



Mid Sussex District Council
Oaklands
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

BY E MAIL ONLY planninginfo@midsussex.gov.uk and stefan.gaylas@midsussex.gov.uk

Date 28 August 2025
Your ref DM/25/1968
Our ref 356/414843.1

Dear Sirs

DM/25/1968– 1 Lucas Way Haywards Heath

Use of a (C3) dwelling as a children's home for a maximum of three children with up to three carers, two sleeping overnight working on a rota basis

We are writing on behalf of [REDACTED] who live at 5 Lucas Way and make the following representations on this application.

Basis of the Application

The application has been made under s 192 of the Town & Country Planning Act 1990 (as amended) ("the Act") and seeks to demonstrate that planning permission would not be needed for the use of 1 Lucas Way as a children's home, in other words such use would be lawful/immune from enforcement action.

The premise of the application is that the use of the property as a children's home for up to three children with up to three carers would be a C2 use (residential institution) and hence there will be a change of use from the existing authorised C3 use (dwellinghouse). We agree with this assessment which is supported by case law.¹

Planning permission is required for a change of use of a building if it constitutes a material change of use.²

¹ North Devon District Council v FSS & Southern Childcare Ltd [2003] EWHC 157 (Admin)

² S55 (1) of the Act

3rd Floor, Origin One 108 High Street Crawley West Sussex RH10 1BD

Direct line 01293 663518 **Email** Heidi.Copland@dmhstallard.com **Main line** 01293 605000 **Fax** 01293 246016

Offices in London, Gatwick, Guildford, Brighton, Horsham and Hassocks. Website www.dmhstallard.com

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The Planning Practice Guidance ("PPG") sets out that:

*"There is no statutory definition of 'material change of use'; however, it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree and this will be determined on the individual merits of a case."*³

The application therefore seeks to demonstrate that the change of use in this case is not "material".

The burden of proof is on the applicant to demonstrate this on a balance of probabilities and the PPG advises that *"in the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved."*⁴

*"In determining an application for a prospective development under section 192 a local planning authority needs to ask "if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?"*⁵

Assessment as to material change

We do not consider that the applicant has made out the case for the grant of a Lawful Development Certificate.

The supporting letter submitted with the application correctly identifies that the key issue is to assess whether the proposed use is materially different to the existing use but does not provide sufficient information to discharge the burden of proof in respect of either existing or proposed use.

It also fails to identify the significance of the change of use and makes some unsupported propositions as to the resulting impact. In our submission, based on the information provided, there is a real risk that the proposed change of use will adversely impact the character of the neighbourhood and would therefore be material.

It is understood from the supporting letter that the proposed use will comprise:

³ Paragraph: 011 Reference ID: 13-011-20140306 Revision date: 06 03 2014

⁴ Paragraph: 006 Reference ID: 17c-006-20140306 Revision date: 06 03 2014

⁵ Paragraph: 009 Reference ID: 17c-009-20140306 Revision date: 06 03 2014

- a home for three children
- attendance by three carers two of who will sleep overnight on a rota basis
- daily traffic by the carers
- daily traffic to take the children to and from school
- visits from the children's friends
- visits by social workers (said to be every six weeks)
- annual visits by Ofsted inspectors

No detailed information has been provided as to the nature and age of the children, shift patterns for the carers or any other staff, numbers of vehicle movements etc. and no attempt has been made to characterise the existing (baseline) use against which the impact of these activities needs to be assessed.

Our clients have lived at Lucas Way for 12 years and can testify to the character of the neighbourhood including the use to which 1 Lucas Way has been put during that entire period.

Lucas Way is a narrow cul-de-sac which contains six detached family homes all facing into the road with a small turning area.

Visiting vehicles need to undertake a three-point turn in the turning circle to leave the cul-de-sac.

There are no footways on either side of the cul-de-sac.

The comings and goings within the cul-de-sac are low and representative of the limited number of houses.

1 Lucas Way is a family home, where typically the resident working adults have commuted by train, walking to and from Haywards Heath Station or worked from home. Activity associated with the property is low key and indiscernible to the other residents.

It is a quiet neighbourhood characterised by low traffic, general quietness during the day and almost total silence overnight.

The special character of the area is in part due to and protected by its Conservation Area status. Lucas Way is located in the Lucastes Conservation Area which is described in the Council's Conservation Area Character Summary as being *"predominantly residential in nature"* with an *"absence of on-street parking and a low traffic flow"*.

This character sets the baseline against which the proposed use needs to be assessed and it is submitted that it is impossible to come to the conclusion that the proposed change of use would not be material on the basis of the information provided in the application.

The supporting letter refers to some planning decisions and an appeal decision that it is said lend support to the applicant's case, but each case is different and needs to be judged on its merits and there are plenty of appeal decisions where Inspectors have concluded that a change of use from C3 to C2 is a material change of use for which planning permission is required. There are also appeal decisions which consider planning applications for such change of use.

We would draw the Council's attention in particular to the following appeal decisions (full copies enclosed):

Appeal Ref: APP/C1570/X/24/3352800

32 Tyler Avenue, Flitch Green, Essex, CM6 3GB

use of a dwelling as a children's home for up to three children, with a manager and three carers, two of whom will sleep overnight, working on a rota basis.

In this appeal the Inspector found that the evidence provided as to comings and goings, particularly vehicular traffic was not sufficiently precise to show the extent of the existing actual use and the baseline upon which the proposed use should be assessed but further found that it was likely that the number of vehicles parked at the site in association with the proposed use at any one time would exceed the number of vehicles likely to park at the site as part of the actual existing use and this would be significantly different to the existing use.

On this basis the appeal was dismissed.

Appeal Ref: APP/M4320/X/22/3301638

144 Deyes Lane, Sefton, Maghull L31 6DW

Proposed change of use from dwellinghouse (C3) to a residential children's care home (C2) for up to two children with two carers.

In this appeal the Inspector considered the comings and goings in association with a proposed care home for two children and concluded that:

"... those comings and comings are likely to be generated by a much greater turnover of different people. This lies in distinct contrast to a single household dwelling where generally it is the same people who come and go from the property. This would result in

a degree of unfamiliarity between those living and working in the property and neighbouring residents. It also means the property would appear to the observer to have much more commercial character than residential.” (para 10)

“However, it seems to me that there would be a material difference in the character of the use of the property as proposed when compared to the existing use as a dwellinghouse. Thus, on the evidence before me, I am led to conclude that, on the balance of probabilities, the proposal would amount to a material change of use. Therefore, at the date the LDC application was made, the proposed change of use from dwellinghouse (C3) to a residential children’s care home (C2) would not have been lawful.” (para 13)

On this basis the appeal was dismissed.

We invite the Council to place particular weight on the impact of the comings and goings associated with the proposed use and the commerciality of this use in this case which would be in stark contrast to the quiet residential neighbourhood which is characteristic of the Lucastes Conservation Area.

Appeal Ref: APP/B5480/X/23/3335573

19 Hall Terrace, Colchester Road, Havering, Romford RM3 0XR

This appeal considered the lawfulness of the proposed use of a dwellinghouse for up to 5 young persons in need of care. The Inspector was concerned about the limited information submitted regarding the existing use as a dwelling house stating (at paragraphs 16-19):

“For example, the submission does not specify how many occupants currently or last resided at the property. Additionally, there is no detail about the composition of the single household, their average weekly movements to and from the property, whether they own and use vehicles, as well as the levels of waste and general activities occurring from the use at the property.”

