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Our Ref: JH/DB 24.156

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Neath Port Talbot County Borough Council,
Development Control Section,
The Quays,
Brunel Way,
Neath,
SA11 2HZ

Dear Sir / Madam,

Town and County Planning Act 1990 (As Amended)

Lawful Development Certificate

Lawful Development Certificate for proposed use of property as a residential care home for 4no. children (C3 use class)

40 Lletty Dafydd, Melincourt, Clyne, SA11 4BG

Planning Portal Reference: PP-13000220

Asbri Planning is appointed as planning agent to Rise Care Ltd to submit a lawful development certificate to Neath Port Talbot County Borough Council (NPTCBC) in relation to the proposed use of the property as a residential care home for 4no. children (C3 use class). The children will be supported by 2no. staff on a daily basis. 2no. staff to sleep at the property per night on a rotational basis. The property will be used for residential use only (i.e., no educational / leisure facilities etc.).

The applicant, Rise Care Ltd, provides exceptional residential care for children and young people facing challenging circumstances and that are unable to live with parents or relatives. The proposed use will operate when the property will be registered with Care Inspectorate Wales (CIW).

The property, owned by IM Investments (London) Ltd, is leased to Rise Care Ltd (the applicant). IM Investments (London) Ltd are fully aware of the proposed use of the property as a residential care home for 4no. children.

Submission

In line with the Council's application procedures, the following information is enclosed alongside this letter:

Document/drawing	Prepared by
Application Form	Asbri Planning
Site Location Plan	Asbri Planning
Appendices	Asbri Planning

Site Description

The proposal refers to the residential property of 40 Lletty Dafydd, Clyne. The application site is a detached 4no. bedroom residential dwelling located within a residential hamlet of Melincourt, with a private rear garden and a private driveway. The site is centred on the following grid coordinates: E: 281054; N: 201240.

Planning History

An online planning history search has been undertaken of the site using Neath Port Talbot's planning register. The search found that the site is not subject to any previous planning history relevant to this application, however, there have been several applications across NPT that relate to the proposal. These are listed in the table below:

Application Ref.	Location	Proposal	Decision	Date of Decision
P2023/0323	103 Main Road Dyffryn Cellwen Neath, SA10 9LG	Certificate of lawful development (proposed) for the use of the existing dwelling (use class C3) as a small children's home for the care of 2 children together with associated 2 no. live-in staff under use class C3	Approved	27 th July 2023
P2022/0819	25 Auburn Avenue, Sandfields, Port Talbot, SA12 7RD	Certificate of lawful development (proposed) for the use of the existing dwelling (use class C3) as a small children's home for the care of 2 children under use class C3	Approved	6 th January 2023
P2021/0817	Graig Madoc Lane from Marlas Road to Llanmihangel Farm, Pyle, CF33 6RL	Certificate of lawful development (proposed) for the use of the existing dwelling (use class C3) as a small children's home for the care of 3 children under use class C3	Approved	8 th October 2021

The application of principal relevance to this proposal is the one relating to 103 Main Road (ref. P2023/0323) due to the recent nature of approval and the similar site circumstances (see Appendix 1). The decision notice for the application states for reference that:

"The application contains sufficient evidence to demonstrate that the existing property known as 103 Main Road, Dyffryn Cellwen has a lawful use as a residential dwelling (Use Class C3). Furthermore, whilst the proposed use could be considered to fall within Class C2, based upon the specific nature of the use proposed as set out in the applicants submission, it is nevertheless concluded, on balance of probabilities, that the proposed use would not amount to a 'material' change of use of the property, and accordingly would not amount to 'development' as defined by section 55 of the Planning Act 1990 (as amended). Accordingly, the proposed use would be lawful and does not require planning permission."

Furthermore, Asbri Planning have recently gained, on behalf of Rise Care Ltd (Applicant), a Lawful Development Certificate for the proposed use of a residential property (134 Cefn Road Rogerstone Newport NP10 9EX) as a residential care home for 4no. children (C3 use class) from Newport City Council (ref. 22/1016, granted 22nd December 2022). Given the similar context and proposal this application is deemed relevant for this application.

Proposals

Principle of Development

The existing lawful use of the application property is a dwelling C3(a) use class. This Lawful Development Certificate application relates to the proposed use of the residential property as a small residential care home (C3 use) for 4no. children to live in the property under the supervision of 2no. staff.

