PARKER DANN

Meadowbank, Arundel Road, Angmering
Certificate of Lawfulness for a Proposed Use or Development

Introduction

Meadowbank, Arundel Road, Angmering is a single detached dwelling located in a semi-urban location on the edge of the settlement of Angmering, at the northern end of Arundel Road before it meets the A27. The applicants propose to use the dwelling as a children's home. No external alterations will be made to the building.

This application is for a Certificate of Lawfulness of Proposed Use or Development. It is submitted that the existing use as a single dwelling falling within class C3 of the Use Classes Order will be maintained. Information is submitted detailing the use of the building and its relationship to the Use Class.

Operators – My Choice Children's Homes Ltd

My Choice Children's Homes Ltd is an organisation committed to the needs and welfare of children in their care. The company was established in February 2000 and operates other children's homes in the county.

The organisation is experienced in the issues of managing children's homes and is fully conversant with the regulations covering this issue.

The organisation is made up of experienced and qualified social workers. The ethos behind using family homes as children's care homes is to avoid the stigma associated with children's homes as far as possible. The homes already managed by My Choice provide a real-life residential experience for the individual young person allowing them to interact with the local community via places of worship, schools, colleges, youth clubs, work experience and other social establishments.

My Choice is a child-oriented and needs led organisation established to provide a life enhancing opportunity for children who have found themselves unable to sustain a placement, in their parental homes, foster homes or conventional children's homes.

The Household

Meadowbank, Arundel Road, Angmering is a six bedroom house, which would accommodate three children under the age of 18 years old. In addition, up to three members of staff will be present in the household at any one time. The total number of occupants in the house will therefore be a maximum of six at any given time.

The children are full time resident at the home, whilst the care workers will provide care on a rotation basis, on 48 hour shifts, 24 hours a day.

Whilst at the home, the care workers will provide all the care required by the children, and prepare meals, clean and wash clothes etc, as in a normal home. The children will have the use of the family bathroom. All the occupants will have the use of the other rooms, including the kitchen. An office is to be provided on the ground floor, but this is not labelled in such a way as to exclude the young people.

Traffic and Parking

The pattern of traffic generation to the application site will be similar to that generated by a single family dwelling and will equal approx. 8 – 10 movements per day. This will encompass the shift changes and the visits from the non-residential manager and any other visits.

The site benefits from off street parking, double garage and private forecourt.

Regulatory Framework

The Children's Act 1989 defined registered children's homes as homes that provide "**care and accommodation... for more than three children at any one time**". This meant initially that small private homes for three or less children were not required to be registered or inspected by Social services. In 2000 the Department of Health advised local Social Services Authorities that they are required to register small private children's homes. The Children's Act was then extended to cover small children's homes of three or fewer children.

West Sussex County Council produces guidance on the registration and inspection of children's homes. Part of the necessary registration is that any necessary planning consents to the running of the home are obtained.

In order to comply with this particular aspect of the registration requirements, confirmation is requested that the use of the building as a small private children's home falls within class C3 domestic residential use, and that there has been no material change of use to the dwelling as a result of its proposed use.

Single Dwelling Use

The Use Classes Order is a statutory Instrument allied to the Town and Country Planning Acts. Class C3 dwellinghouse is defined as follows:

"Use as a dwellinghouse (whether or not as a sole or main residence) —
(a) by a single person or by people living together as a family, or
(b) by not more than 6 residents living together as a single household (including a household where care is provided for residents)."

Please note that up to six unrelated people can be living together under one roof within the class. "The key element in the use of a dwelling house for non-family purposes is the concept of a single household." (Circular 03/05 paragraph 27)

Additionally if the Council takes the view that the proposal does not fall within the C3(b) use class, this proposal also makes the case that the proposed use represents *no material change of use from that of a single dwelling*. If one compares the existing use with the proposed use, that of a children's home caring for three young people, as described in the Certificate of Lawful Use application, the use is so similar to that of a residential dwelling in single family occupation that no change of use will occur.

No external alterations are proposed to the house. The application site is not altered visually in any way. There are no signs on the external surfaces of the house advertising its use. The dwelling will purposefully maintain a domestic appearance with no outward signs of institutional use.

The internal spaces would be used in exactly the same way as a single dwelling. Each of the occupants would have the use of their own bedrooms and all communal spaces are to be shared, including kitchen, bathroom, living room, dining room and garden.

The house contains an office for the use of the staff, but this is room has no lock upon the door, contains minimal office equipment, at a similar level as one may expect in a study within a domestic property. This might include a computer, a printer, a telephone etc. There is no 'staff only' sign on the office door. A single bed may occasionally be erected in this room for carers staying over.