“While there is more detail regarding the proposed use, there is still a lack of detailed information about the average weekly movements to and from the property by the residents, visitors and staff.... Additionally, the submission does not indicate whether the proposed use would result in changes to the levels of waste and noise generated by the proposed activities.”

“Consequently, I have limited information on the existing use, which would provide a baseline for comparison with the proposed use of the property. Given the lack of detail regarding the existing use and the limited insight into the daily activities of the proposed

use, I do not have a sufficient evidential basis to make an accurate comparison. As indicated earlier, it is the responsibility of the appellant to substantiate their case. In my judgment, this burden has not been satisfactorily met, as I do not have the necessary evidence to make a well-reasoned decision."

"Therefore, based on the evidence before me, the appellant has failed to demonstrate that the proposed use would not amount to a material change from a Class C3 use to the residential care home use described in the submissions, if the change were to occur at the time of the LDC application."

On this basis the appeal was dismissed.

It is submitted that similar reasoning should be applied to this application. It is sparse in detail and not sufficiently precise in terms of the existing baseline nor the proposed use to enable the Council to make any finding as to lawfulness.

The only way to judge the appropriateness and impact of the proposed use of 1 Lucas Way as a children's home in this sensitive neighbourhood would be by way of planning application where the impact can be properly assessed.

This is even more important in a Conservation Area where planning policy seeks to conserve and enhance the special character of the area and it is submitted that the Conservation Area status in this case is a material factor.

This application for a LDC is in effect a means of seeking to avoid to proper assessment of the impact of the change of use.

In this respect we also refer to **Appeal Ref: APP/V4250/W/25/3359877 6 Valentines Road, Atherton, Wigan M46 0LD** which is a s 78 appeal against the refusal of planning permission for a care home for up to three children. This is an example to illustrate the need for planning permission for such use and the considerations that fall to be assessed in considering the appropriateness of children's homes in sensitive residential areas. We draw attention, in particular, to the Inspector's comments as to traffic impact in that case which are of parallel concern to our clients in respect of the application at 1 Lucas Way.

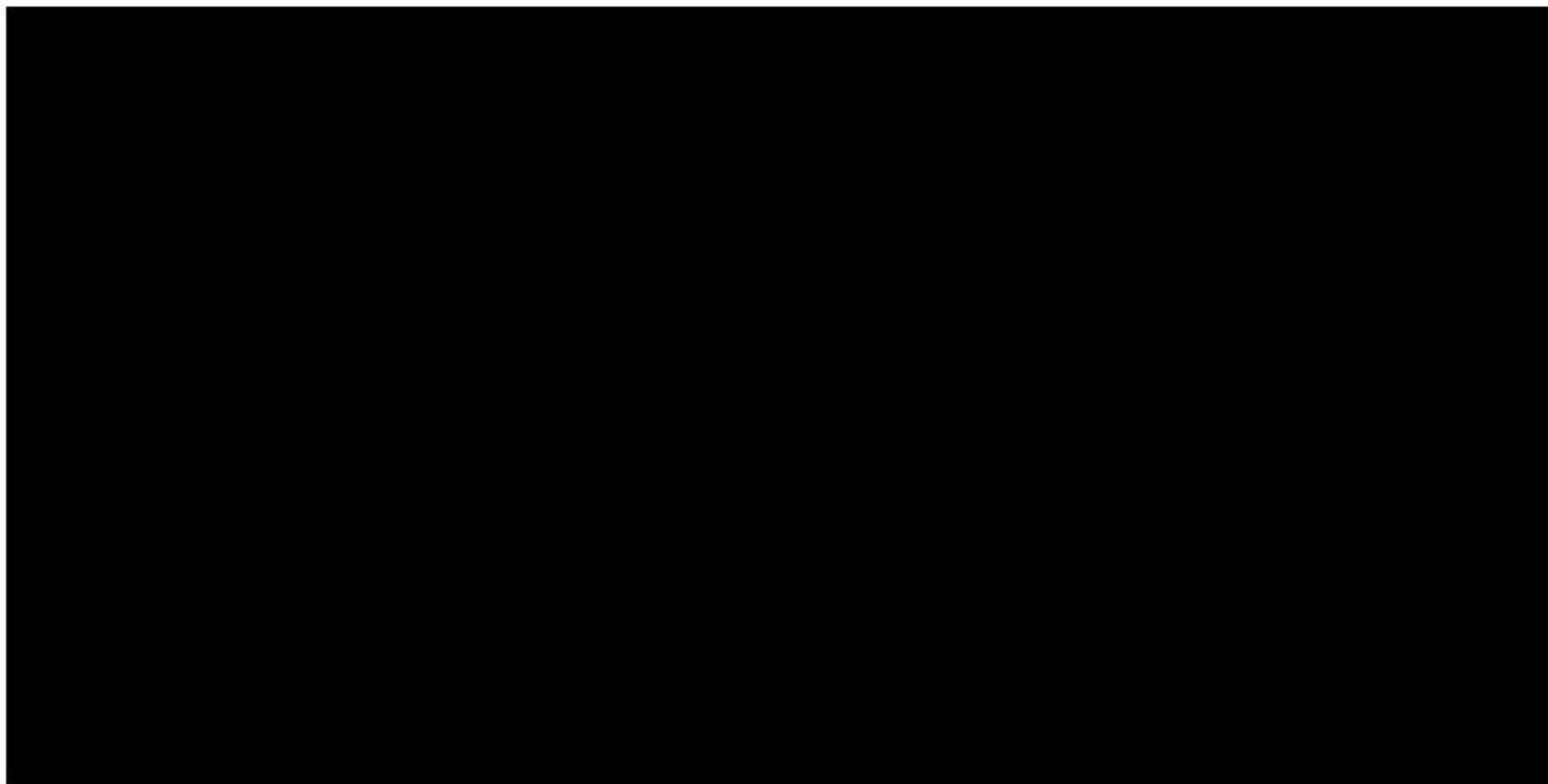
Concluding Comments

In our submission, the applicant has not discharged the burden of proof in this case. The Council cannot, on the information before it, make a finding that the proposed change of use is not material.

The careful analysis of the Inspectors in the enclosed appeal decisions are useful precedent for the assessment that is necessary in these cases.

For the reasons set out above this application should be refused and we respectfully ask the Council to do so.

Yours faithfully



APPEAL DECISIONS



Appeal Decision

Site visit made on 23 April 2025

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 02 July 2025

Appeal Ref: APP/C1570/X/24/3352800

32 Tyler Avenue, Flich Green, Essex, CM6 3GB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended)(the “Act”) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Edward Anning of Aktive Kids Limited against the decision of Uttlesford District Council.
 - The application ref: UTT/24/1919/CLP, dated 27 July 2024, was refused by notice dated 23 September 2024.
 - The application was made under section 192(1)(a) of the Act.
 - The use for which a certificate of lawful use or development is sought is described as ‘use of a (3a) dwelling as a children’s home for up to three children, with a manager and three carers, two of whom will sleep overnight, working on a rota basis (C2)’.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council’s decision to refuse the certificate of lawfulness is well-founded. This will turn on whether there would be a material change of use from the lawful use as a single dwellinghouse falling within Class C3a to the proposed use as a home for up to three children, with a manager and three carers, two of whom will sleep overnight, working on a rota basis.

