

DELEGATED OFFICER REPORT



**WOKINGHAM
BOROUGH COUNCIL**

Application Number:	251112
Site Address:	515 Reading Road, Winnersh, RG41 5HL
Expiry Date:	9 July 2025
Site Visit Date:	N/A
Proposal: Application for a lawful development certificate for proposed use as home for a maximum of 4 children under the ward of the Local Authority.	

PLANNING HISTORY

Application No.	Description	Decision & Date
250222	Householder application for the proposed raising of the roof, the erection of a single storey side extension and single storey rear extension, plus the conversion of the loft into habitable accommodation, facilitated by the erection of a rear dormer, including the erection of one roof light and changes to fenestration, following the demolition of the existing conservatory, chimney and outbuilding.	Approved: April 2025
042038	Proposed single storey rear extension to dwelling to form conservatory and porch extension.	Approved: April 2004
031284	Proposed rear dormer extension to dwelling to form rooms in roof space.	Approved: August 2003

APPRAISAL

Site Description: The existing site comprises a modest bungalow situated within a residential area, with hardstanding parking area to the front and typical residential private amenity space to the rear. The property sits on a road of other residential properties.

An extant permission exists on the site for the enlargement of the existing property (ref: 250222), with 6 bedrooms permitted.

Proposal: The submitted Planning Statement sets out that the proposal aims to use the property as a residential care home for children, however, the ages are not specified.

Although not implemented, the property has an extant permission for 6 bedrooms and the proposal will be for up to 4 looked-after children. It is proposed to have at any one time a maximum of 5 staff at any one time who will cover for the 24 hours, including a

manager between 09:00 – 17:00. They will operate on a rota pattern (12:00 – 12:00) are the expected shift patterns.

The Planning Statement also refers that the children for which the home is intended are vulnerable children who are unable to live with their families. It is stated that the applicants specialise in supporting individuals with learning disabilities and autism, working closely with local authorities across the region and collaborating with the majority of NHS Integrated Care Boards (ICBs) in the surrounding areas.

No structural changes to the accommodation are proposed.

Assessment: The first matter to determine is the Use Class of the proposal and whether this falls within a C3 or a C2 use. It has been established by case law that where care is provided and this is not the main residence of the carers, the use falls within C2 and not C3b.

The supporting Planning Statement refers that the house will be a residential Children's Home for up to 4 looked-after children and up to 5 staff throughout a 24 hour period. With the care package outlined, this falls squarely within a C2 use – The Use Class Order states *'Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses))'*. Development Control Practice (DCP) also confirms that *'Children's homes fall within Use Class C2 Residential Institutions.'*

In this case, the children would be unrelated, and it is stated that in some cases, the children could stay for a duration as short as one year at the home. Accordingly, they would be unable to form a household by themselves. The Planning Statement argues that there would be surrogate parents, however, a lack of information accompanies this, and it is unclear how this would work in relation to the 24/7 carers who would operate on a shift basis with staff coming in and going out to support the children's needs. Due to the lack of information provided within the application, the LPA take it that the surrogate parents would be the carers. The care home would not operate a single household based on these facts.

The Development Control Practice also highlights the same conclusion based on case law known as *Devon District Council v First Secretary of State and Southern Childcare [2003]*:

'A children's home may fall within Use Class C3 (Dwellinghouses) where the total number of residents does not exceed six and the carers and the cared-for live as a single household. This provision has given rise to debate, particularly where carers do not live at the premises, but operate on a shift basis. The key case used is North Devon District Council v First Secretary of State and Southern Childcare [2003] involving the use of a house to provide residential care for two children. In this case it was held that the concept of what constituted a 'household' meant more than simply the number of people. It was necessary to assess whether they could truly be regarded as a household and carers who did not live there all the time meant that the use fell within Class C2.'

A further case in Rochdale is referred to in DCP came to the same conclusion as the Devon judgement referred to above. It highlighted that children between 10 – 18 could not reasonably be regarded as being capable of living together as a single household. It was also observed that although there were carers present 24/7, they did not form part of a household because they did not live there and operated in a shift pattern. The following summary is provided by DCP:

'In Rochdale 3/8/2016 DCS No 400-012-452 the conversion of a dwelling in to a young persons' care home was found constitute a material change of use requiring planning permission. The appellant argued that the development would fall within class C3(b), which covers uses involving up to six people living together as a single household and receiving care. He explained that the property would be occupied by no more than four young people aged ten to 18 in a domestic environment where they could receive education and therapeutic care as necessary. There would be two to three care staff on a 24-hour shift cycle, with a 10am daily changeover. In support of its refusal to refuse a lawful development certificate (LDC), the council referred to North Devon, where the court held that staff who provided 24-hour care but were not resident could not be regarded as living together in a household. In the case before her, the inspector noted that although adult carers would be present at all times, they would not be living permanently at the property as part of the household. She also remarked that a group of young people containing individuals as young as ten could not reasonably be regarded as being capable of living together as a single household. She concluded, as a matter of fact and degree, that the proposed development would not involve persons living together as a household and therefore would not fall within class C3. In considering whether the change of use was material, the inspector decided that the level of daily activity at the site would be more intensive and constant than might reasonably be expected to be generated by even a large dwellinghouse. The overall character of the use would differ materially from that of a dwellinghouse and the council's decision to refuse an LDC was well founded, she decided.'

A further case in Leeds is identified in DCP that a care home would not fall within a C3 use:

'A claim that a children's care home would fall within the definition of a dwellinghouse was rejected in Leeds 3/3/2014 DCS No 400-003-340 because of the nature of staff supervision. The appellant stated that the property had been used as a dwellinghouse within Class C3. The property would accommodate up to three children and two members of staff would live in and be responsible for domestic chores, cleaning and preparing meals. Staff would sleep in the property for three consecutive nights and be replaced by two other members of staff. The appellant asserted that the use would fall within Class C3(c) which allowed a group of up to six people living together as a single household since no care would be provided to the children other than meeting their everyday needs. An inspector found that the proposals would be closer to being a household than was the case in North Devon where children were under the supervision of a team of six or seven people operating eight-hour shifts. But the use would still involve carers operating a shift system thereby falling outside Class C3(c). Class C3(b) allowed a household of up to six people, with some receiving care such as those with learning disabilities. But the appellant did not propose to house children in need of this type

of care. Moreover, it would be used as a place for living and working with the staff being paid to look after the children. It was judged likely to generate more activity and traffic movements which would mean that it would involve a material change of use from a dwellinghouse to a residential care home falling within Class C2.'

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, the case law and judgements cited above. Facilities providing care can fall within a C3 use where they form a single householder and do not exceed the House in Multiple Occupation threshold, but for the reasons stated above, the proposed use would not be operating as a single household.

The applicant also proposes the suggestion that even if the proposal were a C2 use, planning permission would not be required if the change of use would not be a "material change" of use. 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;*

The difference in use class C3 and C2 fulfils a proper planning purpose, in particular by calculating and addressing housing land supply requirements, the types of housing required and for whom. This is key function of the planning system set out in section 5 of the NPPF. Therefore, the change between C2 and C3 is not inconsequential for strategic planning and housing delivery. It highlights that there is crucial and legitimate planning purpose for a separate C2 and C3 Use Class and the different uses would materially affect the character of the use of land.

Whether the use is subject to different policies is also an indicator of whether a change of use has occurred. Policy TB09 refers specifically to care homes, and this is not applicable to C3 dwellings. C2 accommodation is also calculated differently for housing land supply purposes and impacts the boroughs housing stock. The loss of C3 dwelling is also contrary to Core Strategy policy CP3.

Applying for different C Use Classes would also cause a decision maker to give weight to that particular use based on the need for it. For example, a lack of care homes bed spaces may give rise to a decision maker giving greater weight to such a use than a C3 dwellinghouse.