It should be recognized that there are no Care Home policies within the NPTCBC Local Development Plan that set out the provisions for this type of development, and in terms of national good practice it is evident that Care Homes should be situated in existing settlement boundaries and within existing residential communities, as is the case of the current proposal.

Material Change of Use

As mentioned, the existing lawful use of the property is a C3(a) use class. The proposed use is to fall within a C3(b) use class (i.e., up to six people living together as a single household and receiving care). In fact, the proposed development's residents would not exceed six in total and both carers and the cared-for would be living as a single household, since:

- The property would still function as a dwelling with a reasonable number of occupants that would normally be associated with a property of this size;
- Would not alter or intensify the residential use of the property or cause detrimental impacts on nearby neighbouring residents, in terms of significant effect on vehicular movements or parking demand;
- The resident cared-for children would be in need of a permanent, stable and supportive living environment typical of a traditional family household; and
- Would not involve medical / convalescent care or either regular change in residents.

Also, as indicated in the Saer Coed appeal (Appendix 2), *"the presence of carers does not affect the definition of use class as it would not change the number of residents living on the premises"*. It is therefore, considered clear that this proposal relates to the operational development of the property as a small care home and would not rather mean a change of use of the property to a C2 use class (Residential Institution).

It should be also noted, as stated again in the Saer Coed appeal (Appendix 2), that there is an absence of forthcoming Welsh legislative guidance with regard to clarification of differentiation of C2 and C3 change uses for local authorities.

Highway Safety

Pedestrian / vehicular access is made off the existing highway and private driveway to the property. Again, akin to family dwellings, during the day the children would travel to local educational facilities and daytime visitors are anticipated. As a result, the use of the property as a small residential care home would involve a regular pattern of vehicular movements.

However, it should be acknowledged that any residential property can expect regular vehicular movements from non-residents (friends, family, carers, professionals), and can generate a wide range of traffic movements numbers and patterns. Therefore, the proposed development should not cause a materially greater detrimental impact in terms of car comings-and-goings and parking demand than what would be reasonably expected to be generated by an ordinary household within the same use class.

Also, as stated by the Planning Inspector for the Saer Coed appeal (Appendix 2), the proposed use of a dwelling as a small care home *"would not have any detrimental impact on the safe, effective and efficient use of the transportation network"*. Furthermore, if an increase of traffic generated by the proposal may result in a concern, substantive evidence should be brought forward to support that the development would lead to an unacceptable increase in traffic.

Nevertheless, residents / staff are envisaged to be able to travel to and from the property by non-car transport modes; since the application site is easily accessible by public transport: 4 regularly serviced bus stops within a 200m radius with hourly services to Neath and Swansea.

Disturbance

As for fear of noise and crime, there may be concerns of possible disturbance arising from incidents of extreme behaviour of residents (with consequential visits from regulatory agencies). However, it is considered that the proposed lawful use would not result in an increase in likelihood of significant or unacceptable anti-social behaviour. In fact, noise and crime could be generated by any typical residential family dwelling.

In addition, with regard to noise concerns from neighbouring residents, the Saer Coed appeal (see Appendix 2) held that the number of on-site staff members (6no. in that case) *"are modest numbers and unlikely to generate significantly more noise than would normally be expected"*.

Other considerations

The proposed residential care home is to be registered and regulated by the Care Inspectorate Wales (CIW).

Conclusion

This Lawful Development Certificate for a proposed C3(b) use for the children's residential care home is sought on the basis of recent similar local planning applications and appeals, as well as taking into account the local context and specific details of the proposal.

Overall, it is considered that the evidence and information submitted for the proposed lawful use would not result in a significant material change in the character of the property or a material detrimental effect on the amenity of surrounding properties or on local highway safety. For these reasons, it is considered that on the balance of probabilities, the proposed use would not amount to a 'material' change of use of the property, and accordingly would not amount to 'development' as defined by section 55 of the Planning Act 1990 (as amended).

Accordingly, the proposed use would be lawful and does not require planning permission. As such, a Certificate of Lawfulness should be issued, in that the proposed use would be lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended).

The requisite £230.00 planning fee will be paid shortly.

I trust that the submitted documents allow the application to be validated and look forward to receiving details of the name of the case officer, application reference number and target determination date. I look forward to hearing from you, if you have any queries, please do not hesitate to contact me.

Yours sincerely,

D. Bertaggia

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