Reasons

3. An application under section 192(1)(a) of the Act seeks to establish whether any proposed use of buildings or other land would be lawful. Section 192(2) sets out that if on application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect.
4. Planning merits form no part of the assessment of an application for a lawful development certificate (LDC) which must be considered in the light of the facts and the law. In an application for a LDC, the onus is firmly on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful.
5. The appeal property is a two and a half storey detached five-bedroom dwelling located within a predominantly residential area. To the front of the property is a double garage and areas of maintained lawn, vegetation and hardstanding. The submitted block plan shows the hardstanding area would provide parking for four vehicles and which, based upon my observations, is sufficient to enable users to

enter and leave in a forward gear. The plan also shows that two vehicular parking spaces would be contained within the garage, however, given the presence of two external parking spaces immediately to the front of the garage doors, I consider it is unlikely that the garage would be frequently used due to inconvenience of accessing those spaces.

6. As established in *Gravesham*¹, the distinctive characteristic of a dwellinghouse is its ability to afford those who use it the facilities required for day-to-day private domestic existence. Those characteristics are not lost if the dwellinghouse were to be occupied for only part of the year, or at infrequent intervals, or by a series of different persons, or if it was under commercial management.
7. The appeal property would be used as a specialist children's care home to support up to three children who have been diagnosed with learning disabilities, and/or emotional and/or behavioural difficulties. It is intended that children would remain at the property on a medium to long-term basis and that their length of stay would be more than temporary or passing. It is not intended that it would be a 'halfway' house or provide overnight emergency lodgings.
8. The children would be cared for by a manager and three carers, two of whom would remain at the property and sleep overnight. Six carers would operate on a rota basis with a shift pattern of 48 hours on, followed by 60 hours off. Shift changeover of one of the overnight care staff would occur every 24 hours and usually take place around 10am. A manager and/or third carer would visit the site most days between 9am and 5pm. It is claimed that there would be no more than four staff members at the property at any one time, with the exception of staff changeover times, which are expected to last fifteen to thirty minutes.
9. The Council refused the LDC application on the basis that it deemed the proposed development was not in accordance with Schedule 2, Part 3 of the Town and Country Planning General Permitted Development Order 2015 (as amended) and it was not therefore permitted development and it would require planning permission. However, the main thrust of the appellant's case is that the proposed change would not be development for the purposes of the Act.
10. Section 55(1) of the Act defines the meaning of development as '*the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change (my emphasis) in the use of any buildings or other land*'.
11. It is stated that children residing at the property would not have special or additional needs, and so the use would not be considered to be Use Class C2A of the Town and Country Planning (Use Classes) Order 1987 (as amended)(the UCO). In the case of *North Devon District Council v First Secretary of State and Southern Childcare Ltd [2003] EWHC 157 (Admin)*, it was held that children cannot form a household without the presence of a care-giver and so a children's home cannot fall within class C3 unless a care-giver is resident. There is no dispute between the parties that, on the basis of what has been applied for, the proposed use would be a change of use of the appeal property from Class C3(a) to Class C2 of the UCO. Notwithstanding this, a change of use from C3(a) to C2 will not always be material and it will be a matter of fact and degree, depending upon the circumstances of the case in question.

¹ *Gravesham BC v Secretary of State for the Environment & O'Brien* [1983] JPL 306

12. Although the appellant points to paragraph 25 of Circular 05/2010 as being relevant, this publication has now been cancelled. There is no statutory definition of a 'material change of use' and it is therefore necessary to consider the significance of a change and the resultant impact on the use of land and buildings.
13. The Council has provided limited information regarding any analysis of the materiality of the proposed change of use. Despite this, I am required to have regard to whether the refusal to grant an LDC is well-founded and not whether the Council's reasons for the decision were well-founded. I have had regard to the appellant's evidence in order to assess whether the change of use will be 'material'.
14. No external alterations to the property would be undertaken except for some emergency lighting as required by Ofsted. Any alteration to external lighting would have no visual distinction from normal lighting. Some internal changes would also be necessary to fulfil Ofsted requirements such as fire doors, lockable bedroom doors and lockable furniture to store personal items of the children. However, overall, these changes would not materially alter the basic character of the property as a dwellinghouse. In considering this matter, I have had regard to a previous appeal decision² which has been referenced by the appellant and whereby the Inspector gave consideration to the effect of the inclusion of an office and fire alarm as part of a change of use to a children's home.
15. The appellant argues that use class C3 of the UCO is broad in scope and that, as a consequence of the lawful use of the dwellinghouse, it could bring with it considerable activity, associated ancillary use, and vehicular movement. It is suggested that the prevailing character of the proposed use would be that of a small group of children living together and using the property in a way similar to that of a family home where they would be cared for and supervised by adult guardians. It is conceded that whilst there may be identifiable differences between the existing and proposed uses, these would not be 'material' or easily measurable and quantifiable against the rather flexible characteristics and impacts of a lawful dwellinghouse.
16. In assessing the materiality of a change of use, it is necessary to compare the proposed use against the existing actual use rather than a theoretical or historical past use. The appellant has provided a comparison in tabled form of the '*Current Weekly Movements (estimated previous occupants)*' (Schedule 1) set against the '*Proposed use (based upon experience of other homes)*' (Schedule 2). Each figure within the tables is stated to represent a single movement either in or out over a typical week.
17. Whilst the table at Schedule 2 is stated to show the expected number of car movements as a result of the proposed use, the position regarding the movement stated in the table at Schedule 1 is not expressed in this manner and it is therefore not clear whether the cited number of trips includes vehicular trips, or whether these include weekly movements by other methods of travel including on foot, by bicycle or taxi. In addition, the figures in table 1 are stated to be an 'estimate of the average number of comings and goings' (my emphasis underlined) rather than an accurate account of actual trips to and from the appeal property. Little information has been provided to clarify how many vehicles are owned by the current owners.

² Appeal Decision: 2162636 (full appeal reference not provided and decision letter not produced in full)

18. It is stated to be company policy to encourage members of staff to use bicycles, public transport, to provide free bus passes or subsidised taxi fares and to discourage on-street parking. However, little evidence has been provided to explain what public transport provision is available locally such that it is effective at providing a realistic opportunity to travel by other modes of transport and thus dissuade staff members from utilising a private motor vehicle. Nor is it clear how this can be effectively controlled by the company. Use of a taxi service would still result in a vehicular movement to and from the site.
19. On the basis of the evidence before me, I consider it is likely that the majority of staff members would utilise a private motor vehicle to travel to and from the site particularly given the availability of ample parking space to the front of the appeal property. I note that the appellant has provided a 'Good Neighbour Policy' which sets out that staff will ensure appropriate parking. However, it is not clear what is meant by 'appropriate' or how this will be controlled. An LDC cannot be subject to conditions and so the appellant would not be bound by the document.
20. The appellant points to an electric/hybrid vehicle being available on the site for the purpose of transporting the children to school and for other visits which appears to indicate that an additional vehicle would be parked within the drive of the property, in addition to any parked vehicles owned by carers.
21. During weekday daytime hours, in the event that all of the carers and the manager were to drive to the site using their own private motor vehicles, when taken together with the hybrid/electric vehicle, this could result in there being some five vehicles being parked to the front of the dwelling and this figure would likely increase at times of staff changeover.
22. It would be necessary for Ofsted to visit the site annually and there would be a 'Regulation 44' independent visitor attending the property on a monthly basis. Each child would be attended to by a social worker every 4-6 weeks. Whilst it could be the case that a social worker would be able to visit multiple children at the same visit date, it is also the case that each child could be visited individually. There may also be occasional visits by other social workers. I take the view that it is likely that attendance by professional visitors is likely to take place by private motor vehicle and any such vehicles are likely to park within the area of hardstanding to the front of the property. There is little information before me to suggest that the existing occupants of the appeal property would receive support and visits from professionals with such regularity.
23. Visits by family members are stated to 'normally' take place away from the appeal property to avoid causing upset to other children. However, it appears that visits from members of a child's family would not be entirely unexpected, and I would expect that, with careful management, it would be appropriate in some instances for family members of the child to visit at their home³. Visits from friends at the property would also be allowed. Whilst visits by family and friends are claimed to be no more frequent than those to a typical family home, and this may be the case, I consider that it is likely that visits by family members would be likely to be facilitated by a family member travelling to the site by private motor vehicle and this would add to the accumulation of vehicles parked to the front of the property. Whilst the

³ Paragraph 2.8 of the appellant's Planning Statement suggests there may be visits by family members and friends.

table at Schedule 2 includes movements by 'other visitors' it is not clear which types of visitors have been included in those figures.