Regarding the day to day activities at the application site, cooking, cleaning and washing would be carried out by the carers with the young people being encouraged to assist in these tasks and taught to be independent in the same way a parent would do with off-spring. The young people occupying the house will go to mainstream education and would have a social life not dissimilar to most children living with parents.

The pattern of traffic generation to the application site will be similar to that generated by a single family dwelling and will equal approx. 8 – 10 movements per day. This will encompass the shift changes and the visits from the non-residential manager. The site benefits from substantial off street parking.

This reflects the type and nature of activity normally associated with a single dwelling.

Related Cases (Use class)

In the last few years a number of cases illustrate the point that the use of a dwelling by individuals in a caring role and the cared-for do fall within class C3(b) of the Use Classes Order.

A case in Crawley Borough in 2004 (Crawley Bo. Co. v. The First Secretary of State for Transport and the Regions ex parte Eve Helberg 2004) related to the occupation of a semi-detached house by 4 people aged between 18 and 65 with carers there at all times was determined. The High Court allowed the appeal that was formerly allowed by an Appeal Inspector. A copy of this report has been appended to this application.

In this case, the four adults with learning difficulties were said to live together as a household alongside carers, with the occupation based on a communal basis with shared living rooms, toilets, bathing facilities, kitchen and cooking, shared services, leisure time and food purchases, were considered to live together as a household. Hence the Certificate of Lawful Use was issued.

Other appeal cases relating to the proposed use class include:

In Fenland District at 27A Plough lane, Whittlesey in 2000, an enforcement notice alleging that a dwellinghouse was in use as a children's home was quashed. The Inspector noted that that the use involved the house being used to care for up to 3 children with between 2 and 3 staff members, and that there had been no substantial alterations to the interior or exterior of the house. The inspector made reference to the case R v Bromley L.B.C ex parte Sinclair (1991) in which the comings and goings of carers were no different from many dwellinghouses. The fact that the carers were paid did not prevent the premises being considered a single dwellinghouse. The Inspector concluded that the use fell within the scope of class C3(b) of the Use Classes Order and that no change of use had occurred.

This case is comparable to the application site, and leads to the conclusion that the use of Meadowbank, Arundel Road, Angmering will not constitute a change of use. A copy of this case has been appended to this application.

An appeal for a Certificate of Lawful Use in 2006 (11 Osborne Road, Enfield) was also allowed. The details of this case were that a house containing 3 individuals recovering from mental health problems with one carer on site at any one time operating a shift system. Residents would share communal facilities and each had their own rooms. The Inspector allowed the appeal and granted the Certificate of Lawful Use for a C3(b) use.

Again the case is appended to this application statement.

Related Cases (Material Change of Use)

There are a number of relevant cases where, despite the Inspector or the High Court coming to the view that the use fell within the C2 use class (rather than C3(b), the proposals represented no material change of use, and a Certificate of Lawful or Proposed Use had nevertheless been granted.

This view was taken in the High Court in a case in North Devon (North Devon v The First Secretary of State 2003) in which a similar use was taken to fall within class C2 (residential institution) rather then C3(b). Nevertheless, despite this judgement, it was determined that the nature of the use represented no material change of use and the certificate was granted.

In an appeal case in Wolverhampton (2006) the use was similarly determined to fall within the use class C2. Notwithstanding this, the Inspector found that there was nothing to distinguish the appeal property from a dwelling as there had been no signage or external alterations to the building. Day to day activity associated with the use was found to be similar in nature to that of a single dwelling, including parking and trips out.

Despite the use falling within the C2 class, the Inspector found no material change of use from a single dwelling and granted the Certificate of Lawful Use for the development.

Similarly an appeal case in Wrexham Road, Malpas, Cheshire (2006) again found that even though the use fell within C2 (residential institution), the inspector sought to examine the physical ways the character of the appeal site differed from that of a single dwelling. In this case, despite the larger than average comings and goings associated with the premises, largely due to the short shift patterns and the large size of the house, the Inspector felt that the increase would not have any material effect upon the particular character of the appeal property.

In this case some discussion was had regarding the presence of an office within the building (accommodating emergency lighting, fire alarm system etc) which was claimed not to be ancillary to the domestic use of the property. Again the Inspector found that *one* room within a dwelling was often used as an office and the presence of the office within the appeal site did not materially change the use of the premises.

The Certificate of Lawful Use was issued.

Other Cases for My Choice Children's Homes

Parker Dann has submitted and had approved a number similar cases using this same argument, based on sites where the use exactly reflects that set out here.

