

# Delegated Report

## *Lawful Development Certificate (Proposed)*

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| <b>Application no:</b> | 20240850                                                                                                                                          |
| <b>Location</b>        | Ashley Down Nursing Home 29 Clarence Place Gravesend Kent                                                                                         |
| <b>Proposal:</b>       | Application for a Lawful Development Certificate in respect of the conversion to a 6-Bed Children's Home with additional Semi-Independent Living. |
| <b>Applicant:</b>      | Mrs Caroline Melia                                                                                                                                |
| <b>Site Visit</b>      | N/A Desktop Assessment                                                                                                                            |

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### Plans & Documents

Planning Application Form;  
Planning Statement;  
Site Location Plan;  
Drawing No. BC01 – Topographical Survey Ground Floor Plan; and  
Drawing No. BC02 – First Floor Plan.

### Property Type

The property comprises a two-storey, detached Grade II Listed Building, located within the Windmill Hill Conservation Area. It is located on the corner of Clarence Place and Parrock Road with the back of the property bounded by William Street. The property is bounded by low brick wall to the front, with a mixture of retaining brick, flint and rendered flint wall along the Parrock Road and William Street boundaries. The current lawful use of the building is a nursing home which falls within the Use Class C2 (residential institutions).



## Material Consideration

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)  
 The Town and Country Planning act 1990 (as amended)  
 The Use Classes Order 1987  
 The Children Act 1989

## Relevant Planning History

The site has extensive history relating to maintenance, repairs and improvements to the building and within its curtilage, however the following is what is relevant:

| Reference | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Decision   | Decision Date |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|---------------|
| 19960646  | Demolition of the existing glazed rear extension and the side garage of no. 29 and part of the rear extension at 'Milton Cottage'; erection of two storey side extension and a part two storey and part single storey rear extension to form 5 no. additional bedrooms, toilet accommodation, laundry, store, sluice room and lift at ground floor level with 5 no. additional bedrooms and toilet accommodation at first floor level; change of use of 'Milton Cottage' into ancillary nursing home accommodation and laying out of 5 no. car parking spaces at the side. | Permission | 13.12.1996    |
| 19890690  | Continued use of the former doctors surgery with residential over as a dwelling house and the erection of a single storey extension at the rear to form a bathroom, hall and ensuite bathroom                                                                                                                                                                                                                                                                                                                                                                              | Permission | 07.09.1989    |

## Consultation

Whilst no formal consultation is required for lawful development certificate, the following comments have been received:

### Kent Police Designing Out Crime Officer

We have reviewed this application in regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF).

Applicants/agents should consult us as Designing out Crime Officers (DOCO's) to address CPTED and incorporate Secured By Design (SBD) as appropriate. We use details of the site, relevant crime levels/type and intelligence information to help design out the opportunity for Crime, Fear of Crime, Anti-Social Behaviour (ASB), Nuisance and Conflict.

There is a carbon cost for crime and new developments give an opportunity to address it. Using CPTED along with attaining an SBD award using SBD guidance, policies and academic research would be evidence of the applicants' efforts to design out the opportunity for crime.

We recommend SBD guidance is utilised to address designing out crime to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety and to meet our Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998. The points below identify my recommendations for the layout and design of this scheme.

1. Due to the proposed use of the site, we would recommend the applicant review current site security and boundary treatments. We advise boundary treatments to be a minimum of 1.8m in height with support beams facing inwards, any gates to a rear/ side access must also be securely lockable from both sides. It is essential that there is no unauthorised access to the rear of the site either via the side access route or via neighbouring premises.
2. We recommend CCTV be installed at the main entrance doors to monitor the movements of the occupiers. In some circumstances, it can be advisable for staff carry personal attack alarms and in some instances BWV cameras for safety purposes.
3. We recommend lighting to cover entrances to aid in natural surveillance.
4. We strongly recommend external doors and windows meet PAS 24: 2022 UKAS certified standard, STS 201 or LPS 2081 Security Rating B+. Existing rear doors and windows that are not being replaced may require limiters/ restrictors to help maintain security.

If approved, site security is required for the construction phase. There is a duty for the principle contractor “to take reasonable steps to prevent access by unauthorised persons to the construction site” under the Construction (Design and Management) Regulations 2007. The site security should incorporate plant, machinery, supplies, tools and other vehicles and be site specific to geography and site requirements.