24. In terms of education, the appellant states that children are likely to be tutored from home initially which would be carried out online as part of a bespoke individual education plan and without the need for a tutor to visit the property. Children may then progress onto a specialist unit with smaller class sizes and mainstream education which would take place away from the site. However, the appellant also states that *'in cases where children have a home tutor, this is no different from an ordinary family who chose to have their children educated at home'* which appears to indicate that some tutors may attend the site in person. These statements regarding tutoring are contradictory. I consider it likely that any tutor attending the site in person is likely to travel to the site using a private motor vehicle and thus would park their vehicle within the hardstanding area at the front of the property.
25. Reference has been made to their being an urgent need for this type of facility and the appellant has pointed to the statutory duty of local authorities to take steps, as reasonably practicable, that ensure children in care are provided with accommodation that (a) is within the authority's area and (b) meets the needs of those children. In addition, a number of reports published by the Children's Commissioner, and which are stated to identify failures in meeting the need for appropriate children's care, have also been highlighted by the appellant. However, these issues form part of the planning merits of the proposed change of use and they form no part of the assessment for a LDC which must be considered in the light of the facts and the law.
26. A number of previous appeal decisions have been supplied in support of the appeal. The appeal at Dukeries Crescent⁴ for a change of use to a children's home (C2) concerned an application for planning permission rather than an application for an LDC and therefore considered the planning merits of the proposal, which included whether the location was suitable to accommodate vulnerable children with particular regard to levels of crime and antisocial behaviour in the locality. Since it was not looking at the materiality of change between existing and proposed uses it is therefore not comparable to the appeal scheme before me.
27. A number of appeal decisions⁵ referred to were for a LDC for a change of use to a children's care home where the materiality of the change of use was considered. However, the specific facts of those appeals were comprised of a lesser number of children and carers and, in the appeal at Shaw Road⁶ this comprised a terraced dwelling which was located in an area relatively well-served by public transport and so parking demand was suggested to not be as high as the Council envisaged. These appeal decisions are different and are not therefore directly comparable to the scheme before me.
28. A number of other submitted appeal decisions share similarities between the specific circumstances of those appeals and the current appeal. For instance, I note that the Whitburn Road⁷ and Chestnut House⁸ appeals were both for a

⁴ Appeal Reference: APP/A3010/W/23/3322527 – Dukeries Crescent, Worksop

⁵ Appeal References: APP/Z5630/X/23/3329058 – The Crescent, Kingston upon Thames; APP/U2370/X/21/3277997 – Chiltern Avenue, Poulton-Le-Fylde; APP/M4320/X/22/3300633 Winstanley Road, Waterloo

⁶ Appeal Reference: APP/C5690/X/23/3329560 – Shaw Road, Bromley

⁷ Appeal Reference: APP/C5690/X/22/3299351 – Whitburn Road, London

⁸ Appeal Reference: APP/A3010/X/21/3277785 – Chestnut House, Cottam

change of use to a home for up to three children or young people with two carers working on a rota basis sleeping overnight and a third carer/manager. Similarly, the Egerton appeal⁹ comprised a maximum of three young people under the care of 2 adults. Whilst the findings in those appeal decisions were that, broadly speaking, the proposed use would not result in significantly more movements, those appeal decisions do not appear to have been concerned with the parking requirements of the proposed use and its consequent effect on materiality of the change of the character of the dwellinghouse.

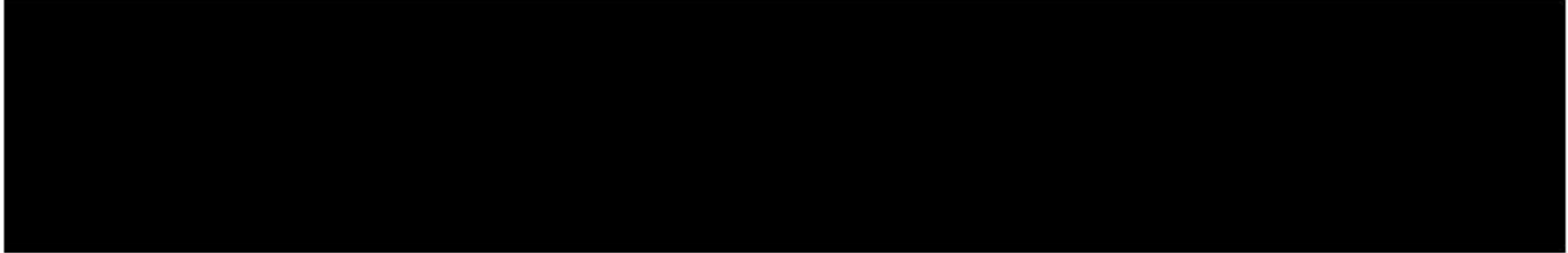
29. The appeal at Offerton¹⁰ was concerned with a change of use to a residential home for up to four young people aged between 16 and 25 years of age and it was predominantly concerned with whether the proposed use would fall within the ambit of use class C3(b). It is therefore not analogous with the appeal before me.
30. Reference has been made to appeal 3263178 at Dale Road, however, since the details of this appeal are not before me, I therefore cannot be certain whether it is comparable to the appeal scheme.
31. Whilst I have considered the appeal decisions provided to me by the appellant, as each case turns on its own facts these are of limited assistance in assessing whether there would be a material change of use in the appeal case. I have determined the appeal before me based upon its individual circumstances and the relevant law.
32. In comparing the submitted tables at Schedule 1 and Schedule 2, these show that there would be a modest increase in movements to and from the site on most days of the week, with the exception of Wednesdays when there would be no numerical difference. However, it is unclear whether the figures cited by the 'previous owners' represents the actual existing use of the dwelling and whether the movements relate to vehicular comings and goings or include other modes of travelling to and from the appeal site. The evidence in this respect is ambiguous. The evidence is not sufficiently precise to show what is the extent of the existing actual use and the baseline upon which the proposed use should be assessed against.
33. I consider it is likely that the number of vehicles parked at the site at any one time would far exceed the number of vehicles that are likely to park at the site as part of the actual existing use of the appeal site. While space to the front of the property appears generous, multiple vehicles parking to the front is likely to limit the ability of users to enter and exit in a forward gear. Furthermore, external agencies visiting the site may choose to park on the road, to avoid blocking in vehicles that are already parked within the site. This is likely to be significantly different to the existing use.
34. On the evidence before me, the appellant has failed to show that, on the balance of probabilities, the use of the appeal property as a children's home for up to three children, with a manager and three carers, two of whom will sleep overnight, working on a rota basis (C2) would not constitute a material change of use. Accordingly, the appeal must fail.

⁹ Appeal Reference: APP/E2205/X/16/3161037 – The Cottage, Stonebridge

¹⁰ Appeal Reference: APP/C4235/X/173170427 -Hillcrest Road, Offerton

Conclusion

35. For the reasons given above, I conclude that the Council's refusal to grant a LDC in respect of use as a children's home for up to three children, with a manager and three carers, two of whom will sleep overnight, working on a rota basis (C2) is well founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.