Referring back to the appeal decision and judgement above, it is clear that there is a material difference in character between the existing C3 dwelling and the C2 Care Home use proposed. It is important to note that one of the principles highlighted states that *'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'*. Therefore, even if there are no additional environment impacts as a result of the proposal, a material change of use can occur.

It is further highlighted in the *Sage v Secretary of State for Housing, Local Government and Communities [2021] Judgement*, that treating environmental impacts as a crucial issue when determining whether a change of use would occur is not consistent with established law. The judgment states:

'a material change of use can be made without any adverse environmental impact at all. Treating environmental impact as the seemingly crucial issue for the judgment as to whether a material change of use has occurred, or a purpose is reasonably incidental is not consistent with clearly established law. The crucial test is whether there has been change in the character of the use. Environmental impact can be relevant as evidence that a material change has occurred, because a use of the new character may be capable of yielding environmental impacts or have done so already. The Guidance [PPG] as written is apt to mislead as to what the real question is, and as to the true but limited relevance of environmental impact.'

The Planning Statement also refers the home would be for vulnerable children who are unable to live with their families. It is stated that the applicants specialise in supporting individuals with learning disabilities and autism. The staffing levels proposed imply one carer per child plus a Manager on site at any one time. On this aspect, a recent Inspector's Decision (APP/Z4718/X/23/3335778) (dated October 2024) considered that whilst the proposed use had something in common with a C3 dwellinghouse use, the character of the use could be materially different to that of a dwellinghouse with emotional and behavioural disorder provision being something quite different to a dwellinghouse. The Inspector noted that the behaviour of the residents of a property clearly has the potential to have an effect on neighbouring properties and on the character of the use, and concluded that based on the evidence provided, the proposal would amount to a material change of use for which planning permission is required.

In summary, the proposed development would result in a material change of use and the character of the site therefore planning permission is required for the development.

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	
Conditions agreed:	N/A
Recommendation:	Refusal
Date:	7 July 2025

Recommendation agreed by: (Authorised Officer)	
Date:	7 July 2025

PLANNING CONSTRAINTS/STATUS

Not relevant.



**WOKINGHAM
BOROUGH COUNCIL**

TOWN AND COUNTRY PLANNING ACTS

**TOWN AND COUNTRY PLANNING ACT 1990:
SECTION 191 AND 192**

**TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2015: ARTICLE 39**

Mr Philip Williams
ET Planning
200 Dukes Ride
Crowthorne
RG45 6DS

NOTIFICATION OF REFUSAL OF CERTIFICATE OF LAWFUL PROPOSED USE OR DEVELOPMENT

Application Number: 251112
Applicant Name: Mr Josiah Millar
Site Address: 515 Reading Road, Winnersh, RG41 5HL
Proposal: Application for a lawful development certificate for proposed use as home for a maximum of 4 children under the ward of the Local Authority.
Date of Decision: 7 July 2025

Wokingham Borough Council hereby certifies that on 14 May 2025 (being the date of application for this certificate), and subject to any conditions and/or informatives below, the operations described in the First Schedule to this certificate in respect of the land specified in the Second Schedule hereto and edged red on the plan attached to this certificate, **would not have been lawful** within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason(s):

1. The proposed use of the existing dwelling as a residential care home for up to 4 children constitutes development requiring planning permission as it would result in a material change of use from Use Class C3 to C2. The description provided in the Planning Statement falls squarely within a C2 Use Class. The use as described would not form a single householder and therefore would be a C2 Use Class. This conclusion is supported by case law. The proposed use would result in a material change to the character of the use of the site. C2 and C3 uses draw upon different planning policies; strategic assessments and can attract different material weight: they are materially different uses with different material planning consequences. The certificate is therefore recommended for refusal.

Informatives

1. This Decision is issued in respect of the submitted Planning Statement (ET Planning) and the drawing numbered (1403/3/a), received on 15/05/2025.

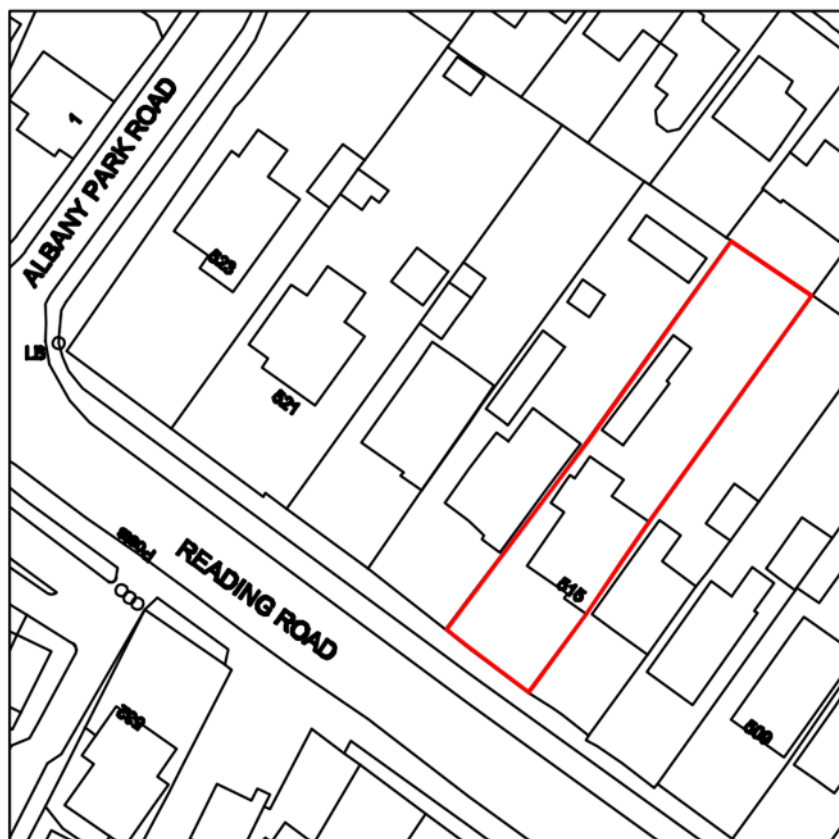
FIRST SCHEDULE

Proposal: Application for a lawful development certificate for proposed use as home for a maximum of 4 children under the ward of the Local Authority.

SECOND SCHEDULE

Address: 515 Reading Road, Winnersh, RG41 5HL

PLAN



Signed

Brian Conlon
Head of Development Management - Place & Growth
Date: 7 July 2025

PLEASE READ THE NOTES ISSUED WITH THIS DECISION NOTICE BELOW



WOKINGHAM BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACTS

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191 AND 192

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39

Other statutory legislation: This decision notice relates to the above stated acts and regulations only and does not constitute approval under any other legislation.

Tree Preservation Order: This decision notice does not give consent for any work that may be required as a result of the development above to a tree protected by a tree preservation order. You should apply separately for works to trees through the [Planning Portal website](#).

Community Infrastructure Levy: If the application includes 100 sqm or more of new floor area then it is liable for the community infrastructure levy.

The Town & Country Planning (Development Management Procedure) Order: This decision has been made in accordance with the requirements of the National Planning Policy Framework (NPPF) and in the requirement to work with the applicant in a positive and proactive manner.

Officer Report: An officer report explaining the decision will be available to view online.

Appeals to the Secretary of State: If your application has been **refused** by the Borough Council or **granted subject to conditions** that you are not happy with, you have the right to appeal to the Planning Inspectorate (under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990). There is **no time** limit for the submission of appeals in respect of certificates of lawful proposed use/development.

The Planning Inspectorate is an Executive Agency reporting to the Secretary of State for Communities and Local Government. The Inspectorate has an online appeals service as set out on the [.gov.uk](#) website which contains information and guides on the appeal process. Alternatively you can obtain a form from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, 0303 444 5000 or through the [Planning Inspectorate website](#). Please note all documents will be published online by the Planning Inspectorate

and therefore you should not include personal information you do not wish to be displayed in this way. This includes personal information of third parties.

