject to any CPZ. Although there are highway restrictions (double yellow lines) nearby dwellings have off-street parking spaces. There are also on-street

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parking spaces further north along Prospect Lane. The streetscene is shown at Figure 3 below.



Figure 3: Streetscene (northwards view along Prospect Lane).

3. The Proposed Development

3.1 The appeal proposal is simple in that it is for the change of use of from a residential dwelling (Use Class C3) to a small children's home (Use Class C2). The existing dwelling is a four-bedroomed property. The number of bedrooms would not be increased. However, one of the bedrooms would be used for staff accommodation.

3.2 Up to four staff would be employed in total, although the number of individuals on site would not be greater than under the C3 use. Limited changes would be made to the building's appearance to facilitate the change of use and parking provision would remain unchanged. For ease of reference, proposed floor plans are shown at Figure 4 below.



Figure 4: Proposed floor plans.

4. Relevant Planning Policy

- 4.1 To the extent that development plan policies are material to an application for planning permission, the decision must be taken in accordance with the plan unless there are material considerations that indicate otherwise as directed by Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 4.2 For the purposes of this appeal, the relevant part of the Council's development plan is the Havant Borough Council Core Strategy 2011 ('the CS'). Other material planning policy considerations include the Framework and Planning Practice Guidance (PPG).
- 4.3 The key policies, together with relevant national guidance, are outlined below.

Havant Borough Council Core Strategy

- 4.4 Policy CS7: Community Support and Inclusion – Amongst other things, planning permission will be granted for development that provides services for older people and other vulnerable groups.
- 4.5 Policy CS16: High Quality Design – Planning permission will be granted for development that is designed to a high standard. Amongst other things, developments should respond to local context and produce positive relationships between buildings.

4.6 Policy DM7: Elderly and Specialist Housing Provision - Within the defined urban areas development specific to the requirements of the elderly, people with disabilities or other forms of specialised supported housing provision will only be permitted provided that the following relevant criteria are met:

1. It is demonstrated that appropriate levels of on-site amenity space are accessible for residents' use which provides a satisfactory outlook for all residents.
2. A setting for the building is provided which is in keeping with the surrounding area.
3. Sufficient space for servicing is provided.
4. Services that may generate noise and disturbance (such as laundry rooms, kitchens and refuse storage) are located and designed to avoid undue disturbance to the amenities of neighbouring properties.
5. The development would not result in a concentration of such uses in one of the five areas of the borough or an over-concentration within each of these areas.

4.7 Policy DM12: Mitigation the Impact of Travel – Amongst other things, new developments will be required to mitigate their travel impact.

4.8 Policy DM13: Car and Cycle Parking on Residential Development - Residential development will only be permitted where it provides car parking and cycle storage in accordance with the standards set out in the Residential Car Parking and Cycle Provision Supplementary Planning Document.

Relevant National Planning Policy Framework

Approach to Sustainable Development

4.9 Paragraph 7 of the Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development.

4.10 Paragraph 8 states that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

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a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

4.11 Paragraph 9 states that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

4.12 Paragraph 10 states that, so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development. This is then detailed at Paragraph 11.

4.13 Paragraph 39 makes it clear that decision-makers at every level should seek to approve applications for sustainable development where possible.

Design

4.14 Paragraph 131 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

4.15 Paragraph 135 seeks to ensure that developments add to the overall quality of the area.

- 4.16 Paragraph 139 states that development that is not well designed should be refused.

Living Conditions

- 4.17 Paragraph 135 seeks to secure a high standard of amenity for existing and future users.

Highway Safety

- 4.18 Paragraph 115 seeks to ensure that safe and suitable access to the site can be achieved for all users.
- 4.19 Paragraph 116 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5. The Appellant's Case

- 5.1 The assessment of this proposal will be done by consideration of two main issues which are:

Whether or not the proposal is acceptable in 'principle' terms, with particular regard to need, on-site amenity provision, effects on the character of the area, effects in terms of noise and the concentration of C2 uses nearby; and
The effect of the proposal on highway safety and parking provision.

1) 'Principle' of Development

Need

- 5.2 Policy CS7 of the CS seeks to planning permission will be granted for development that provides services for vulnerable groups. This proposal represents such a development. There is also a clear need for it. Indeed, the Council recognises a need for children's care homes as part of its commitment to providing housing support. This is evidenced by the Council's housing priorities, which include support for vulnerable individuals, including those who are former looked-after children, and those who are homeless or threatened with homelessness.