INSPECTOR



Appeal Decision

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 March 2023

Appeal Ref: APP/M4320/X/22/3301638
144 Deyes Lane, Sefton, Maghull L31 6DW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (the Act) as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Samantha Fitzsimmons, Nova1care Ltd against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2022/00969, dated 14 May 2022, was refused by notice dated 21 June 2022.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is proposed change of use from dwellinghouse (C3) to a residential children's care home (C2).
-

Decision

1. The appeal is dismissed.

Main Issues

2. The consideration of the planning merits of the development is not relevant in an LDC appeal. The main issue for the appeal is solely whether the LPA's decision to refuse to issue an LDC was well-founded.

Reasons

3. Section 191(2) of the Act sets out that use are lawful at any time if: (a) no enforcement action may 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.
4. Section 55(1) of the Act sets out the definition of development. It includes the making of any material change in the use of any buildings or other land. The appellant's case here is predicated on the basis that the proposed change of use is not material and does not therefore constitute development. Thus, it is said the use would have been lawful under section 191(2) of the Act at the date the LDC application was made.
5. The concept of a material change of use is not defined in statute. Essentially, it is a matter of fact and degree for the decision maker to conclude upon. For a material change of use to have occurred, there must be some significant

difference in the character of the activities from what has gone on previously as a matter of fact and degree.

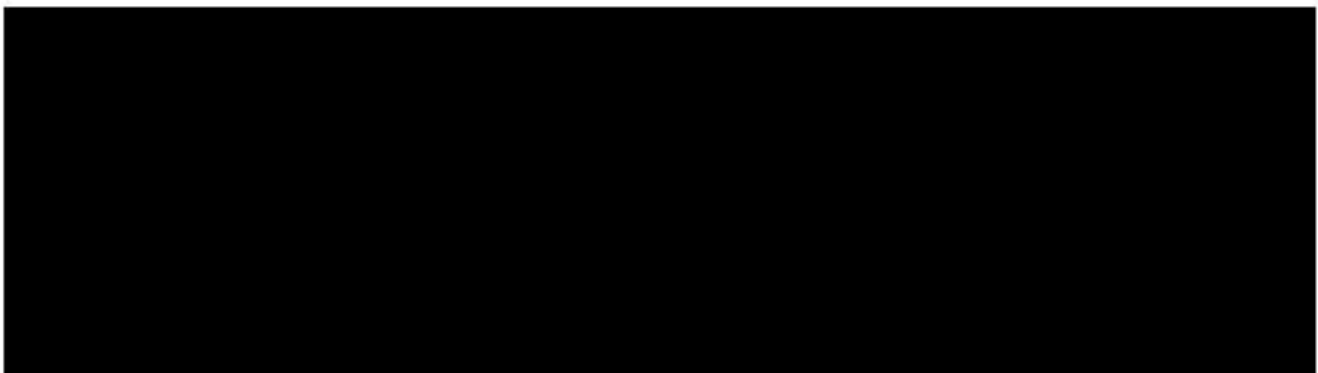
6. The property is currently a three bedroom dwellinghouse currently occupied by a single household. It is proposed to use the property as the primary residence of up to two children aged up to 18 years. The children would be looked after by two carers at any one time, working on a rota basis of 48 hours on, 48 hours off and sleeping at the property overnight. Shift changeovers would occur around 0800. It is indicated that a manager will also be at the property on weekdays between 0900 and 1700 carrying out care duties as well as administrative tasks.
7. The appellant indicates that there would not be frequent visits by other care staff or clinicians. However, there is nothing in the evidence which says the property would not accept resident children with such needs. Indeed, as the LPA points out, the children living in the property would be in the care of the Local Authority and may also be subject of court orders which would involve multi-agency visitors. There could also be homeless or mental health issues which would generate clinical visits. Moreover, there is no indication that the children will have any personal links to one another and thus agency visits could be doubled depending on the needs of the individuals living there.
8. As a result, comings and goings to the property, both in terms of vehicles and people, would likely occur on a more frequent and atypical pattern than that which might be generated by a single household living in a 3 bedroom property.
9. In any event, even if the actual numbers of comings and goings are the same, given the rotation of staff and the potential for other agency visitors, there is no guarantee of any consistency in the actual people who are visiting the property. The appellant does not state that it will be the same carers working at the property on any consistent basis. Indeed, that seems unlikely given the natural tendency for shifts to change, people to be ill or people to be on holiday. Furthermore, people move on to different jobs or may be asked to work at other properties.
10. It thus seems to me that, even were the comings and goings the same, those comings and comings are likely to be generated by a much greater turnover of different people. This lies in distinct contrast to a single household dwelling where generally it is the same people who come and go from the property. This would result in a degree of unfamiliarity between those living and working in the property and neighbouring residents. It also means the property would appear to the observer to have much more commercial character than residential.
11. I note the appellant's comparison with that situation to an elderly resident receiving similar levels of care visitors. However, in that scenario the elderly resident would be independently living, without 24 hour non-resident persons in the house. In this case, the greater turnover of different people could equally apply to the resident children themselves. The appellant does not state how long the children would reside at the property for. There is nothing to say the children could not be rehomed with a foster family or find quickly that a different care environment is more appropriate for their needs. Ultimately, there are many reasons why the children living there may only do so for a short period. There is thus the potential for there to be a higher turnover of

resident children, again in contrast to the consistency of residence that would typically be expected from a single household living at the property.

12. I note that there would be no physical works to the property externally, with the only necessary internal alteration being the addition of locks to bedroom doors for privacy reasons and the introduction of a fire door in the kitchen. The property would therefore appear no different to any other property in the street.
13. However, it seems to me that there would be a material difference in the character of the use of the property as proposed when compared to the existing use as a dwellinghouse. Thus, on the evidence before me, I am led to conclude that, on the balance of probabilities, the proposal would amount to a material change of use. Therefore, at the date the LDC application was made, the proposed change of use from dwellinghouse (C3) to a residential children's care home (C2) would not have been lawful.
14. The appellant cites two appeal decisions they consider to be relevant.¹ However, in those cases, the Inspectors focussed on the overall number of comings and goings, rather than the specific nature of those comings and goings and the materiality of movements to and from the property being from a wider range of people than typically expected in a single household dwelling. Thus, I do not consider them to be directly comparable to the circumstances before me here.

Conclusions

15. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the change of use from dwellinghouse (C3) to a residential children's care home (C2) was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.


INSPECTOR

¹ PINS Ref: APP/E2205/X/16/3161037 and APP/P1045/X/20/3263178



Appeal Decision

No site visit

by M. P. Howell BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20TH AUGUST 2025

Appeal Ref: APP/B5480/X/23/3335573

19 Hall Terrace, Colchester Road, Havering, Romford RM3 0XR

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Hasnain Naeem (Open World 2 Limited) against the decision of the Council of the London Borough of Havering.
 - The application ref D0442.23, dated 16 October 2023, was refused by notice dated 7 December 2023.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is proposed is the use of 19 Hall Terrace as a residential care home C3 (b) for up to 5 young persons with learning disabilities or mental health problems in need of care, but living as one household. They would be cared for by 2 full time carers who would be working on a shift basis. The 5 young people needing care will be between 8-18 years old and will be living at the property as their principal residence.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. It was determined that a site visit was not necessary. Both main parties were informed of this decision, and no objections were raised concerning the appeal being decided without a site visit.
3. Planning Practice Guidance (PPG) states that an application for a Lawful Development Certificate (LDC) must accurately describe what is being applied for, rather than merely stating the use class and the land to which the application pertains.
4. Although the description on the Application Form was detailed, it was lengthy and included unnecessary information that could be amended and made more concise. For clarity, I have removed the last sentence set out in the application form from the banner header above as it was simply indicating that the appellant has provided more details of the use in the attached statements. For completeness, the sentence deleted was "for more details about the proposed use, please see the attached planning statement and the applicant's care statement, which we submitted with the application."
5. The Decision Notice for the development presents an alternative description compared to the Application Form: "Change of use from Use Class C3 (a) (Dwellinghouse) to Use Class C3 (b) (up to six people living together as a single household and receiving care)." I have not received any correspondence indicating that the appellant formally agreed to this description in the Decision Notice. More

critically, the description in the Decision Notice is quite broad, potentially encompassing a variety of Class C3 (b) dwellinghouse uses of different scales, natures, and levels of intensity.

