

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/00635
APPLICATION TYPE:	Lawful development: Proposed use
SITE ADDRESS:	3 Trafalgar Close, Corsham, SN13 0DZ
DEVELOPMENT DESCRIPTION:	C3 (b) lawful certificate for the purposes of Ofsted registration. The property is intended to be used as a children's home with the maximum of 2 children which falls under the C3 dwelling House Classification.
RECOMMENDATION:	Approve

PROPOSAL

This application seeks a Certificate of Lawfulness (CLP) under Section 192 of the Town and Country Planning Act 1990 (as amended) for a proposed use falling within Use Class C3(b) for a children's home with a maximum of 2 children. The application does not specify how those children will be looked after, staffing or associated care/educational needs.

The planning merits of the proposal are not under consideration. The only issue is whether the proposal constitutes 'development.'

RELEVANT LEGISLATION AND POLICY

The statutory framework governing CLP's is set out in Section 192 of the Town and Country Planning Act 1990 (as amended). This section establishes that a proposed development or use is "lawful" if it would not constitute a breach of planning control. A CLP can be granted if the Local Planning Authority is satisfied, on the balance of probabilities, that the proposed development or use would not require planning permission.

The application has been assessed against the Use Classes Order 1987 (as amended).

REPRESENTATIONS

There is no legal obligation to consult third parties, including Town/Parish Councils or neighbouring properties, for this type of application.

RELEVANT SITE HISTORY

The site is part of a modern housing estate and as such the wider estate site within which the dwelling the subject of this application is located has a relatively involved planning history; selected history being:

Proposal / Summary

17/11945/VAR - Removal/variation of conditions Decision - Approve with Conditions Date: 22/2/2018 – Variation of condition 2 (approved plans) on 15/11889/REM - Change to finished floor levels
15/11882/REM - Reserved Matters Decision - Approve with Conditions Date: 1/3/2016 – Reserved Matters Application for Appearance, Scale, Layout & Landscaping for 29 Dwellings. (Pursuant to Outline Application 15/00058/OUT)
15/00058/OUT - Outline Planning Decision - Approve with Conditions Date: 27/10/2015 – Outline Application for up to 40 Dwellings, Demolition of Existing Buildings & Structures, Car Parking, Open Space With Associated Infrastructure and Access.
14/07430/106 - Modification of Planning Obligation Decision - Approved Date: 20/4/2015 – Modification of Legal Agreement Relating to N/12/00836/OUT
14/07172/VAR - Removal/variation of conditions Decision - Approve with Conditions Date: 20/4/2015 – Variation of Condition 2 of N/12/00836/OUT
14/03958/VAR - Removal/variation of conditions Decision - Withdrawn Date: 6/2/2015 – Variation of Condition 3 of 12/00836/OUT Relating to Previously Approved Documents
N/12/00836/OUT - Outline Planning Decision - Approve with Conditions Date: 19/7/2013 – Outline Application for upto 100 Dwellings and Economic Development Including Nursing Home, Extra Care Accommodation, Hotel and B1 Offices, Demolition of Existing Buildings & Structures, Car Parking, Open Space With Associated Infrastructure and Access
N/07/02871/FUL - Full planning permission Decision - Approve with Conditions Date: 21/1/2008 – Erection of Temporary Accommodation Modular Unit for Use as Offices (Revision to 07.02439.FUL)
N/07/02439/FUL - Full planning permission Decision - Approve with Conditions Date: 21/11/2007 – Erection of 8 Temporary Porta-Cabins to be used as Offices
N/04/01918/C1884 - Circular 18/84 notification - Crown Decision - NOOBJECT Date: 19/7/2004 – ERECTION OF SMOKING SHELTER
N/01/01334/C1884 - Circular 18/84 notification - Crown Decision - Permitted Development Date: 29/8/2001 – ERECTION OF MODULAR BUILDING
N/95/02145/C1884 - Circular 18/84 notification - Crown Decision - Observations Date: 11/12/1995 – CIRCULAR 18/84 - ERECTION OF PORTAKABIN
N/94/01604/C1884 - Circular 18/84 notification - Crown Decision - Observations Date: 12/9/1994 – PROPOSED MONO PITCH OVER-ROOF TO BLOCK B MONO PITCH OVER-ROOF

ASSESSMENT AND CONCLUSION

The proposal seeks to confirm the lawful use of the site for Ofsted registration. The existing use of the site is C3(a) dwellinghouse and the proposed use of the site is C3(b) dwellinghouse. This is a subsection as set out under the Use Class C3 dwellinghouse for “not more than six residents living together as a single household where care is provided for residents”.

The property is intended to be used as a children's home with the maximum of 2 children. This is a relatively low number of children and whilst no information has been supplied as to the number of carers and associated staffing which will be expected at the site, due to the limited numbers of children present in the house, it is reasonable to expect that it will be similarly

small in number with the occupation of the property being analogous to that of a single household. For these reasons, the use of the property for the described purposes is not considered to be substantively dissimilar to that of a C3(a) dwellinghouse. Class C3(b) does allow for up to six residents to live together as a single household where care is provided. In any event, criteria sub-categories (a), (b) and (c) all fall within the same overall C3 Use Class to The Town and Country Planning (Use Classes) Order 1987 and as such moving between these would not be considered a 'Change of Use' and thus not require planning permission.

CONCLUSION

In view of the number and nature of the occupation set out in the application, it is concluded that the proposals would not constitute a change of use and would not require planning permission.

The proposed development is therefore considered lawful under Section 192 of the Town and Country Planning Act 1990 (as amended).

RECOMMENDATION

It is recommended that a Certificate of Lawfulness for Proposed Development be GRANTED for the following use/development:

Reason for approval: The proposed development is deemed lawful under Schedule 192 of the Town and Country Planning Act 1990 (as amended).

APPENDIX 1 –

Checklist for permitted development under Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

If yes is answered to any of the below questions, then planning permission will be required for the proposal.

Constraint	Yes/No/N/A	Notes
Is there an Article 4 Direction removing PD rights for a class within which the proposal falls?		N/A
Is there a condition removing PD rights for a class within which the proposal falls?		N/A