5.3 Additionally, Hampshire county has a Family Support Service and a Children's Services department, indicating a focus on supporting children and families. Hampshire County Council (HCC) also carried out market engagement in relation to children's residential care homes (5 August 2024 – 22 August 2024). In Hampshire, like the national picture, this showed a growing need for children's residential placements. Specifically, in HCC there is an increasing need for residential care for children between the ages of 12 (and most commonly 14) - 17, up to the age of 18. There is also a current tender for children's residential care homes in Hampshire run on a tender advertising site.

5.4 It follows that there is a clear need for smaller children's homes and local policy support for it. This proposal would therefore meet an identified need for supported/care unit type housing in the local authority area. This is specifically in accordance with paragraph 61 of the Framework which states:

“To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community.”

Policy DM7

5.5 Policy DM7 of the CS concerns specialist housing provision and supports this within defined urban areas subject to a number of criteria. There is no doubt that the proposal would fall within the built-up area of Havant. As such, the relevant criteria of Policy DM7 are discussed below.

Amenity and Outlook

5.6 The number of bedrooms would not be increased and the property benefits from a sizable rear garden. There would be ample external amenity space for the limited number of children cared for at the site. Furthermore, as there would be no change to the size of bedrooms, and as the ground floor living arrangements would be spacious, the care facility would not provide cramped living conditions for occupants. This is

reinforced given that room sizes would be in line with the standards of the Government's Technical housing standards – nationally described space standards.

5.7 All rooms would have good access to daylight and bedrooms would have individual light sources. Outlook would not be materially different to the current C3 use and would be acceptable. Given there would be no alterations to the size of the property, outlook at nearby dwellings would not be materially altered.

5.8 It follows that the proposal would be acceptable in terms of amenity. This is reinforced given that servicing, including in terms of refuse collection, would remain low-level and unchanged.

Noise and Disturbance

5.9 The proposal would not increase the number of bedrooms at the site or materially increase the number of people that would reside overnight within it. Staffing would be low level.

5.10 Overall, given the size of the single unit, the number of people within the C2 use would be comparable to any former occupation. The comings and goings, including deliveries, would not be materially different. This would also be true for car ownership. Indeed, this would likely be reduced. Given those receiving care have considerable mobility and learning disabilities, it is highly unlikely that they would own private vehicles. Staff members may travel to and from the site by private cars, although the likelihood of this is reduced given the highly accessible nature of the appeal site.

5.11 Typically, two staff members would provide care at any one time, with a changeover after a shift ends (around every 8 hours). As such, even if staff did drive to and from the site, it is highly likely that only one vehicle would be present at the site at any one time (noting the accessible location). This would simply be accommodated at hardstanding to the front of the appeal building and would not materially increase noise compared to the occupation as a four-bedroomed, single, dwellinghouse (which could result in the ownership of multiple private vehicles).

- 5.12 Moreover, in the unlikely, brief, event (staff changeover) that two cars were present at the site at the same time, these could be parked on existing hardstanding. Any other vehicle attending the site would be displaced away to on-street parking spaces along the carriageway. Noise from vehicles would not be apparent compared to the existing baseline. This assertion is reinforced given that there is no evidence from the Council to show that there is an overconcentration of C2 uses (or any other use causing noise) in the area. Nor is the appellant aware of any noise complaints as a result of a nearby C2 use.
- 5.13 On this basis, there would be no change in terms of the level of noise and disturbance from the C2 use compared to the single dwellinghouse. Any noise would be limited in any event, given that this is not a sizeable C2 use and would serve children who typically require tranquil environments.
- 5.14 Furthermore, if necessary, mechanisms for reducing noise can be secured via the imposition of a condition requiring the submission of a Noise Management Plan (NMP). Subject to this NMP, it is likely that noise would be lower than that which could occur at a single dwellinghouse which would not be managed in this fashion. Amongst other things, the NMP could fully detail staff shift patterns, working hours and the management of staff changeovers, together with noise mitigation (if necessary). There is no need for this information to be provided prior to determination, particularly noting that the proposal would be comparable to the former single dwellinghouse use in terms of noise generation.
- 5.15 It follows that there is simply no substantive evidence to show that this development, which is directly comparable in nature to the existing single dwellinghouse, would result in noise levels at nearby properties exceeding; 30dB LAeq in bedrooms, 35dB LAeq in living rooms over 16 hours in the day, 50-55dB LAeq in gardens over 16 hours in the day and 45dB outside bedrooms with an open window over 8 hours at night. As such, noise experienced would not be altered and would likely fall below the WHO recommended levels identified above. It would be subsumed by the existing background noise levels in this area.