6. According to the appeal submissions, it is evident that the proposed use is more specific concerning the nature of the use, as well as the number of residents and carers. Following the advice and guidance outlined in the PPG, it is necessary to secure the appellant's agreement to any amendments to the proposal's description. I reached out to both main parties and suggested a change to the description for clarity, which is as follows:

"A change of use from a single dwelling to a residential care home for five child residents, with two carers working on a rotational 24-hour shift basis."

7. Both parties were consulted about the proposed change to the description; however, no comments were received from either side. Therefore, aside from the removal of unnecessary words in the banner heading, I have not formally amended the description from the original Application Form.

Main Issue

8. The main issue is whether the Council's decision to refuse to grant an LDC was justified. This determination hinges on whether the proposed use falls within Class C3 of Part B of Schedule 1 of The Town and Country Planning (Use Classes) Order 1987 (as amended), and if it does not, whether the proposed use constitutes a material change of use.

Reasons

9. An application under S192(1)(a) of the Town and Country Planning Act 1990 (the 1990 Act) seeks to establish whether any proposed use of buildings or other land would be lawful. In an application for an LDC, the onus is firmly on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful if instituted or begun at the time of the application.
10. Section 55(1) of the 1990 Act defines development, which includes making any material change in the use of buildings or land. According to section 55(2)(f), in the context of buildings or land used for any specified class under The Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO), using those buildings or land for another purpose within the same class does not entail development of the land. A use is considered lawful under section 191(2)(a) of the 1990 Act if no enforcement action can be taken against it, either because it does not involve development or require planning permission.
11. There is no dispute the existing use of the appeal property is use Class C3 (a), which is a dwellinghouse in use by a single person or single household. Floor plans indicate that it is a 5-bedroom property, comprising a lounge, kitchen/dining area, bathroom, two bedrooms on the ground floor, and three bedrooms, a shower room, and a study on the first floor. The proposal does not include any external changes, and the internal layout will not significantly alter the accommodation, other than repurposing the study as an office.
12. The appellant asserts in the Application Form, Planning Statement, and Appeal Statement that the proposed use would fall under Class C3 (b) of the UCO. Class C3 (b) pertains to a single household of no more than six residents receiving care.

Detailed submissions indicate that this would consist of five residents aged between 8 and 18, with learning disabilities or mental health issues, who require care while living as one household. Two carers would provide 24-hour care on a shift basis but would not reside in the property.

13. A critical factor in this case is that the UCO defines 'care' in Article 2 and restricts the personal care of children to Class C2 only. In this regard, children cannot constitute a single household without the presence of a caregiver, and a children's care home may not fall within Class C3 unless a caregiver is a resident. It is evident from the submitted details that the caregivers in this proposed scenario would not reside at the property but would instead work on a shift basis. Therefore, the use being proposed is more likely to be classified as a C2 use rather than a C3 (b) use as defined in the UCO.
14. However, it does not necessarily follow that all proposed C2 uses will always be considered materially different from the existing C3 use. As indicated, the term 'development', defined in section 55(1) of the 1990 Act, includes 'the making of any material change in the use of any building or other land.' If a change of use is not considered a 'material' change, it would not constitute 'development' and could be deemed lawful as per the provisions outlined in 191(2) of the 1990 Act. Therefore, I will now assess whether the change of use from Class C3 to Class C2 would amount to a material change of use and thus require planning permission.
15. To determine whether a material change of use has occurred, it is necessary to compare the actual existing use with the proposed use rather than considering a hypothetical range of activities associated with notional uses. For a material change of use to be recognised, there must be a significant difference in the character of the activities compared to what was previously carried out. This assessment is a matter of fact and degree based on the available evidence.
16. From the information provided, I can conclude that the current or lawful use is as a dwelling. The floor plans indicate that there are currently five bedrooms, which will remain unchanged, along with communal areas and facilities that will continue to be shared. However, limited information has been submitted regarding the actual existing use as a dwelling house. For example, the submission does not specify how many occupants currently or last resided at the property. Additionally, there is no detail about the composition of the single household, their average weekly movements to and from the property, whether they own and use vehicles, as well as the levels of waste and general activities occurring from the use at the property.
17. While there is more detail regarding the proposed use, there is still a lack of detailed information about the average weekly movements to and from the property by the residents, visitors and staff. It is noted that the site is accessible and that a company car would be available for staff, but there is limited detail on how staff shifts would operate, their frequency, and what form of transport they would use to access the property. Additionally, the submission does not indicate whether the proposed use would result in changes to the levels of waste and noise generated by the proposed activities.
18. Consequently, I have limited information on the existing use, which would provide a baseline for comparison with the proposed use of the property. Given the lack of detail regarding the existing use and the limited insight into the daily activities of the proposed use, I do not have a sufficient evidential basis to make an accurate

comparison. As indicated earlier, it is the responsibility of the appellant to substantiate their case. In my judgment, this burden has not been satisfactorily met, as I do not have the necessary evidence to make a well-reasoned decision.

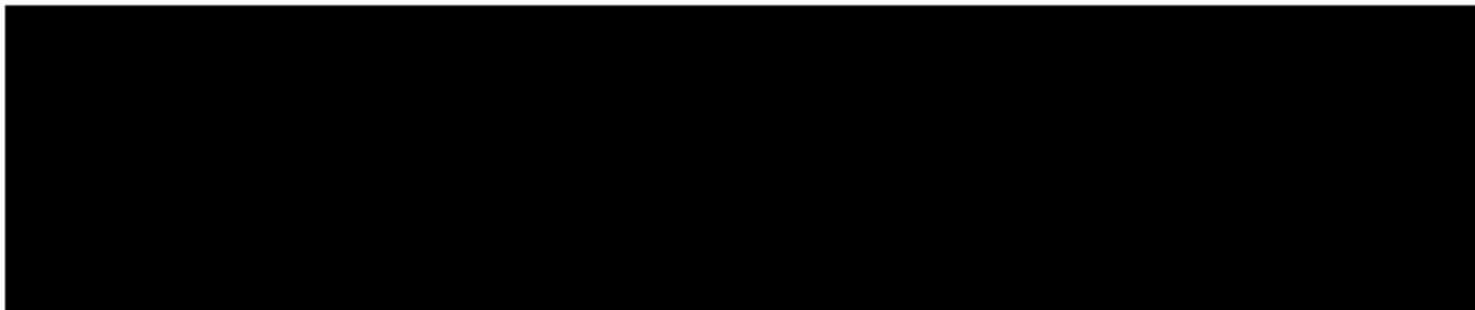
19. Therefore, based on the evidence before me, the appellant has failed to demonstrate that the proposed use would not amount to a material change from a Class C3 use to the residential care home use described in the submissions, if the change were to occur at the time of the LDC application.