Gas Mains and Services: Building over a gas main or service that is located within your site could cause damage to pipework or potential gas leaks within buildings. You should check for information relating to services within your site at [Home - LinesearchbeforeUdig \(lsbud.co.uk\)](http://lsbud.co.uk) and contact the Plant Protection Team at SGN on 0800 912 1722 or plantlocation@sgn.co.uk.

Building Control: The development subject to this certificate may also require Building Regulation approval to ensure it is built to national safety, design, and environmental standards. The Council's Local Authority Building Control (LABC) service offers a full range of plan approval, inspection, and associated services through an ISO9001 nationally accredited team of qualified building surveyors. These surveyors work closely with the Council's planning department to ensure the appropriate construction of your build. To find out more visit the Council's Building Control website or call 0300 790 0580 to speak to a member of the team.

Location Plan

Site Address: Easting: 477514 Northing: 171056

Date Produced: 09-May-2025

Scale: 1:1250 @A4



Planning Portal Reference: PP-13934974v1



Planning

Planning Statement

Client:

Brighter Homes

515 Reading Road,

Winnersh, RG41 5EX

Certificate to demonstrate that no development is occurring in the change of use from dwelling to childrens home.

Phillip Williams **BSc PGDip MSc MRTPI**

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Appendix 10 - APP/P9502/X/13/2205394 Appeal Decision

Appendix 11 – Ministerial Statement on the relationship between children’s homes and planning.

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1. Introduction

- 1.1 This statement is produced to support an application for a Certificate of Lawfulness at 515 Reading Road, Winnersh, RG41 5EX ('the site') on behalf of Brighter Homes ('the applicant').
- 1.2 The Certificate seeks to establish that a material change of use is not occurring from the lawful use of the site as a dwellinghouse, and that no material change of use would occur thereby negating the need for planning permission.
- 1.3 The proposal is for **a maximum of 4 children** under the ward of the Local Authority to live at the property. In addition, there will be **a maximum of 5 members of staff** in the property at any one time including a manager between 09:00 – 17:00.
- 1.4 In addition to this planning statement, the application is accompanied by the appropriate application forms and ownership certificate, duly signed and completed, as well as a Location Plan, outlining the extent of the site.
- 1.5 The relevant application fee will be submitted by the applicant separately.

2. The Applicant

- 2.1 Brighter Homes is a new organisation specialising in specialist residential children's homes. It is part of the Brighter Living Care group, a CQC-registered provider of adult social care.
- 2.2 Based in Winnersh Triangle, the organisation was recently shortlisted for Gold Tier Provider status by Wokingham Borough Council. The organisation offers personalised support to help individuals live more independent and fulfilling lives, regardless of their needs.
- 2.3 The organisation specialises in supporting individuals with learning disabilities and autism, working closely with local authorities across the region and collaborating with the majority of NHS Integrated Care Boards (ICBs) in the surrounding areas.

3. Site Location and Description

- 3.1 The site comprises an existing residential house, a residential garden, and a hardstanding driveway area adjacent to Reading Road. All bedrooms are equipped with ensuite facilities.
- 3.2 The site is situated in Winnersh, 20 metres from the Bearwood Path bus stop, which provides convenient access to Bracknell Forest. It is also located 650 metres from Winnersh Triangle Station and 1 kilometre from Winnersh Station, offering multiple sustainable transport options for staff.
- 3.3 A variety of public services and local amenities are within walking distance of the site, including A&B Food & Wine (approximately 170 metres to the east along Reading Road), The Forest School (1.1 kilometres to the east), Showcase Cinema (1 kilometre to the west), Sainsbury's Supermarket (1 kilometre to the east), and Dinton Pastures Country Park (1.2 kilometres away).

4. Development Proposals and Contextual Information

- 4.1 The site relates to an existing dwelling house which is in Class C3 use. The proposal is for a maximum of 4 children under the ward of the Local Authority to live at the property.
- 4.2 Whilst the duration of the stay for children will vary as this will depend on the needs of the individual child, it is anticipated that the property would be the long-term home for the children with a minimum stay of one year. The property would be the children's primary living accommodation for the duration of their stay.
- 4.3 In terms of staffing, the staff will operate a rota system (12:00 – 12:00 are the expected shift patterns) with the changeover period taking place 12:00. There is the potential for the staff to have sleep in duties depending on the needs of the child. The rotas are planned to ensure minimal changes for children and a consistent 'parenting' group.
- 4.4 The shift pattern identified meets Ofsted regulations for children's homes and working time regulations for the care sector. The rota pattern is very common across children's homes to ensure a consistent group of staff and limited change as per the average family setting.
- 4.5 There is ample off-road car parking at the property, with **5 spaces** provided on site. One of these spaces will be used for the house vehicle.

- 4.6 The following table further compares the **daily movement patterns** on site (existing and proposed):

<i>Existing movements</i>	<i>Proposed movements</i>
<i>School runs- x2 (at 8am and 3pm)</i>	<i>School runs – x2 (at 8am and 3pm)</i>
<i>Shopping trips – 2 per week</i>	<i>Shopping trips – 1 per week</i>
<i>Work travel - x2 (at 8am and 6pm)</i>	<i>Adult/shift changeovers – x1 (at 12pm)</i>
<i>Shopping/online deliveries – x1 (at 1pm)</i>	<i>Shopping/online deliveries – x1 (at 1pm)</i>
<i>Visiting friends / having friends visit – 4pm</i>	<i>Visiting friends / having friends visit – 4pm</i>
	<i>Social Worker visits – 6 weeks on average – they do not necessarily need to visit the home in order to undertake their work</i>
	<i>OFSTED – Every 6 months on average – during day time hours eg/ 9:00 – 17:00</i>

Fig 1: Daily movement patterns

- 4.7 No external changes are required to the property.
- 4.8 The property will provide a much-needed family style home for vulnerable children who are unable to live with their families. It will further provider very much needed places for local children.
- 4.9 The following Certificate of Lawfulness application has been submitted within Wokingham Borough Council:
- 23 Almond Close, Barkham, Wokingham, RG41 4UU – This was approved on the 31st May 2024 (Planning Reference: 240778).
(Appendix 12)
- 4.10 It should be noted that several additional Certificate of Lawfulness applications have been approved by other Councils, representing a nationally consistent approach, and these add further weight to the proposal. Due to the nature of this application and in the interests of

consistent decision making, these are relevant material considerations in the determination of this application. These examples include:

- 22/01048/LDPU – 254 Old Worting Road, Basingstoke, RG22 6PD (**Appendix 1**)
- 22/02240/LDPU – 38 Impstone Road, Pamber Heath, RG26 3EQ (**Appendix 2**)
- 20/02131/LDPU – Silver Birches, Pamber Heath, RG26 3EB (**Appendix 3**)
- 22/00631/LDPU – Cap D’or, Bramley, RG26 5BW (**Appendix 4**)
- 23/00575/LPDU – Willowbrae, The Glen, Pamber Heath, Hampshire, RG26 3DY (**Appendix 5**)
- 7 – 2023 – 11369 – A – 40 Ensbury Park Road, Bournemouth, BH9 2SJ (**Appendix 6**)
- CAPP/21/01633/K – 12 Taverner Close, Poole, BH15 1UW (**Appendix 7**)
- APP/21/00893/K – 99 Labrador Drive, Poole, BH15 1UY (**Appendix 8**)
- 7-2019-3152-J – 33 Mayfield Road, Bournemouth, BH9 1TQ (**Appendix 9**)

5. Assessment of Proposal

5.1 Section 55(1) of the Town and Country Planning Act 1990 defines the meaning of 'development'. Included within this definition is a material change in the use of any buildings or other land. Section 55(2) sets out what operations or uses of land which shall not be taken to involve the development of the land. These include:

- *(f) In the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same use class. (emphasis added)*

5.2 The definition of Class C3 in the Town and Country Planning (Use Classes) Order as amended reads:

- *Use as a dwelling house (whether or not as a sole or main residence)*
by —
- *(a) a single person or by people to be regarded as forming a single household;*
- *(b) not more than six residents living together as a single household where care is provided for residents; or*
- *(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).*

5.3 The North Devon District Council v First Secretary of State and Southern Childcare [2003] goes onto state that the definition of a household is not exclusively related to the number of people.