Character and Appearance

- 5.16 The proposal would not result in any external alterations to the appeal building. Given that the development would not increase the number of bedrooms, there would be a comparable number of occupants at the appeal property compared to the current single dwellinghouse. The comings and goings of individuals would therefore not materially change. This would also be true for vehicle ownership.
- 5.17 It follows that there would be absolutely no material change to the character of this site compared to the current use. This would be a low level C2 use that would be entirely compatible with the character of this unremarkable residential area. There is no evidence that there are other nearby C2 uses, or that these are cumulatively causing deleterious impacts on the character of this urban area.
- 5.18 Overall, there would be no material change to the character of this area. The residential intensification would be negligible and comparable to the occupation of the unit as a single C3 property.

Overall Conclusion – ‘Principle’ of Development

- 5.19 Taking everything together, there is a clear need for this type of proposal, which would be part of a mixed community and would contribute positively to the creation and maintenance of mixed and balanced communities.
- 5.20 Furthermore, the proposal would provide high quality living conditions for future occupants in terms of external amenity space and outlook. It would not cause harm to the living conditions of the occupants of neighbouring dwellings in terms of access to daylight, outlook or even privacy. The proposal would not result in a material change to the character of the area or in terms of the noise. Lastly, ample parking provision would remain and there would be no harm in terms of highway safety.
- 5.21 It follows that the ‘principle’ of development would be acceptable, in accordance with Policies CS7, CS16 and DM7 of the CS.

2) Parking and Highway Safety

- 5.22 The site has off-street parking for two vehicles and falls within the built-up area of Havant, which has a plethora of services and facilities. Indeed, there are several nearby bus stops along Prospect Lane and Wakefords Way that are around a 5 minute walk from the site.
- 5.23 It follows that future occupants and staff would have excellent access to the services and facilities required for day-to-day living. These could be accessed on foot, along pedestrian footways at named streets with active frontages. Children at the site, who are unlikely to own vehicles themselves, would not be reliant on private vehicles to get around in any event. Staff could also travel to and from the site easily via public transport. This further reduces the likelihood of private vehicles being used to move to and from the appeal site.
- 5.24 As described above, it is likely that two staff members would be present per shift. Should a private vehicle be used, this could be accommodated at the off-street parking space to the front of the appeal building. This would also be the case should 2 vehicles be present. Nevertheless, should any more vehicles be present at any one time, one vehicle would be displaced away from the site. This would be an infrequent occurrence and the displaced vehicle could likely be accommodated at on-street parking spaces along Prospect Lane or surrounding carriageways.
- 5.25 Furthermore, the occupation of the large single dwellinghouse would likely have resulted in greater car ownership at the appeal site compared to the proposed use. Sufficient off-street parking therefore exists.
- 5.26 Taking the above into account, the site's low-level use would not exacerbate any parking stress that exists in the immediate area (which is not covered by any CPZ). This is particularly so when compared to the greater occupation and car ownership of the former single dwellinghouse. Ample off-street parking exists. In the unlikely event that a vehicle is displaced away from the site, this could be accommodated at on-street spaces at nearby carriageways.

- 5.27 Should on-street parking occur, this would not obstruct wide pedestrian footways and would not present obstacles for pedestrians or vehicles. There would be no material change to highway conditions.
- 5.28 To reinforce these assertions, details of staff changeovers and parking arrangements can be provided, if necessary, through the aforementioned NMP or through a separate Traffic Management Plan.

Overall Conclusion – Parking and Highway Safety

- 5.29 Taking everything together, this is a highly sustainable area offering safe and convenient access to public transport services and facilities required for day-to-day living. This alone would discourage car ownership at the appeal site.
- 5.30 In any event, young occupants would not own private vehicles. The only possible ownership would be from the small number of staff. Only two staff members would likely be present at any one time and, should an individual travel by private vehicle, this could be accommodated at the site's off-street parking space.
- 5.31 Furthermore, should two vehicles arrive at the site at any one time, existing off-street parking capacity exists at the site. Even if one vehicle was displaced away from the site to on-street parking bays, this would not exacerbate parking stress in the area (which does not exist). This is particularly so when compared to the C3 use of the appeal building which could facilitate a significantly higher level of vehicle ownership.
- 5.32 For these reasons, parking provision would be acceptable and residents would not be inconvenienced in this regard. The scheme would also not prejudice highway safety. This is in accordance with Policies DM12 and DM13 of the CS.

Other Material Consideration

Not Development

The Meaning of Development

- 5.33 S55 of the Town and Country Planning Act 1990 provides a broad definition in subsection (1) of 'development' for the purposes of the Act and related legislation.

