

RECORD OF EXERCISE OF DELEGATED AUTHORITY BY OFFICER PURSUANT TO REGULATION 13 OF THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012 & THE OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014

<u>SUBJECT OF DECISION</u>			
Certificate of proposed lawful use from dwellinghouse (Class C3) to children's home (Class C2). Planning Application reference: 041181			
<u>DECISION REFERENCE</u>	<u>SOURCE OF AUTHORITY AND REFERENCE</u> (i.e. Committee/ Constitution/Minute No. etc. Part 3E.3 a) <table border="1" data-bbox="513 757 1513 996"> <tr> <td>Ss.191 to 194, Town and Country Planning Act 1990</td> <td>Certificate of lawful use or development except when called in for decision by Planning Applications Committee pursuant to the process outlined in Part 3E.7 iv.</td> </tr> </table>	Ss.191 to 194, Town and Country Planning Act 1990	Certificate of lawful use or development except when called in for decision by Planning Applications Committee pursuant to the process outlined in Part 3E.7 iv.
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<u>DATE OF DECISION</u>	<u>DECISION MAKER (Name and Job Title)</u>  Matt Wallbank <u>Assistant Director – Democracy & Governance</u>		

RECORD OF THE DECISION

a) The issue

Under section 192 of the Town and Country Planning Act 1990, an applicant can ascertain whether any use and or operations which are to be carried out in, on, over or under land are lawful. This can be done by applying for a certificate of lawfulness.

This application is seeking to ascertain that the proposed change of use from Use Class C3 (dwellinghouse) to C2 (residential institution) as defined by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, which includes care homes, nursing homes and other uses which provide accommodation and care for people in need is lawful without the requirement of a planning application.

Section 55(1) refers to the Town and Country Planning Act 1990, which defines "development" in planning law. It includes:

- Building operations (construction, demolition, or alteration)
- **Material changes in use of land or buildings**

Section 55(2)(f) states that in the case of buildings which are used for a purpose of any class specified by the Secretary of State, the use of the building for any purpose within the same class shall not be taken for the purposes of The Act as amounting to development.

Section 192 of The Act (as amended) makes provision for an application to be made to the local planning authority to ascertain whether any proposed use of a building would be lawful it is important to determine as to whether, based on the facts of the case, the specific use would be lawful and whether the proposed change would be considered as a material change of use. Whilst there is no statutory definition of 'material change of use', it is linked to the significance of a change and the resulting impact on the use of land and buildings.

b) The Decision

The Certificate is to be issued as it is considered that there is no material different in planning terms between the existing use as a dwellinghouse (Class C3) and the proposed use as a children's care home (Class C2). Furthermore, as per the supporting documentation within the Planning Statement as well as submitted plans, it can be considered that, based on the facts of the case, the specific use would be considered as a lawful change.

REASON FOR THE DECISION

The assessment is a matter of law, fact and degree. The applicants have submitted proposals and planning statement that it is determined demonstrates there is no material change of use.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED IN MAKING THE DECISION

Reject the application. This was not an option in view of the submitted proposals.

WARD RELEVANCE

Stockingford West

<u>FINANCIAL AND BUDGET IMPLICATIONS</u> None
<u>CONSULTATION UNDERTAKEN WITH MEMBERS/OFFICERS</u> Consultation has been undertaken with the Legal Services Team and the Planning Services Team.
<u>ANY CONFLICT OF INTEREST DECLARED BY ANY MEMBER CONSULTED</u> None
<u>IN RESPECT OF ANY DECLARED CONFLICT BY A CABINET MEMBER, ANY DISPENSATION GIVEN BY THE HEAD OF PAID SERVICE</u> (Note if the decision is a non-executive decision, no dispensation can be given). Not applicable
<u>EQUALITIES IMPLICATIONS</u> None
<u>HUMAN RESOURCES IMPLICATIONS</u> None
<u>FINANCIAL IMPLICATIONS</u> None
<u>HEALTH EQUALITIES IMPLICATIONS</u> None
<u>SECTION 17 CRIME & DISORDER IMPLICATIONS</u> None
<u>RISK MANAGEMENT IMPLICATIONS</u> None
<u>SME (SMALL/MEDIUM ENTERPRISES) & LOCAL ECONOMY IMPLICATIONS</u> None
<u>ENVIRONMENTAL IMPLICATIONS</u> None

LEGAL IMPLICATIONS

This decision complies with Section 192 of the Town & Country Planning Act 1990.

ANY OTHER COMMENTS

None

**PLEASE RETURN TO THE MONITORING OFFICER AS SOON AS A DECISION IS
MADE OR AS REASONABLY PRACTICABLE THEREAFTER**