Development Management - Delegated Officer Report

Application Number: AWDM/1391/25 **Recommendation: REFUSE Certificate**

Site: **108 The Gardens, Southwick, BN42 4AQ**

Proposal: **Application for a Lawful Development Certificate for proposed use as C3(b) supported living home for adults with learning disabilities, mental health needs, and autism for up to six residents living within one property and receiving care.**

Date of site visit: N/A Assessment has also been assisted using the Applicants plan; Earthlight mapping; and Google 3D of the site

Neighbours checked: N/A

Additional neighbour notifications: N/A

Site and Surroundings:

No.108 The Gardens, Southwick is positioned on the south side of the road and is a two storey middle of terraced dwelling.

There is currently no on-site parking for the property, but some neighbouring and nearby properties have hardsurfaced their small front amenity areas for parking.

The submitted plans show the dwelling to be 3 bedrooms and bathroom on the first floor, and a through lounge, kitchen and toilet on the ground floor.

The site is not a Listed Building or within a Conservation Area.

Relevant Planning History:

None

Proposal:

A Certificate of Lawfulness is sought for a change from the existing Class C3 (dwellinghouses) to Class C3 (b) (Houses in Multiple Occupation).

- The door between the ground floor lounges will be removed and the wall closed to create 1no. bedroom plus the living room.

- No extensions to take place.

- Application confirms that the property would be occupied as a supported living home for adults with learning disabilities, mental health needs, and autism for up to 6no. residents living within one property and receiving care C3(b)

Permitted Development for Class C3 Dwellinghouses

Class C3 is formed of 3 parts

- C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child
- C3(b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems
- C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.

Consultation: The Legal Officer advises to refuse the application commenting:

1. It doesn't appear to be in dispute that the current use falls within Class C3(a). The proposed use is said to fall within Class C3(b) which covers use as a dwellinghouse by not more than six residents living together as a single household where care is provided for residents. The supporting evidence provides that up to 6 residents would reside at the property and they would be adults "aged 18 to 65 years old who may have mild to moderate learning disabilities, autism, or mental health conditions". Staff will provide support and be available 24/7 although I understand that they will not be resident at the property. It is said that "support will include assistance with personal care, budgeting, social inclusion, healthcare access, daily living skills, and community participation."
2. We need to consider whether as a matter of fact and degree, whether the (up to 6) adults occupying the property would form a single household. No evidence has been provided as to how the residents would interact with each other such that they could be said to form a single household. There will be communal facilities, but nothing has been provided to say whether the residents would use those facilities communally – for example by cooking and eating meals together. 24/7 support is to be available to the residents and given the list of the type of assistance that will be provided to residents as quoted above, on balance it is more likely than not in my opinion, that the residents would be incapable of living independently or running the household on their own. I am therefore not satisfied by the evidence submitted that on the balance of probabilities, the residents would live together as a single

household. If this proposed change of use had occurred on the application date, it would not have been lawful for planning purposes.

3. In my view, the proposed use would fall under Class C2 – Use for the provision of residential accommodation and care to people in need of care, but this is not what has been applied for.

Planning Assessment:

The proposal seeks confirmation that the existing C3 use for the property can be used as C3(b) without the need to submit a planning application for the operation for supported living.

The determination of applications for Certificates of Lawfulness is restricted to consideration of the lawfulness of the proposal. Effectively, the issue for consideration is whether the proposal needs planning permission by means of an application or, alternatively, may be carried out without any such need because it is not development or is permitted development or is *de Minimis* or is not a material change of use or is immune from enforcement and so has achieved lawfulness. The planning merits of a proposal are outside of the scope of determination.

The most fundamental requirement is that the residents of the care home live together in the property as a single household. This means that, rather than being 'passive occupants' each of the residents would contribute to the day to day running of the household, participating in, and undertaking everyday tasks, such as cleaning and cooking, in the same way that a conventional family household would. In care homes under Class C3(b) whilst it is acknowledged, in some instance, that each resident may require one-to-one support; the purpose of the carers is to assist residents in their day-to-day tasks, as opposed to undertaking those themselves on behalf of the residents, this approach is described as 'supported living'.

It has not been sufficiently demonstrated that, on the balance of probabilities, the residents would be capable of living independently or running the household on their own and the proposed use is therefore likely to be more akin to a care home (Class C2). As such, the proposed use would not be lawful.

Recommendation:

It has not been sufficiently demonstrated that, on the balance of probabilities, the residents would be capable of living independently or running the household on their own and the proposed use is therefore considered to be more akin to a care home (Class C2) which would amount to a change of use requiring planning permission.

RECOMMENDATION: REFUSE Certificate

Case Officer: Eve Hearsey Date: 23.12.2025

Authorised by: Peter Barnett Date: 23 December 2025