5.4 The consideration is therefore turned to whether the proposal comes under Class C3 (notably (b)) or a change of use has occurred, in particular to Class C2 (residential institution) which is:

- *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.*

5.5 North Devon District Council v First Secretary of State and Southern Childcare [2003] explored the definition of a household (it concluded that this is not exclusively related to the number of people). Therefore, consideration as to whether residents make up a single household will depend on the specific facts of each case.

5.6 Case law and appeal decisions demonstrate the idea of living together as a single household is determined by several of the criteria below:

- *Living conditions – general layout of the dwelling house is that of a conventional residential dwelling for private domestic use.*
- *Communal use of areas such as a living room, kitchen, bathrooms /shared utilities amongst the residents;*
- *Carrying out of household duties together such as cooking, cleaning, shopping / an agreed rota;*
- *The residents are capable of running the house as a conventional residential dwelling;*
- *The nature of the relationship between the residents (a material consideration but it is not determinative);*

- 5.7 The North Devon Case Law outlines there also needs to be an assessment of whether a material change of use would occur from the existing situation. As such, this is a two-stage assessment process. In particular this would assess whether the change of use was material taking into account the activity of the site compared with the use as a dwellinghouse.
- 5.8 Furthermore, in an appeal in Brecon Beacons National Park (reference APP/P9502/X/12/2205394, decision date 18/02/2014) (**Appendix 10**), it was found that the change of use from a family dwelling to a community home for 5 young persons would not be material at that, as such, it would not require planning permission. The Inspector concluded at paragraph 19 that the proposal would display many features of a family dwelling, for example it was intended that staff would seek to provide a stable family environment for those in care, and that the overall number of children was small, and that the coming and going of staff and family would not materially impact on the surrounding area. The age of the children would be between 11-17.
- 5.9 A further material consideration for the determination of this application is the recent written ministerial statement from Rachel Maclean, Minister of State for Housing and Planning, dated May 2023 (**Appendix 11**). This states that:

"Planning permission will not be required in all cases of development of children's homes, including for houses in Class C3 of the Use Classes Order 1987 where the children's home remains within Class C3 or there is no material change of use to Class C2. An application to the local planning authority can be made for a lawful development certificate to confirm whether, the facts of the case, the specific use

is or would be lawful. Where a Certificate is issued, a planning required for the matters specified in the certificate.”

- 5.10 The proposal is to all intents and purposes, a family home. The children will live in the house under the care of surrogate parents, eat meals together, share the living rooms, bathrooms and sleep under the same roof. It is our view that it would be unreasonable to treat this family sized unit any differently, simply on the basis that the children are unable to reside with their birth parents, normally as a result of circumstances beyond their control.
- 5.11 In respect of the above, we consider that a material change of use is not occurring from the lawful use of the site as a dwellinghouse.
- 5.12 The nature of the proposals (including the duration of the stay), and the number of people on site (and resultant activity and movements) would not be materially different from the lawful use of the site as a dwellinghouse.
- 5.13 The proposal will operate in a very similar way to a normal family home, functioning as a single household, with careers undertaking typical tasks such as cooking and cleaning associated with a typical dwellinghouse.
- 5.14 Therefore, based on the characteristics of the proposals and informed by relevant case law and appeal decisions, we consider that the proposal would not amount to a material change of use from the lawful use of the site as a dwellinghouse.

6. Conclusion

- 6.1 This statement has demonstrated that the proposal accords with C3(b) of the Use Classes Order. If the Council are of the view that the use falls within C2, this statement has also demonstrated that the use of the property would not constitute a material change of use compared to its lawful use (as per *North Devon District Council v First Secretary of State and Southern Childcare* [2003]).
- 6.2 Regardless of how the Council seek to assess the application, the certificate for the proposed use can be granted.
- 6.3 Furthermore, relevant case law has been considered as part of this application and adds further weight to the proposed argument put forward as part of this application. This is in addition to recent Government guidance on this topic, which strongly supports the urgent provision of new children's homes.

Phil Williams BSc PGDip MSc MRTPI

Senior Planner | ET Planning

Head Office: 200 Dukes Ride Crowthorne RG45 6DS

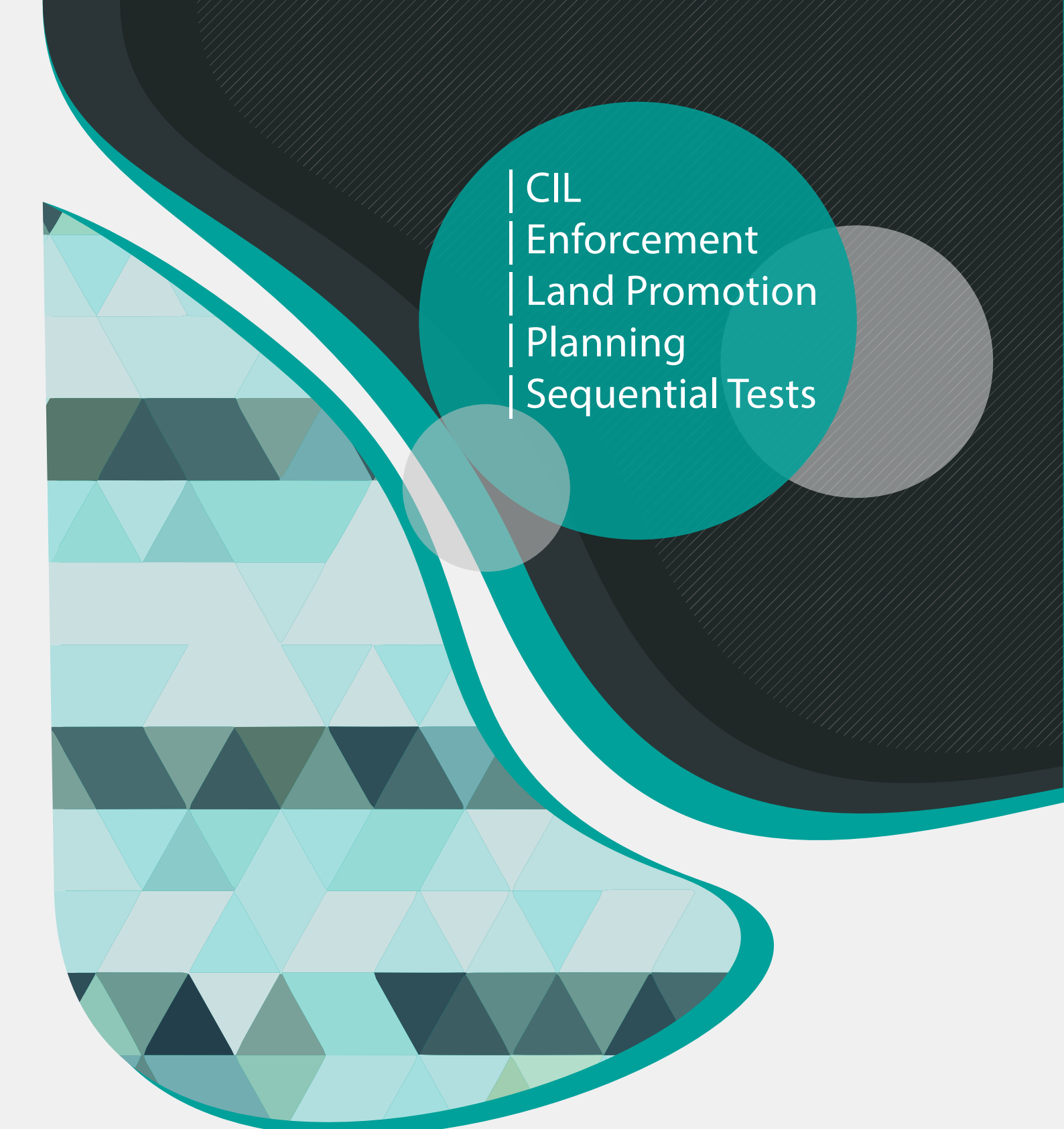
phil.williams@etplanning.co.uk 01344 508048