Other Matters

20. In coming to the above conclusions, I have had regard to the principles in caselaw referred to by the appellant in the appeal statement.¹ However, the proposed use is a change of use from C3 use to a C2 use as defined in the UCO, rather than being an intensified C3 use where the number of occupants exceed more than six. Furthermore, due to the lack of evidence, I am unable to compare the proposed use with the existing use to determine whether the change of use is material.

Conclusion

21. As with all LDC applications, it is open for fresh applications to be made if, for example, greater detail or other evidence comes to light to make a comparison on the proposed change of use.
22. However, for the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a change of use from a single dwelling to a residential care home for five child residents, with two carers working on a rotational shift working basis is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).


INSPECTOR

¹ R (oao Hossack) v SSE & Kettering BC & English Churches Housing Group [2002] EWCA Civ 886; [2002] JPL 1206 CoA and Banes v. Sheffield City Council (1995) 27 HLR 719



Appeal Decision

Site visit made on 3 July 2025

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2025

Appeal Ref: APP/V4250/W/25/3359877

6 Valentines Road, Atherton, Wigan M46 0LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Miss Bhahisa Khojani iCare solutions LTD against Wigan Metropolitan Borough Council.
 - The application Ref is A/24/97735/CU.
 - The development proposed is described as 'proposed change of use of house/dwelling to children's care home at 6 Valentines Road, Atherton. AKA The Golden Hive'.
-

Decision

1. The appeal is dismissed and planning permission for the 'proposed change of use of house/dwelling to children's care home at 6 Valentines Road, Atherton. AKA The Golden Hive', is refused.

Preliminary Matters

2. The appeal was made against the Council's failure to determine the planning application within the prescribed period. I have had regard to the Council's stance on the application and both parties' submissions as part of the appeal in formulating the main issues and reaching my decision.
3. The proposal seeks to change the use of a detached four-bedroom dwelling in a residential area to a children's care home for up to three children, with minor external alterations. The Council states that had it determined the application it would have refused permission for two reasons. These would be the lack of need, and the effect on local public services and parking provision.
4. A legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) (the S106) was submitted at an early stage with the appeal. I return to this later in my decision.
5. Although alterations may have been undertaken at the front of the property, I have not been made aware whether the proposal is retrospective. I have therefore not determined the appeal on a retrospective basis.
6. The main issues in relation to this appeal are:
 - whether the proposal would provide adequate parking with particular regard to how the development functions and the living conditions of surrounding occupiers and the wider neighbourhood.

- whether the proposal would cater for the needs of the Borough, and the effect on local services; and
- whether any harm would be outweighed by other material considerations.

Reasons

Highway safety

7. The proposal seeks to provide Ofsted regulated care and accommodation for up to three young people between the ages of 7 and 17. The appellant's are experienced in this field and seek to offer a stable environment focusing on safety, health, education, development, family, community and well-being. The appeal property is a detached four-bedroom house, the property has off-street parking. The width of Valentines Road is narrow. Homes and driveway are sited relatively close together with little space in front of dwellings without dropped kerbs to park vehicles.
8. The appellant's Statement of Purpose document submitted with the application advises that staffing levels may depend on the specific needs of the persons being cared for at the property depending on the particular needs of the individuals that would be resident in the home. There would be two staff members on site staff at all times. However, the appellant has indicated that there is the possibility of a third member being present during handover or if a specific child requires enhanced supervision. The appellant contends that this could equate to the possibility of the presence of two to three vehicles at the property during normal hours and possibly four vehicles during short handover windows. Given the requirement to provide continued supervision and allow for a proper handover, there would be increased numbers of staff present, albeit briefly, at the beginning and end of mid-morning shifts.
9. However, there could also be other people in attendance at the property, including external agencies such as social care, health, education or other public service providers. While the intention may be that these additional staff and service providers would arrive and depart at less busy or unsociable times, there is nothing to guarantee that this would be the case. While it is intended that the premises would function as a family home, similar to others on the estate, the potential of the proposed level of staffing and support services would involve a level of vehicle movement beyond what is a typical character of single family occupation.
10. Although the Highway Authority has not objected to the proposal, they do acknowledge that it would lead to a reliance on on-street/pavement parking around the area. This is very likely to occur given the narrowness of Valentines Road. I do not have any accident records and there are also no parking restrictions, however these factors do not alter that increased pavement parking compromises safety and impedes pedestrian access. Although traffic speeds are generally low, due to the narrowness and alignment of the road, when pavements are obstructed, there is an increased risk of conflict between pedestrians, cyclists and moving vehicles due to the reduction in intervisibility. Although at the time of my site visit during late morning on a weekday there were places to park, the road in the vicinity of the appeal property could become quite congested with only a small increase in the number of vehicles.

11. Given the quiet, residential nature of the estate, there is also a relatively high probability of pedestrians and cyclists being present within the highway. The fact that parking across the pavement may be commonplace does not justify increasing the likelihood that this will occur. The road itself is very narrow, and if cars were to park on pavements, or fully on the road there would be issues with manoeuvring of vehicles or obstruction of the highway from indiscriminate parking, not necessarily from staff, but also from any displaced parking for existing residents.
12. Staff change over time would be mid to late morning. However, there would be the potential for regular entering and leaving the premises, with associated vehicle movements. Concentrated activity in and around the appeal site, such as the frequent opening and closing of the property's front door, voices, starting and running of car engines, car doors closing, and general noise from the manoeuvring of vehicles, would become noticeable to residents close-by.
13. On a regular basis this is likely to result in disturbance, which would be detrimental to living conditions and make homes or garden areas less enjoyable to use as a result. Overall, the issues can have significant effects on the quality of life of residents and how the area functions. The close knit relationship of the properties and width of Valentines Road are likely to exacerbate the effects.
14. It is accepted that a number of visitors as well as staff may choose to travel to the site by non-car modes. This would reduce the likelihood of those travelling by car and thus the parking requirement. However, patients and visitors using public transport could not be controlled. The proposal has not demonstrated if staff are likely to reside locally or whether it would be a requirement for a car driver to reside at the home.
15. I therefore conclude that the proposal would not provide adequate parking with particular regard to how the development functions and the living conditions of surrounding occupiers and the wider neighbourhood. Consequently, the proposal would be contrary to Policy CP17 of the Wigan Local Plan Core Strategy¹ (the CS) which seeks to ensure that new development is planned and designed so that it does not have an unacceptable adverse impact on amenity and quality of life in the area.

Need and local services

16. The appellant's Statement of Purpose document identifies that a home would be provided for children who have experienced trauma and present with a range of emotional and behavioural difficulties. The Council contends that need has not been demonstrated and that the proposal has the potential for children from outside of the borough to be allocated a place to live at the property, who may have specific needs. These specific needs may have additional implications for resources and for placing children from the Wigan area within the Borough which are at the crux of the Council's concerns.
17. The Council advises that the Borough has more registered beds locally than the number of children who require them. The appellant contends that there is a significant demand for placements in the Wigan borough, and currently, there is not enough available spaces in Atherton to meet the demand. I am unable to

¹ Wigan Local Plan Core Strategy, Development Plan Document, adopted September 2013

corroborate if there is a need for such a proposal as neither party has provided any first hand evidence, strategies or other documents for me to review.

