

Planning Statement

Site: 64-66 Hallowell Road, HA6 1DS

Proposal: Certificate of lawfulness confirming lawful use of the site is Class C2 (Residential Institutions) - residential accommodation and care to people in need of care, residential schools, colleges or training centres, hospitals, nursing homes.

For the purposes of the 1990 Planning Act, uses and operations are lawful at any time if—

- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

Section 171B of the 1990 Planning Act, outlines the time limits that enforcement action can be taken against a breach of planning control. The relevant period for this use is ten years.

In appeals to the Secretary of State which raise "legal issues" (for example, enforcement appeals on grounds (b) to (e) in section 174(2)), where the burden of proof is on the appellant, the Courts have held that the relevant test of the evidence on such matters is "*the balance of probability*". As this test will accordingly be applied by the Secretary of State in any appeal against their decision, a local planning authority (LPA) should not refuse a certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely "*beyond reasonable doubt*".

Moreover, the Court has held (see *F W Gabbitas v SSE and Newham LBC* [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "*independent*" evidence in order to be accepted. If the local planning authority (LPA) have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "*on the balance of probability*".

History of site.

Current Use:

Since 1956 the building has been in use as a residential care home (Use Class C2), most recently known as Aronmore Care Home.

Planning permission was refused August 2006 (planning ref: 2200/APP/2005/2640), for: *“Erection of two storey rear extension.”* The location was stated as being Abbeyfield residential care home.

An appeal was allowed 26 April 2013 for the: *“Change of use of the existing ancillary building to four residential units.”* – The appeal decision has been submitted as part of the application documents.

Both the Appeal Inspector and the Council accepted the lawful use of the property was a residential care home – paragraph 3 of the appeal decisions states: *“The appeal relates to a residential care home.”*

The Council's delegated planning report refers to the property as a care home (the document has been submitted as part of the application documents and section 3.2 states: *“The site gained an established use certificate in 1979 for the use as a care home* and has received various permissions over the years for extensions and alterations in connection with that use.”

Council tax records confirm the property has been registered as a residential care home since at least April 2015. The screenshot below shows the Council tax record on the Valuation Office Agency website.

ARONMORE RESIDENTIAL CARE HOME 64-66, HALLOWELL ROAD, NORTHWOOD, MIDDX, HA6 1DS

Local Authority	Hillingdon
Local authority reference number	441308002
Council Tax band	H
Improvement indicator	No
With effect from	1 April 2015
Mixed-use property	No
Court code	None

Aronmore residential care home was registered with the Care Quality Commission to provide care for primarily older person, older persons with dementia and persons with mental health issues. It provided this service for up to 32 persons.

In 2022 the building was vacated as it was unable to financially support the current business any longer following regulatory and governmental change, local authority funding and the capital requirements of the building.

Proposed Use.

The building is proposed to be brought back into lawful use as a residential care home to offer 22 supported placements with ensuite facilities, communal kitchens along with communal lounges and gardens. Aronmore offers a management base for the building users to seek support and care, meeting spaces to allow for individual engagement along with staff facilities to support the team working there.

The freeholder has engaged a third-party provider via a pre-lease agreement for the provision of Use Class C2 services at Aronmore.

The third-party provider is engaged by commissioners to provide support for persons who may be struggling with their mental health, have fallen on tough times, or are a victim of abuse. They are at risk as they are either currently, or soon to be homeless. They offer a safe managed residential environment, alongside a helping hand and support to provide a pathway to an independent future through their team of support workers. This would be for persons over the age of 18.

To support this provision the freeholder requires a certificate of lawful use. It is a requirement of commissioning parties that the planning use of the building is confirmed and addresses the persons they are seeking to procure care for.

Conclusion

The evidence provided demonstrates on the balance of probability that the property is lawfully a Class C2 use.