Gareth Jones BSc (Hons) MSc MRTPI

Principal Planner | ET Planning

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| CIL
| Enforcement
| Land Promotion
| Planning
| Sequential Tests

Contact

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Basingstoke
and Deane

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REF:22/01048/LDPU

Mr Gareth Jones
ET Planning
200 Dukes Ride
Crowthorne
RG45 6DS

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Town & Country Planning Act 1990 Planning & Compensation Act 1991

The Basingstoke and Deane Borough Council hereby certify that on 6 April 2022 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged red on the plan attached to this certificate, would have been lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reasons:

- 1 The certificate can be issued as the use of the dwelling for a children's home for up to 4 children and two staff members, as outlined within the submitted documents, would not be materially different from the use of the property as a dwellinghouse. The proposal does not constitute a material change of use from the existing Class C3 use (dwellinghouse).

Signed:
(Council's authorised officer)

Ruth Ormella MRTPI
Head of Planning Sustainability and Infrastructure
on behalf of Basingstoke and Deane Borough Council

Date: 1 June 2022

Chief Executive Russell O'Keefe

Executive Director of Borough Services Rebecca Emmett BSc (Hons), AIEMA

First Schedule:

Proposal: **Certificate of lawfulness for a proposed use C3 class to operate a small childrens home**

Second Schedule:

Location: 254 Old Worting Road Basingstoke Hampshire RG22 6PD

Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use specified in the First Schedule taking place on the land described in the Second schedule would have been lawful, on the specified date and, thus, would not have been liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the certificate is also qualified by the proviso in Section 192 (4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

The officer's report can be viewed on the council's website www.basingstoke.gov.uk.



254 Old Worting Road, Basingstoke, RG22 6PD



Application 20/02131/LDPU

Details of Application:	Cert of Lawful dev't - proposed use Application for a certificate of lawfulness for a proposed use to operate a small childrens home Date Registered 6 August 2020 (Subject to three year condition)
--------------------------------	--

Location:	Address: Silver Birches 9 Silchester Road Pamber Heath RG26 3EB Ward: Pamber And Silchester Parish: PAMBER CP OS: 461087 162713
------------------	--

Applicant:	Calcot Services for Children (Assessments) Ltd
-------------------	--

Case Officer:	Meredith Baker 01256 845444
----------------------	-----------------------------

RECOMMENDATION:

It is RECOMMENDED that the application be **APPROVED** subject to the conditions listed at the end of this report.

Reason for Approval

1. **The proposed change of use to a small children's home, as outlined within the submitted documents, does not constitute a material change of use from the existing Class C3 use (dwellinghouse).**

Planning Policy

The application is a Lawful Development Certificate for a proposed small children's home within an existing Class C3 dwellinghouse, and therefore must be considered under Town and Country Planning Act 1990 (as amended).

Description of Site

The application site comprises a two storey detached dwelling, a two storey detached annexe and outbuilding set within a large plot and located at the end of a private road.

Proposal

The proposal seeks a Certificate of Lawful Development for a proposed small children's home to accommodate up to four children and four members of staff, with a maximum of two staff staying overnight.

The children would have learning difficulties and would range between the ages of 5 to 18. A shift pattern is proposed for the adult carers in an eight hour pattern, although no vehicle movements are proposed after 22:00 or before 07:30.

Consultations

None received.

Public Observations

Five comments were received raising concern as follows (in summary):

- Private road is owned in portions residents in the locality.
- Increase in traffic as a result of the change of use which would negatively impact neighbouring properties.
- Increased traffic highway safety concern at the junction with Silchester Road and noting the road is also a Public Right of Way Footpath (Pamber 901).
- Proposal would be for a business and not a residential use.
- Additional traffic would be generated beyond occupants such as professionals, deliveries etc.
- The shift pattern questions the Class C3 use, as children need to be looked after and cannot run a house and therefore if not functioning as a household cannot fall within Class C3.
- Carers who provide 24 hour care but are not resident could not be regarded as living together in a household.
- Level of activity and nature of use would be materially different to current use.
- Behaviour of children would lead to noise pollution.
- Four children's home nearby in Tadley.
- Type of children to be cared for as not been communicated.

Relevant Planning History

BDB/32328	Relief from condition 4 of NDC 125472 (BDB 30280) Section 106 annexe tied to main dwelling	Granted	13.11.1991
NDC 125472	Double garage with store over.	Granted	29.01.1986

Assessment

Under the Town and Country Planning Act 1990 (TCPA), planning permission is required for any operational development or any change of use of land. In order for this certificate to be granted, it must be demonstrated that no change of use of land is involved.

Section 55 (1) of the TCPA outlines that "Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land."

Section 55 (2) of the TCPA, stipulates that is not taken for the purposes of this Act (TCPA) to involve development of land. The most relevant in this instance is (f) which states:

(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.

Class C3 use

As outlined within the Planning Statement the Class in question in this instance is Class C3 (dwellinghouse) which under The Town and Country Planning (Use Classes) Order 1987 (as amended) is formed of three parts:

- (a) a single person or by people to be regarded as forming a single household;
- (b) not more than six residents living together as a single household where care is provided for residents; or
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

The current lawful use of the site is considered to be Class C3 with no change of use being approved by the Local Planning Authority. This in particular takes into account the planning history whereby the applications were assessed on the site being residential in nature (including a Section 106 agreement for the garage structure (annex) to be for residential purposes being ancillary to the use of the host dwelling).

The consideration is therefore turned to whether the proposed children's home comes under Class C3 (notably (b)) or a change of use has occurred, in particular to Class C2 (residential institution): which is:

- 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.

"Care" is defined within the Order as personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in Class C2, also includes the personal care of children and medical care and treatment.

In this regard, a children's home could fall into either a Class C2 or Class C3 use, whereby it is a matter of fact and degree for each case.

A key Case Law for this debate is North Devon District Council v First Secretary of State and Southern Childcare [2003] whereby it was held that the concept of what constituted a 'household' meant more than number of people. It was necessary to assess whether they could truly be regarded as a household and carers who did not live there all the time meant that it was considered that the use fell to Class C2.

In following this Case Law it has been outlined that the carers on site would be in a shift basis and no adult would live there on a permanent basis. Therefore whilst given that there would be staff who would provide 24-hour care they were not a resident and therefore not regarded as living together as a household. Inspectors for other appeals such as under Appeal Ref: APP/P4225/X/16/3145074 against Rochdale Metropolitan Borough Council also note that a group of young people could not reasonably be regarded as being capable of living together as a single household (given that the carers cannot be included as not a resident). In line with the above given the proposed nature of the use with a shift basis for carers the proposal would involve a residential institution falling within Class C2.

Change of use - material?

Whilst the use to a children's home is considered to be Class C2, the North Devon Case Law outlines there also needs to be an assessment of whether a material change of use would occur from the existing situation. As such, this is a two-stage assessment process. In particular this would assess whether the change of use was material taking into account the activity of the site compared with a Class C3 use (dwellinghouse).