We welcome a discussion with the applicant/agent about site specific designing out crime.

If the points above are not addressed, they can affect the development and local policing.

This information is provided by Kent Police DOCO's and refers to situational crime prevention. This advice focuses on CPTED and Community Safety with regard to this specific planning application.

## Relevant Case Law

### Court Cases:

North Devon District Council v First Secretary of State and Southern Childcare [2003]

## Officer Assessment

### *Permitted Developments Rights Restrictions*

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|-------------------------------------------------|---|
| Article 2 (3) Land (AONB, Conservation Area)    | Y |
| Article 4 Direction                             | Y |
| Permitted Development Rights Removed/Restricted | Y |

This proposal to use the existing nursing home under use class C2, as a children's home for the occupation of six children at a time aged between 7-17, with additional 6 bed semi-independent living from ages 16-25 and is determined by whether the new way of using the property would be considered development or not, under the definition applied by Section 55 of the Town and Country Planning Act 1990 (as amended).

If the proposed use class is a material change of use and therefore falling within the definition of development, planning consent would be required. Whether the development would be considered to be 'Development', is a matter of fact and degree, a decision for the Local Planning Authority. However, this assessment is guided by the existing policy, definitions, and planning case law in order to achieve a consistent approach, whilst ensuring that planning legislation is applied in an appropriate way, reflective to the extent of the proposed change.

**Use Class C2 is described as:**

*Class C2. Residential institutions*

*Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).*

*Use as a hospital or nursing home.*

*Use as a residential school, college or training centre.*

There is potential that such a use would fall under class C2 – Residential Institution. The use classes order 1987 specifically refers to Class C2 as including the personal care of children.

**Conditions Restricting Use**

Planning Permission was granted in 1996 (App. Ref. No. 19960646) for *Demolition of the existing glazed rear extension and the side garage of no. 29 and part of the rear extension at 'Milton Cottage'; erection of two storey side extension and a part two storey and part single storey rear extension to form 5 no. additional bedrooms, toilet accommodation, laundry, store, sluice room and lift at ground floor level with 5 no. additional bedrooms and toilet accommodation at first floor level; change of use of 'Milton Cottage' into ancillary nursing home accommodation and laying out of 5 no. car parking spaces at the side.* Within the decision notice, a condition was imposed restricting the use to a nursing home as shown below;

- (ii) *The extensions hereby permitted and the whole of No. 90 Parrock Street shall be used ancillary to the main use of 29 Clarence Place as a nursing home and for no other purpose.*

A copy of the first page of the decision notice is attached as Appendix 1.

Therefore, whilst the proposed children's home would fall within Use Class C2, the above condition is very clear of the use of the premises as a nursing home. Therefore, it would not be lawful to change to a children's home and planning permission is required.

**Conclusion**

The Local Planning Authority considers the permitted development rights for changes in the Use Classes Order were removed under application 19960646 which restricts the use of No. 90 Parrock Street (which now forms part of the development site) as a nursing home and for no other purpose. Therefore a grant of planning permission is required from the Local Planning Authority for the Change of Use of the property subject to this application.

**Officer Comments**

The application building is a Grade II Listed Building and therefore does not benefit from the same permitted development rights that a non-listed building may benefit from. Whilst a nursing home and a children's home fall under the same Use Class C2 (residential institutions), as stated above, due to the imposed condition on planning application 19960646, planning permission is required for the proposed development as detailed above. In addition, due to the listed status of the building, any internal or external alterations would require Listed Building Consent and depending on the extent of works wanting to be undertaken, planning permission may be required also. An informative will be added to the decision to this affect.

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| <b>Recommendation:</b> <u>Refusal</u> Lawful Development Certificate |
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| <b>Case Officer:</b> | Ms Amanda Cue |
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| <b>Team Leader:</b> | Richard Hart |
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| <b>Signed:</b> | <i>A Cue</i>                   | <b>Signed:</b> | <i>R Hart</i>                        |
| <b>Dated:</b>  | 28 <sup>th</sup> November 2024 | <b>Dated:</b>  | <b>29<sup>th</sup> November 2024</b> |