This is the starting point for this assessment because ‘development’ requires planning permission under s57(1) of the Act, and the carrying out of development without the required planning permission constitutes a breach of planning control under s171A(1) of the Act.

5.34 S55(2) makes exemptions to the definition, providing that particular operations or uses shall not be taken for the purposes of the Act as involving development (and therefore do not require any grant of planning permission). S55(3) and (4) provide for particular inclusions.

5.35 ‘Development’ comprises ‘two limbs:

- The carrying out of building, engineering, mining or other operations in, on, over or under land; and
- The making of any material change in the use of any buildings or other land.

5.36 The distinction between the two limbs runs through the Act and is confirmed by the definition of ‘use’ in s336(1) as not including use for the carrying out of any building or other operations on land. Thus, it was held by Lord Denning in *Parkes v SSE* [1979] 1 All ER 21172 that operational development ‘comprises activities which result in some physical alteration to the land, which has some activities which are done in, alongside or on the land but degree of permanence to the land itself, whereas...‘uses’ do not interfere with the actual physical characteristics of the land’.

5.37 One must therefore distinguish between the two limbs of development. The Court of Appeal held in *West Bowers Farm Products Ltd v Essex CC* [1985] JPL 857 that a distinction should be drawn between composite activities where one constituent part was ancillary to the other, and where two or more activities were substantial and separate as a matter of fact and degree. The construction of a reservoir involved the extraction of gravel, and so planning permission was required for both engineering and mining operations. That said, in *R v Durham CC ex parte Lowther* [2002] P&CR 22, it was held that different aspects of a process do not always fall to be categorised as different operations or uses for planning purposes.

Material Changes of Use

- 5.38 While the meaning of 'use' is provided in s336(1) to the 1990 Act, the concept of a material change of use is not defined in statute or statutory instrument. The basic approach is that, for a material change of use to have occurred, there must be some significant difference in the character of the activities from what has gone on previously as a matter of fact and degree.
- 5.39 For example, a change in the nature of goods stored will not be material if the overall character of the activity and general implications for the area remain the same (*Snook v SSE* [1976] JPL 303).
- 5.40 Off-site effects may be relevant to whether there has been a material change of use (*Westminster CC v SSCLG & Oriol Badia and Property Investment (Development) Ltd* [2015] EWCA Civ).
- 5.41 It was held in *Richmond upon Thames LBC v SSETR* [2001] JPL 84 that the extent to which a particular use fulfils a legitimate or recognised planning purpose is relevant in deciding whether there has been a material change of use. The following legal principles relevant to such a determination were laid down in *R (oao) Kensington and Chelsea RBC v SSCLG & Reis & Tong* [2016] EWHC 1785 (Admin):
- a) A planning purpose is one which relates to the character of the use of land;
 - b) Whether there would be a material change of use or development in terms of s55(1) depends upon whether there would be a change in the character of the use of land;
 - c) The extent to which an existing use fulfils a proper planning purpose is relevant in deciding whether a change from that use would amount to a material change of use. The need for a land use such as housing or a type of housing in a particular area is a planning purpose which relates to the character of the use of land;
 - d) Whether the loss of an existing use would have a significant planning consequence, even where there would be no amenity or environmental impact, is relevant to an assessment of whether a change from that use would represent a material change of use;

e) The questions are ones of fact and degree for the decision-maker and only subject to challenge on public law grounds;

f) Whether or not a planning policy addresses a planning consequence of the loss of the use is relevant but not determinative of whether the loss would have a significant planning consequence or consequences.

- 5.42 Lastly, the intensification of a use may amount to a material change of use only if and where that causes the character of the use to change in a fundamental way. In *Hertfordshire CC v SSCLG & Metal and Waste Recycling Ltd* [2012] EWCA Civ 1473, the Court held that: 'What must be determined is whether the increase in the scale of the use has reached the point where it gives rise to such materially different planning circumstances that, as a matter of fact and degree, it has resulted in a such a change in the definable character of the use that it amounts to a material change of use'.

Discussion

- 5.43 The proposal seeks permission for a change of use from a four-bedroomed single dwellinghouse to a four-bedroomed C2 use with one room for overnight staff accommodation.
- 5.44 There would be no external alterations to the appeal property to facilitate this change. Its elevations and fenestration pattern would not be altered. Moreover, internal alterations simply do not constitute development. As such, the proposed change would not result in any activities that result in any physical alteration to the land. In line with the principles of *Parkes v SSE* [1979] 1 All ER 21172, there is simply no building, engineering or other operations.
- 5.45 The only question that therefore arises is whether or not the proposed change of use is material. A change between Use Classes cannot signify a material change. This is simply irrelevant. Ultimately, this question only resolves itself as an inquiry into the changed character of the use as compared with the previous character of the use, and as to its impact in planning terms.