In particular the following appeals have been noted:

- Brecon Beacons National Park: 18/02/2014 Appeal Reference: APP/P9502/X/12/2205394 Inspector considered that a scheme for five children which would be supervised by a team of adults on a shift basis would not be material in planning terms (although considered to be Class C2). The scheme displayed many features associated with a family dwelling and while some of the children may make more noise than children in a typical family dwelling, the overall number of children was small. The property was large, sitting in a rural location and the coming and going of staff and family would not materially impact on the surrounding area.
- Hinckley & Bosworth Council 7/11/2011 Appeal Reference. APP/K2420/X/11/2155849: Inspector assessed no material change of use was involved for care up to three children with non-resident care staff working in shifts. The sole issue was the number of staff (three carers at one time excluding change over timings), however the Inspector considered that it was not materially different from what might be expected of a large family house such as a parent and two teenagers or young adults who live together and each uses a car to get to work or college and for socialising. Transport associated with school and weekend outings would not be an untypical occurrence in a family house. It was also stated that up to two vehicles departing from the property late at night would not, on its own, be a sufficient basis for determining that a materially different character of use would be taking place.
- Crewe and Nantwich Borough Council 24/04/2006 Appeal Reference. APP/K0615/X/05/2004825: In this case the Inspector considered whether the lack of any carers living within the property materially changes the character of the property - which in his opinion it did not. Although the carers when visiting would increase the number of coming and goings it would not disturb local residents or affect the character of the area.
- City of Wolverhampton Council 15/09/2006 Appeal Reference: APP/D4635/X/06/2013826 The inspector found that a use of a dwelling occupied by children with carers on a 24-hour basis with staff being rotated in shifts of eight hours each would not trigger a material change of use. Whilst would not fall within Class C3 (b) due to not being a household the day-to-day activity would be similar to that of a dwellinghouse with people coming and going to school and the maximum number of cars at any one time associated with employees (three) would not be materially different from its use as a dwelling in a suburban location.

In this respect, it has been confirmed that the patterns of workings would be eight hour shifts and would not include any vehicle movements between the hours of 22:00 and 07:30 (except in the instance of emergency vehicles etc.) It is also confirmed by the Agent that the children would be attending one of the applicant's local educational resources (therefore not on site) and the home would be used for children with learning difficulties with a potential age range from 5 to 18.

The level of care provided as outlined within the supporting information submitted with the application outlines that the carers would not be playing a professional role such as in medical or teaching and are purely for supervisory means similar to a parent in some respect, whereby it is confirmed that the carers would care for the children in a similar arrangement to a family, including cooking and cleaning for the children and general overseeing of their care, including taking the children to the local schools. Whilst the carers are professional in the sense that they are qualified for care (to NVQ 3 to 5 as required by OFSTED) and trained for personal 1:1 care, given the use of the home with no other professionals, noting that the care element is required for children with learning disabilities, this level of care is not considered to be 'high level of care'.

Also, no internal adoptions are required for the property to operate as required by the applicant. The property will be registered with OFSTED for 'care' but not 'medical care'. The communal living experience will be the same as a normal family home, functioning as a single household.

In considering the submitted information and taking into account the Case Law and appeals listed above, it is considered that the proposed use would be similar to that of a large household. The existing residential property is large and therefore would comfortably accommodate the proposed and up to four children and carers, in a similar situation to a large household. The children would be attending school in comings and goings which could be similar to that of a large household.

It is noted there is potential for noise, however, similar to that under the Brecon Beacons National Park Appeal while some of the children may make more noise than children in a typical family dwelling, the overall number of children is small (four) therefore not considered to materially change the use.

Concern has been raised over increased traffic movements as a result of the proposal. Whilst acknowledging that there would be movements, in particular a shift change over timings as with the above appeals, the day-to-day running with children attending school would not be so significantly different to a large household at this address, and the coming and goings are not considered to be a materially different character. Taking into account the reassurance that no vehicle movements from carers would take place between the hours of 22:00 and 07:30.

As such, based on the information submitted and the above assessment, the proposed use would not amount to a material change of use from the existing Class C3 use (dwellinghouse). The change of use would therefore not require planning permission on this instance.

Other matters

Under the Council's scheme of delegation, being a question of law, (and not a subjective view), a certificate of lawful development can be determined under delegated powers. It is noted that the public have raised concerns of the private nature of the road (and Public Right of Way). This matter does not fall within the remit of assessing this application. The existing dwellinghouse is already served by this road and as above it is not deemed that there would be a materially different character from the change to a children's home as to warrant refusing the Certificate of Lawfulness application.

It should also be noted that this assessment is based on the details submitted to the Local Planning Authority. If the situation changes there is potential that a material change of use would be triggered.

Conditions

- 1 This decision relates to the following plans and documents:
 - Location Plan
 - Supporting Statement by Pegasus Group - August 2020 MR P20-1894
 - Email from Michael Ruddock dated 01/10/2020 providing further information.
 - Email from Michael Ruddock dated 12/10/2020 providing further information.
 - Emails from Michael Ruddock dated 13/10/2020 providing further information.

N/A – Pre commencement conditions agreed

Y CIL checked

Net additional gross internal floorspace = 0

Signed: MVB

Name: Meredith Baker Case officer

Date: 13.10.2020

Y CIL checked

Signed: NLW

Name: NICOLA WILLIAMS PPO

Date: 15/10/2020



**Basingstoke
and Deane**

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REF:22/02240/LDPU

Mr Gareth Jones
ET Planning
200 Dukes Ride
Crowthorne
RG45 6DS

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Town & Country Planning Act 1990 Planning & Compensation Act 1991

The Basingstoke and Deane Borough Council hereby certify that on 8 August 2022 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged red on the plan attached to this certificate, would have been lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reasons:

- 1 The certificate can be issued as the use of the dwelling for a children's home for two children and two staff members, which as outlined within the submitted documents, would not be materially different from the use of the property as a dwellinghouse. The proposal does not constitute a material change of use from the existing Class C3 use (dwellinghouse).

Signed:
(Council's authorised officer)

Ruth Ormella MRTPI
Head of Planning Sustainability and Infrastructure
on behalf of Basingstoke and Deane Borough Council

Date: 5 October 2022

First Schedule:

Proposal: **Certificate of Lawfulness for the proposed use as a childrens home**

Second Schedule:

Location: 38 Impstone Road Pamber Heath Hampshire RG26 3EQ

Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

2. It certifies that the use specified in the First Schedule taking place on the land described in the Second schedule would have been lawful, on the specified date and, thus, would not have been liable to enforcement action under Section 172 of the 1990 Act on that date.

3. This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.

4. The effect of the certificate is also qualified by the proviso in Section 192 (4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

The officer's report can be viewed on the council's website www.basingstoke.gov.uk.

38 Impstone Road, Pamber Heath, Tadley, RG26 3EQ





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and Deane

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REF:22/00631/LDPU

Mr David Wetherill
ET Planning
200 Dukes Ride
Crowthorne
RG45 6DS

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Town & Country Planning Act 1990 Planning & Compensation Act 1991

The Basingstoke and Deane Borough Council hereby certify that on 25 February 2022 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged red on the plan attached to this certificate, would have been lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reasons:

1. The certificate can be issued as the use of the dwelling for a children's home for up to 3 children and two staff members, as outlined within the submitted documents, would not be materially different from the use of the property as a dwellinghouse. The proposal does not constitute a material change of use from the existing Class C3 use (dwellinghouse).

