

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	251210
Site Address:	12 Hollow Lane, Shinfield, Wokingham, RG2 9BT
Expiry Date:	13 November 2025
Site Visit Date:	23 October 2025
Proposal: Application for a certificate of existing lawful development for the change of use of existing property (C3) to children's care home for a single child (Use Class C2).	

PLANNING HISTORY

Application No.	Description	Decision & Date
031698	Proposed rear extension and raising of roof to create additional habitable rooms.	Approved: July 2003

INFORMATION PROVIDED

By the applicant:

- Statement of Purpose.
- Children's Home Impact Statement.
- Application Form.

By the Council:

- Relevant Case Law (see below).

By third parties:

- None.

APPRAISAL

Context

This application is for a Certificate of Lawful Existing Use of the building as a C2 children's care home. It is noted that use of buildings for care home purposes can fall into use class C3(b) or C2. However, in this case, the property would fall into a C2 use as children cannot be left unaccompanied or live as a single household unit without the presence of an adult. The requirement of C3(b) use class is "use as a dwelling house by not more than six residents living together as a single household, (including a household where care is provided for residents)." As such, the LPA are content that the use class referred to in this certificate of lawfulness application (C2 use) is correct.

In determining a Certificate of Lawful Existing Use, a Local Planning Authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is lawful. Lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning

permission is not required. In the case of this Certificate, it must be demonstrated that the use of the property is not a material change of use from its existing designation (C3), thus not requiring planning permission.

Planning merits are not relevant at any stage in the process. The National Planning Policy Guidance (NPPG) sets out that the onus of proof is on the applicant, not the Local Planning Authority in submitting a Certificate of Lawfulness. However, the NPPG also states that “if Local Planning Authorities have no evidence of their own to contradict or undermine the applicant’s version of events, there is no good reason to refuse the application provided that the applicant’s evidence is clear and unambiguous to justify the grant of a certificate”.

The company operating the care home is Cornerstone Children’s Homes. According to their website, *“Cornerstone Children’s Homes exist to provide therapeutic care. We provide an environment conducive, not only to risk reduction, but also to rehabilitation and re-engagement through personal development.”*

The applicant has submitted an in-depth statement of purpose and an impact statement, both of which explaining the wider intention of the company and the day-to-day operations of the property. This states that the home is, and will continue to be, limited to one child at a time, as confirmed by its pending registration with Ofsted.

Further information has been submitted regarding staff arrangements since the submission of this application. This is outlined below:

- There is 3 x staff members during the day, and at night time, there is also 3 x staff (1 sleeping in and 2 waking nights). The manager will also be in the home from 09:00 to 16:00 Monday - Thursday.
- Shifts are all as follows - Day shifts are 07:30 to 21:30. Night shift’s are 21:30 to 07:30. The rota’s are produced 4 weeks in advance.
- There aren’t any variations in staffing over the week as these are set patterns. Any training or meetings are held offsite, as to not disrupt the child’s home environment.

No structural changes to the accommodation are proposed.

Assessment

The clear starting point is that a care home facility would normally be classed as a C2 use in accordance with the description in the Use Class Order, and relevant case law. This is not a matter of debate in this instance, whereby the applicant has accepted the existing use being one that falls within C2. Also, the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) does not allow a permitted change from a C3 to a C2 use class. However, ‘development’ is defined in section 55(1) of the Town and Country Planning Act 1990 (1990 Act) as including ‘the making of any material change in the use of any building or other land’. It therefore follows that if a change of use is not a ‘material’ change of use then it would not constitute ‘development’ and could be lawful due to the provisions set out in 191(2) of the 1990 Act.

The applicant therefore seeks confirmation that the change of use is not ‘development’ as defined within section 55 of the 1990 Act. Consequently, the issue on which the application is decided is whether the change of use to the children’s home, as described, can be regarded as materially different to the existing use as a

dwellinghouse, which is based on a matter of fact and degree. For a material change of use to have occurred, there must be some definable change in the character of the use from what has gone on previously.

Case law surrounding further decisions and judgements provides greater clarity as to whether a material change of use has occurred or not.

An Inspector's decision (APP/K5600/X/16/3146855 and APP/K5600/W/16/3146856) set out the application of principles regarding whether a material change of use had occurred, based on the judgment (R (oao) The Royal Borough of Kensington and Chelsea v (1) SSCLG (2) David Reis (3) Gianna Tong [2016] EWHC 1785 (Admin)). The appeal decision stated that the following factors (inter alia) should also be taken into account when determining whether a material change would occur:

- The extent to which an existing use fulfils a proper planning purpose is relevant in deciding whether a change from that use would amount to a material change of use. Thus, the need for a land use, such as housing or a type of housing in a particular area is a planning purpose which relates to the character of the use of land;
- Whether the loss of an existing use would have a significant planning consequence(s), even where there would be no amenity or environmental impact, is relevant to an assessment of whether a change from that use would represent a material change of use;

In the case at hand, emphasis is placed on the relatively modest scale of the operation, in which only one child is living and cared for at the property, with three carers on site at any one time, on a rotational basis.

The provision of care proposed includes administration of any medical attention, assistance with meal preparation, therapeutic care and other requirements as necessary. The home will focus on children with emotional and behavioural needs, and the proposed mode of care seeks to replicate that of a typical family home. The placement at the home for the resident child is intended to be long term rather than a short-term solution, or for emergencies. In terms of education, the supporting information sets out that unless there are special circumstances prohibiting it, the child will attend school on a full-time basis and is intended to be taken and brought home from school.

From the evidence provided, the 14-hour shift change would mean the movements by carers are relatively infrequent. The staff movements would not be significantly different in scale or character to those that would have taken place by a single household. There are fewer than 6 people at the property at any one time. Furthermore, due to the accessible location, the limited parking requirements, and the modest number of vehicle movements associated with the proposed use, it is unlikely to result in any definable change in traffic, parking stress and inconvenience for neighbouring residents.

There would be one resident in occupation and three members of staff, with a manager attending more infrequently. As such, the number of persons occupying the property would be consistent with a typical family home. The care also seeks to replicate that of a typical household, with specific allocated bedrooms, and the use of the shared facilities in the same way. Accordingly, based on the information provided, the way in

which the property would be used would not result in any definable change in the character when compared to the previous use of the dwellinghouse by a family.

Consequently, as a matter of fact and degree, the proposed use as a children's home for a single child, with three carers working on a shift basis would not result in a definable change in the character of the use from what has gone on previously. Accordingly, on the balance of probability, the applicant has demonstrated that the change of use is not material and, therefore, would not constitute 'development' having regard to section 55 of the 1990 Act. The property would therefore remain in C3 residential use.

The Public Sector Equality Duty (Equality Act 2010):

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

RECOMMENDATION

The relevant test for Lawful Use is the 'balance of probability'. Based on the evidence provided and the Local Planning Authority's own information, it is considered to have been demonstrated that, the proposed use as a children's home for a single child, with three carers working on a shift basis would not result in a definable change in the character of the use from what has gone on previously. Accordingly, on the balance of probability, the applicant has demonstrated that the change of use is not material and, therefore, would not constitute 'development' having regard to section 55 of the 1990 Act.

Date:	6 November 2025
Earliest date for decision:	26 September 2025
Recommendation agreed by: (Authorised Officer)	
Date:	10 November 2025