- 5.46 As identified in this Statement, the appeal property is a semi-detached building in a sub-urban area. The streetscene is characterised by residential units.
- 5.47 Bedrooms would not be increased and there would be nothing preventing the occupation of the C3 property by more individuals than under a C2 use. Consequently, even as a C3 single unit, the building could still accommodate a considerable number of persons (at least the same number as would reside in the proposed C2 use).
- 5.48 It follows that comings and goings to and from the site would not be materially changed compared to the C3 use. This would also be true for the number of vehicles that could be owned at the site (given the accessible nature of the development and the absence of vehicle ownership by occupants receiving care). As such, neither the occupants nor vehicle ownership would result in any material change to the character of the site. The first and second floor use would still be read as a low-level residential use compatible with the size of the property. There would be no notable or appreciable intensification of this residential use (a test with a high bar to pass).
- 5.49 There would be no additional external doors or windows. Bins would not be increased and could be stored securely and presented for collection at appropriate times. This is not an unusual arrangement. Given the comparable level of occupation and absence of vehicles at the site, there would not be any additional noise and disturbance as a result of a C2 use, other than that typically associated with residential occupation. Noise could also be managed by the NMP secured conditionally.
- 5.50 It follows that there would be no perceptible change in the character of the use of the land. This is clearly indicative of there not being a material change of use with regard to the principles established in *Richmond upon Thames LBC v SSETR* [2001] JPL 84 and *R (oao) Kensington and Chelsea RBC v SSCLG & Reis & Tong* [2016] EWHC 1785 (Admin).
- 5.51 Turning to planning policy, the site's residential use would remain. There would be no net loss of a dwelling from the Council's housing stock. There would therefore be no contravention of the Council's housing strategy. Furthermore, there are no policies within the Council's development plan that specifically resist the creation of C2 uses for supported care. Rather, these are supported in certain circumstances.

- 5.52 Additionally, the proposal would provide high quality internal living conditions for occupants which would not be unduly cramped. Moreover, as discussed, there would be no adverse effects on the living conditions of the occupants of neighbouring properties as comings and goings and noise levels would not be materially different from the site's use as a C3 dwellinghouse.
- 5.53 It follows that, not only would the planning purpose of a C2 use relate to the character of the land, but this fulfils a proper planning purpose that would not have any significant planning policy consequences. On the contrary, it would be in accordance with good planning policy in relation to supported housing use. Again, this is evidence of the absence of any material change of use in line with the findings of *Richmond upon Thames LBC v SSETR* [2001] JPL 84, *Wakelin v SSE and R (oao) Kensington and Chelsea RBC v SSCLG & Reis & Tong* [2016] EWHC 1785 (Admin).

Overall Conclusion – Not Development

- 5.54 Taking everything together, there is no operational development associated with the change of use from a C3 unit to a small children's home. There would be no perceptible change to site character resulting from this change and there would be no environmental effects of any consequence. The change would also accord with good local planning policy in relation to this type of development and would not result in any significant planning policy consequences.
- 5.55 It follows that the change to a C2 use would not result in any significant difference in the character of the activities from what has gone on previously as a C3 use as a matter of fact and degree.
- 5.56 On the balance of probabilities, the Inspector can therefore be satisfied that this proposed change would not be material. Quite simply, it is not development under s55 of the Town and Country Planning Act 1990 and the appeal should be allowed on this basis.
- 5.57 This is a significant material planning consideration that weighs heavily, if not insurmountably, in favour of this proposal.

6. Conclusion

- 6.1 Taking all of the above into account, there is a significant need for this type of C2 accommodation in the Borough and the proposal would serve local residents.
- 6.2 The proposal would provide high quality living conditions for future occupants in terms of external amenity space and outlook. It would not cause harm to the living conditions of the occupants of neighbouring dwellings in terms of access to daylight, outlook or even privacy. The proposal would not result in a material change to the character of the area or in terms of the noise. Lastly, ample parking provision would remain and there would be no harm in terms of highway safety.
- 6.3 As such, the proposal should be approved without delay as it is in accordance with the development plan as a whole and there are no other considerations which outweigh this finding. Indeed, there is a material consideration (the absence of development) that should attract significant weight in favour of this proposal.

Overall Conclusion

- 6.4 It is concluded that the proposal represents sustainable development for which the Framework advocates a presumption in favour. It is therefore respectfully requested that the appeal be allowed.