18. The appellant states they are on the North West Children's Residential Placements Framework. It is evident that this does not restrict referrals from the Local Authority to their own administrative area. It is therefore likely that children from other local authority areas could be accommodated within the home. The Council contends that the admission criteria will have direct detrimental impacts on local public service delivery across a range of services beyond the Local Authority.
19. In terms of its own services high numbers of children in care from out of the area is placing a high demand on alternative educational provision such as pupil referral units, and additional demand is impacting on the local authority's ability to fulfil statutory duties. Although I have no reason to doubt this, I am unable to conclude in the absence of clear and convincing details of cost or which services would have undue strain put upon them and how, be it due to staff, resources or for other reasons, there would be insufficient capacity for the proposal or that it would put a strain on such services for existing residents. Potentially the effects could be controlled through ensuring that only children who reside within the Wigan area or whom agreement with the authority has been sought are referred there.
20. The Council also maintains that it has a responsibility through health services to complete statutory health assessments and act as lead health professionals, and more complex health needs puts a high demand on other service providers. Although I have been provided with a range of service providers, including Greater Manchester Police, I have no evidence from these practitioners or bodies to corroborate this, which limits the weight I can attach to this aspect.
21. It has not been demonstrated that the matter of any safeguarding issues arising and continuing education and healthcare provision, in view of the size of the appeal property, would not be limited. Furthermore, because placements from within the borough, although relatively low, are placed in other areas, and conversely, the receiving authority covers the cost of safeguarding and other services, this removes some of the financial burden of those residents residing in the borough.
22. While I have found that a local need for the proposal has not been fully demonstrated, I am unable to conclude that the proposal would have a harmful effect on local services. I find that the appellant has had regard to local circumstances and that the proposal would align with Policy CP6 of the Wigan Local Plan Core Strategy² (the CS) Policies JP-H3 and JP-P6 of the Places for Everyone Joint Development Plan Document³ (the DPD). Together and insofar as they are relevant to the appeal, these seek to ensure that there is sufficient housing in the borough to meet people's needs, including specialist housing, tackle health inequalities by requiring proposals to maximise the positive contribution to health and wellbeing, whilst avoiding any potential negative impacts of new development and facilitating greater integration of health and social care.

² Wigan Local Plan Core Strategy, Development Plan Document, adopted September 2013

³ Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan 2022-2039, adopted March 2024

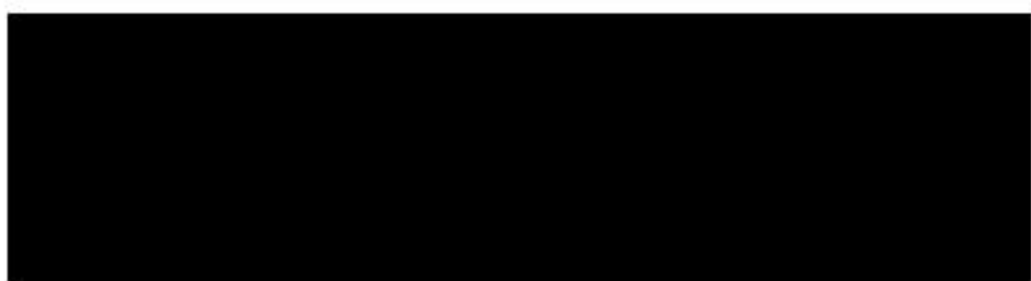
Other Matters

23. The proposal would advance equality of opportunity for disadvantaged young people who share a protected characteristic due to their age. With that in mind, when considering the appeal I have had appropriate regard to the aims of the Public Sector Equality Duty (PSED), as set out in s149 of the Equality Act 2010. I have furthermore been mindful of the need to avoid giving weight to any unjustified assertions of a discriminatory nature.
24. The proposed development would accommodate young people in need of care and support, within a setting which the appellant explains would be designed to function as far as possible as a family home. The site is located within a residential area, with access to local services. The proposal would also provide employment opportunities. Setting aside the harm I have identified in relation to the associated vehicle movements, I find that the surrounding environment would support the underlying objectives of the proposed use. To that extent the proposal would support the rights of disadvantaged young people as defined in Article 8 of Schedule 1 to the Human Rights Act 1998 (the HRA), namely the right to respect for private and family life.
25. In line with Article 3(1) of the United Nations Convention on the Rights of the Child, I am mindful that the best interests of the child are a primary consideration in all actions by public decision-makers where children are concerned. In this regard, I recognise that the proposal would increase the availability of residential placements for young people in the North West.
26. It is a positive consideration that the residential institution would provide support services for children and employ staff in an accessible location. I recognise that the government is pushing to support this type of facility, more of which is required nationwide. I attach significant weight to the benefits the development would bring in the above respects.
27. Given the regulated nature of residential social care provision, mechanisms exist outside the scope of the planning system to ensure that the proposed use would appropriately meet the needs of the young occupiers. There is no substantive evidence that the use would increase the likelihood of anti-social behaviour. In the event that such issues arose, these could be addressed under the relevant regulatory regime, in the same manner as disruptive behaviour by any other local residents, and it has not been demonstrated how or the extent that the scale of the development would harm public services.
28. Having regard to all of the above, weight is clearly attributed in favour of the development, particularly having regard to the use of the site by children. However, the weight I can attribute to these benefits is tempered as it is evident the facility is not unique and there is other accommodation within the area. In addition, limited evidence has been provided to demonstrate that the appeal site is to meet the needs of a particular child or young person.
29. I have found that the proposed development would result in harm to the living conditions of neighbouring occupiers as a result of noise and disturbance due to increased vehicle movements and the parking arrangements. There would also be increased harm to the safety of pedestrians and cyclists as a result of the additional demand for parking in a constrained area.

30. I have seen the evidence of good practice presented by the appellant, but this does not assist in addressing the specific concerns arising in the case. Dismissal of the appeal would not prevent the continued care of children by the relevant authorities, whereas the continued use of the site may harm the living conditions of neighbouring residents. The collective planning harm that I have identified is of such weight that a refusal of planning permission is proportionate and necessary.
31. The submitted planning obligation is flawed. There is no plan associated with the agreement to fully identify the site. Nor does it refer to the planning application reference, and it has not been signed by a witness. It also refers to the provision of 8 off-street parking spaces, which has not been shown on any plans. Consequently, I am not satisfied that it would be secure, and I therefore give it no weight in my determination. In addition, and related to this, I am not satisfied that a planning condition, requiring a scheme to demonstrate that the operator will continue to work with the Council's housing referrals team, would be sufficiently precise or enforceable, to ensure the accommodation would be appropriately targeted. There is insufficient evidence before regarding how the process would work and whether any breach of the condition could be easily remedied or identified.
32. The effect of the limited external changes to accommodate the proposal upon the character and appearance of the area has not been raised as a concern by the Council. Although it has been suggested that the proposal would result in the loss of family dwelling, the harm arising from this has not been substantiated. I have also considered all other issues raised by interested people. However, as I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on these matters.
33. The Council has drawn my attention to an appeal decision⁴ from 2005, that has not been provided. I note that this case was in Thanet and the decision was made prior to the Framework. With limited details, I am unable to make a comparison between that case and the appeal before me. Therefore, I have determined this appeal on its own merits.
34. I appreciate that the appellant's frustration regarding the Council's handling of the application and communication. However, this has no bearing on my decision, and there is no costs application before me.

Conclusion

35. I have had due regard to the PSED, and the HRA recognising that the proposed development would advance equality of opportunity for people with protected characteristics due to their young age. However, the scale of the associated benefits, would be very modest. Set against that would be the more clearly identifiable harm to the living conditions of neighbouring occupiers.
36. Therefore, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that it is proportionate and necessary to dismiss the appeal.

 INSPECTOR

⁴ Appeal Ref: APP/Z2260/A/05/1176509