Signed:
(Council's authorised officer)

Ruth Ormella MRTPI
Head of Planning Sustainability and Infrastructure
on behalf of Basingstoke and Deane Borough Council

Date: 6 April 2022

Chief Executive Russell O'Keefe

Executive Director of Borough Services Rebecca Emmett BSc (Hons), AIEMA

First Schedule:

Proposal: **Certificate of lawfulness for a proposed use to operate a childrens home for up to 3 children and two staff members at any one time**

Second Schedule:

Location: Cap D'or Ringshall Gardens Bramley Hampshire RG26 5BW

Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

2. It certifies that the use specified in the First Schedule taking place on the land described in the Second schedule would have been lawful, on the specified date and, thus, would not have been liable to enforcement action under Section 172 of the 1990 Act on that date.

3. This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.

4. The effect of the certificate is also qualified by the proviso in Section 192 (4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

The officer's report can be viewed on the council's website www.basingstoke.gov.uk.

ETP220241 - Cap Dor, Ringshall Gardens, Bramley, Tadley, RG26 5BW





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REF:23/00575/LDPU

Mr Gareth Jones
ET Planning
200 Dukes Ride
Crowthorne
RG45 6DS

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Town & Country Planning Act 1990 Planning & Compensation Act 1991

The Basingstoke and Deane Borough Council hereby certify that on 6 March 2023 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged red on the plan attached to this certificate, would have been lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

- 1 The proposed change of use to a small children's home, as outlined within the submitted documents, does not constitute a material change of use from the existing Class C3 use (dwellinghouse)

Signed:

Mike Townsend
Planning and Development Manager

(Council's authorised officer)

on behalf of Basingstoke and Deane Borough Council

Date: 6 April 2023

First Schedule:

Proposal: **Certificate of Lawfulness for the proposed use as a children's home**

Second Schedule:

Location: Willowbrae The Glen Pamber Heath Hampshire RG26 3DY

Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use specified in the First Schedule taking place on the land described in the Second schedule would have been lawful, on the specified date and, thus, would not have been liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the certificate is also qualified by the proviso in Section 192 (4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

The officer's report can be viewed on the council's website www.basingstoke.gov.uk.

Willow Brae, The Glen, Pamber Heath, Tadley, RG26 3DY



Town Planning Decision Notice

**TOWN AND COUNTRY PLANNING ACT 1990, sect.192 As amended by Sect 10 of Planning and Compensation Act
Town and Country Planning (Development Management Procedure) (England) Order 2015**

CERTIFICATE OF LAWFUL PROPOSED USE OR DEVELOPMENT

Application No: **7-2023-11369-A**

Description (First Schedule):-

Application for a Lawful Development Certificate for proposed use as a children's care home for a maximum of 3 children (Class C3)

Location (Second Schedule):-

40 Ensbury Park Road, Bournemouth, BH9 2SJ

The Local Planning Authority hereby certify that on:-

20 April 2023 the use(s) specified in the First Schedule as detailed above and in respect of the land described in the Second Schedule and shown edged red on the plan attached thereto will be lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended).

For the following reason(s):-

1. The Local Planning Authority having considered the appropriate legislation and other material considerations have determined that the application should be approved for the following reasons:

The use of the dwelling, as described in the planning statement dated letter dated 20th April 2023, location plan and additional information received, under Use Class C3(b) (dwellinghouses) would be in accordance with 'Town and Country Planning (Use Classes Order) (England) Order 1987 (as amended). Subject to operation as described in the supporting information dated 20th April 2023, the proposed C3(b) use falls to be within the authorised Use Class C3 of the premises and as such there is no change of use proposed that requires planning permission. The proposal is therefore lawful.

TO: ET Planning
Mr Gareth Jones
200 Dukes Ride
Crowthorne
RG45 6DS

(Horizon Care Mayfield Lodge)

PLEASE REFER TO NOTES ENCLOSED

Signed

A handwritten signature in blue ink, appearing to be 'J. Jones'.

Interim Director of Planning

(DEL)

Dated: 24 May 2023

Growth & Infrastructure - Planning Services

BCP Council, Civic Centre, Poole, Dorset, BH15 2RU

Tel: (01202) 123321

Email: planning.poole@bcpcouncil.gov.uk

Web: <https://www.bcpCouncil.gov.uk/Planning-and-building-control>



Application No: APP/21/01633/K

TO:

Ms Barton
Budwood Limited
12 West Links
Tollgate
Chandlers Ford
SO53 3TG

TOWN AND COUNTRY PLANNING ACT 1990:

SECTION 192

**(as amended by Section 10 of the
Planning and Compensation Act 1991)**

**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39**

CERTIFICATE OF LAWFULNESS FOR A PROPOSED USE OR DEVELOPMENT

BCP Council hereby certify that on 08 December 2021 the development described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in red on the plan attached to this certificate, would have been lawful within the meaning of SECTION 192 of the Town and Country Planning Act 1990 (as amended) for the following reason(s):

- 1 The use of the dwelling, as described in the covering letter dated 9th November 2021 and as shown in drawing plans:
Location Plan and Site Plan received 10th November 2021
Floor Plan received 19th November 2021
under Use Class C3(b) (dwellinghouses) would be in accordance with 'Town and Country Planning (Use Classes Order) (England) Order 1987 (as amended). Subject to operation as described in the supporting information dated 9th November, the proposed C3(b) use falls to be within the authorised Use Class C3 of the premises and as such there is no change of use proposed that requires planning permission. The proposal is therefore lawful.

Signed

A handwritten signature in black ink, appearing to read 'Nick Perrins', written over a light blue horizontal line.

Head of Planning

Date of Decision: 24/02/2022

Application No: APP/21/01633/K

Page 1 of 2

FIRST SCHEDULE

Certificate of lawfulness for proposed use or operation for a 1 bedded children's home.