These cases include:

- 35 St Andrews Road, Burgess Hill – Mid Sussex District Council
- Chestnut Holt, Stane Street, Codmore Hill, Pulborough – Horsham District Council
- 8 Wendy Ridge, Rustington, West Sussex – Arun District Council
- 227 Balcombe Road, Horley, Surrey – Reigate & Banstead Borough Council
- Pest House, River Lane, Watersfield – Horsham District Council

Not all the above site were subsequently used as children's homes, but in all the above cases, it was accepted by the District Council that the use either fell within use class C3(b) or that no change of use had occurred.

Evidence

The following evidence is submitted to support the application for a certificate of lawfulness of proposed use.

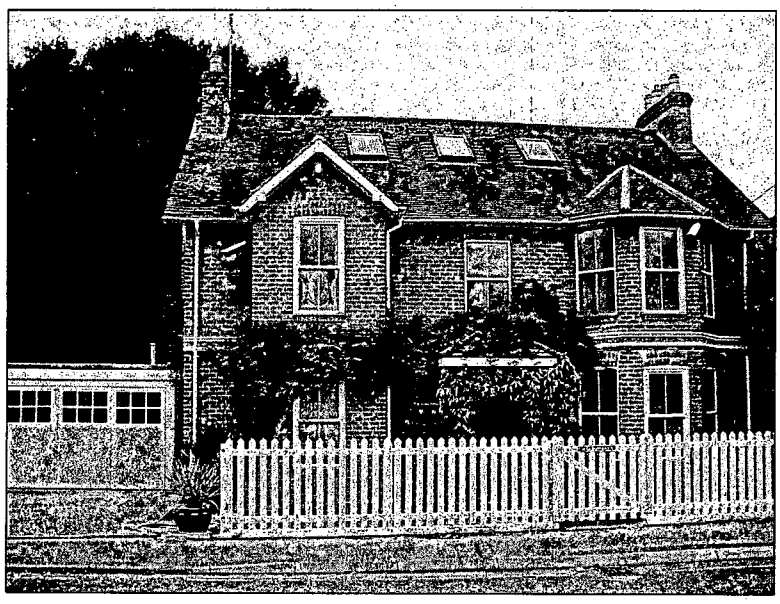
1. Site plan at 1:1250
2. The Crawley Case (High Court)
3. The North Devon Case (High Court)
4. The Fenland appeal case
5. The Enfield Appeal case
6. The Wolverhampton Appeal case
7. The Wrexham Road, Cheshire appeal case.

Conclusion

It is therefore submitted that the use of Meadowbank, Arundel Road, Angmering as a children's home, as described above, falls within the use class C3 of the Use Classes Order. In addition, notwithstanding the use class, the character and nature of the use and the lack of external alterations to the building means that no material change of use has occurred.

No change of use application is therefore required for My Choice to occupy the building as described.

I look forward to the Certificate of Lawfulness of Proposed Use to be issued in due course.



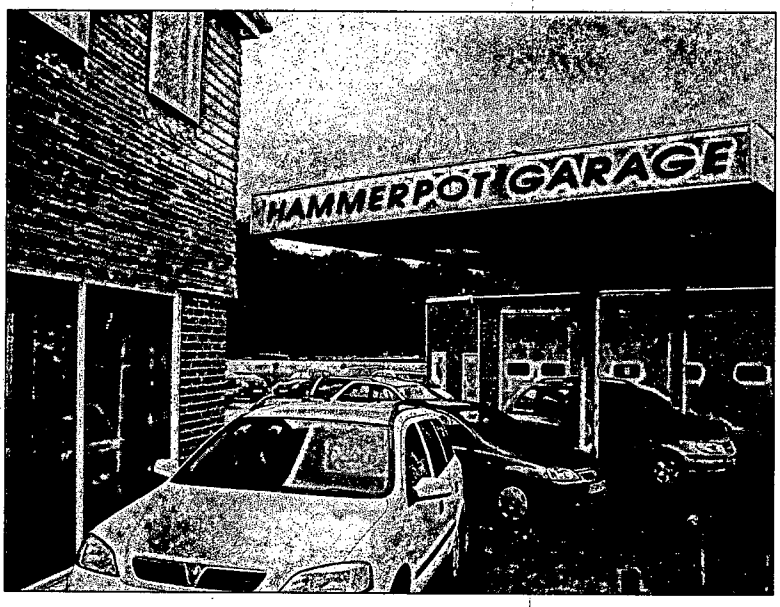
Photograph 1 – Meadowbank viewed from Arundel Road, showing the front elevation and the double garage on the left hand side of the property.



Photograph 2 – Meadowbank's front garden looking out onto the A27 northwards.



Photograph 3 – The double garage and large hardstanding parking area.



Photograph 4 – The neighbouring commercial garage.



Photograph 5 – Looking north up Arundel Road towards the A27.