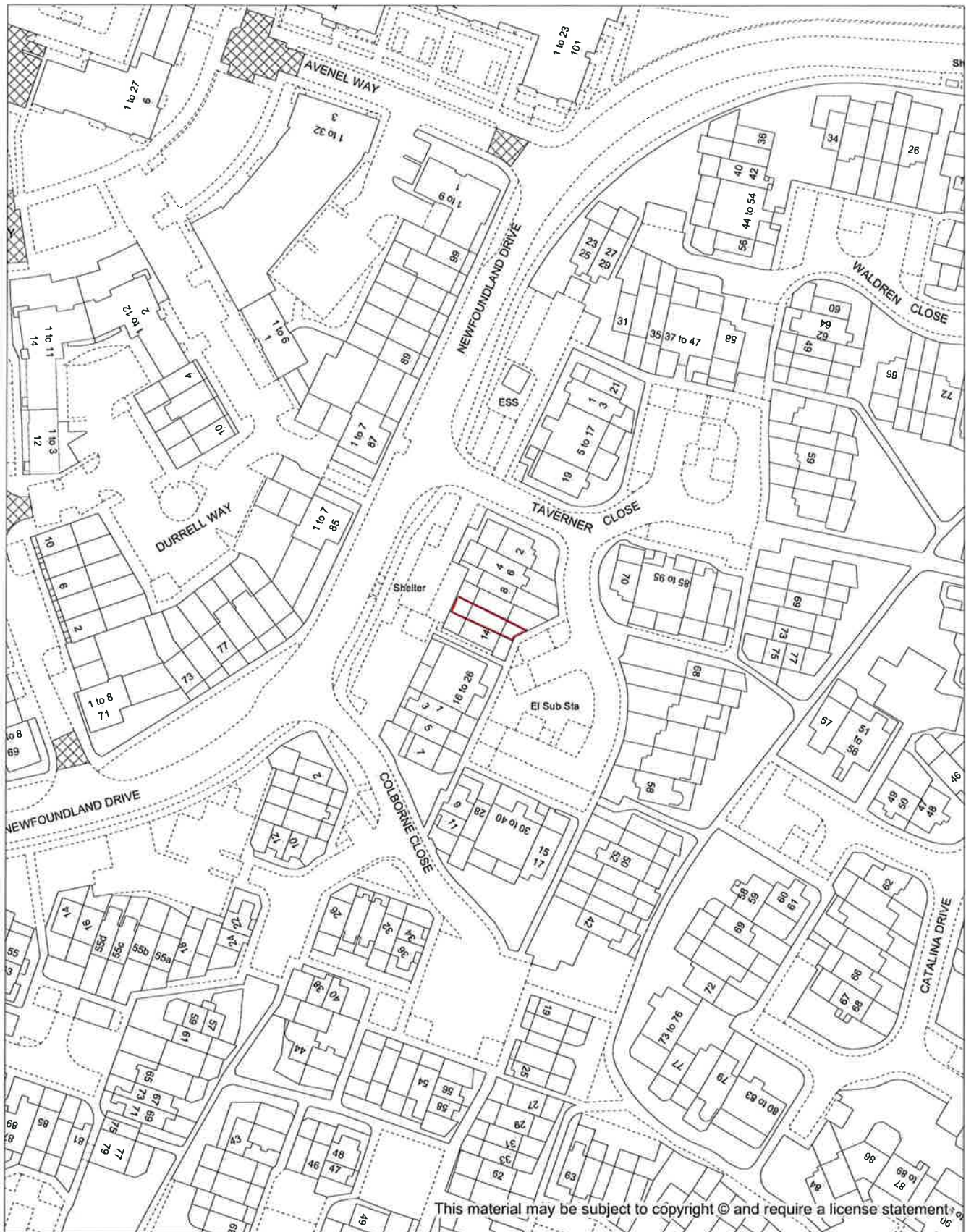
SECOND SCHEDULE

12 Taverner Close, Poole, BH15 1UW

Notes:

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the development specified in the First Schedule taking place on the land described in the Second Schedule would have been lawful, on the specified date and, thus would not have been liable to enforcement action under section 172 of the 1990 Act on that date.
3. This certificate applies only to the extent of the development described in the First Schedule and to the land specified in the second Schedule and identified on the attached plan. Any development, which are materially different from those described or which relates to other land, may render the owner or occupier liable to enforcement action.
4. The effect of the certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

12 Taverner Close



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Operator:	Name
Department:	Department
Drawing No:	1234-A
Date: 25/02/2022	Scale: 1:1250

Growth & Infrastructure - Planning Services

BCP Council, Civic Centre, Poole, Dorset, BH15 2RU

Tel: (01202) 123321

Email: planning.poole@bcpcouncil.gov.uk

Web: <https://www.bcpCouncil.gov.uk/Planning-and-building-control>



Application No: APP/21/00893/K

TO:

Ms Barton
83 Green Road
Bournemouth
BH9 1DZ

TOWN AND COUNTRY PLANNING ACT 1990:

SECTION 192

**(as amended by Section 10 of the
Planning and Compensation Act 1991)**

**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39**

CERTIFICATE OF LAWFULNESS FOR A PROPOSED USE OR DEVELOPMENT

BCP Council hereby certify that on 08 June 2021 the development described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in red on the plan attached to this certificate, would have been lawful within the meaning of SECTION 192 of the Town and Country Planning Act 1990 (as amended) for the following reason(s):

- 1 The use of the dwelling, as described in the letter dated 8 June 2021 and as shown in drawing plans: Location Plan, Block Plan and Floor Plan under Use Class C3(b) (dwellinghouses) would be in accordance with Town and Country Planning (Use Classes Order) (England) Order 1987 (as amended). Subject to operation as described in the supporting information dated 8th June, the proposed C3(b) use falls to be within the authorised Use Class C3 of the premises and as such there is no change of use proposed that requires planning permission. The proposal is therefore lawful.

Signed

A handwritten signature in black ink that reads 'Nick Perrins'.

Head of Planning incl. Building Control

Date of Decision: 28/07/2021

FIRST SCHEDULE

Certificate of lawfulness for proposed use or operation for a 1 bedded children's home.

SECOND SCHEDULE

99 Labrador Drive, Poole, BH15 1UY

Notes:

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the development specified in the First Schedule taking place on the land described in the Second Schedule would have been lawful, on the specified date and, thus would not have been liable to enforcement action under section 172 of the 1990 Act on that date.
3. This certificate applies only to the extent of the development described in the First Schedule and to the land specified in the second Schedule and identified on the attached plan. Any development, which are materially different from those described or which relates to other land, may render the owner or occupier liable to enforcement action.
4. The effect of the certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

99 Labrador Drive



Sterling Court
Norton Road
Stevenage
Herts SG1 2JY
United Kingdom

Tel : +44 (0)1438 747996
Fax : +44 (0)1438 747997
E-mail: info@cadcorp.com

Operator:	Name
Department:	Department
Drawing No:	1234-A
Date: 28/07/2021	Scale: 1:1250

Town Planning Decision Notice

**TOWN AND COUNTRY PLANNING ACT 1990, sect.192 As amended by Sect 10 of Planning and Compensation Act
Town and Country Planning (Development Management Procedure) (England) Order 2015**

CERTIFICATE OF LAWFUL PROPOSED USE OR DEVELOPMENT

Application No: **7-2019-3152-J**

Description (First Schedule):-

Application for a Lawful Development Certificate for proposed use as home for a maximum of 6 children

Location (Second Schedule):-

33 Mayfield Road, Bournemouth, BH9 1TQ

The Local Planning Authority hereby certify that on:-

19 December 2019 the use(s) specified in the First Schedule as detailed above and in respect of the land described in the Second Schedule and shown edged red on the plan attached thereto will be lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended).

For the following reason(s):-

1. The Local Planning Authority, having considered the appropriate legislation and relevant material considerations, has determined that the proposal should be approved for the following reason: The proposed change in use as shown on the proposed plans and elevations reference: 268-01 Revision A for 'Application for a Lawful Development Certificate for proposed use as home for a maximum of 6 children' and as detailed in the supporting information, would not result in a material change of use from the existing use as a dwellinghouse. As such, the proposal does not constitute development and so planning permission is not required. A Lawful Development Certificate can therefore be granted.

TO: Planning Base Ltd
Mr James Cain
5 Seymer Close
Shillingstone
Blandford Forum
DT110PH

(Mrs K Rickman)

Signed

A handwritten signature in black ink that reads 'Nick Perrins'.

Head of Planning & Building Control

(DEL)

Penderfyniad ar yr Apêl

Appeal Decision

Ymweliad â safle a wnaed ar 17/12/13

Site visit made on 17/12/13

gan James Ellis LLB (Hons) Cyfreithiwr
Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 18 Chwefror 2014

by James Ellis LLB (Hons) Solicitor
an Inspector appointed by the Welsh Ministers
Date: 18 February 2014

Appeal Ref: APP/P9502/X/13/2205394

Site address: Ty Rhos Bach, Heol Senni, Brecon, Powys LD3 8SU

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act") against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Mac McHugh against the decision of Brecon Beacons National Park Authority ("the Authority").
- The application Ref 12/08756/CPL, dated 12 December 2012, was refused by notice dated 15 August 2013.
- 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 proposed use as community home for young children.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is considered to be lawful. This relates to most, but not all, of the land the subject of the application for the reasons given in paragraph 8 below.

Procedural matters

2. The application form dated 12 December 2012 does not specify what the proposed use the subject of the application is. However, the supporting statement submitted with the application refers to the proposed use of Ty Rhos Bach as a community home for young persons and the Authority made its decision on this basis. Again, the appeal form refers to such proposed use. The supporting statement makes no reference to the number of children who would be resident at the community home at any time, but documentation submitted in support of the appellant's case at appeal clearly indicates that there would be no more than 5 children. Accordingly, I will make my determination on the basis that the proposed use the subject of the appeal is as a community home for no more than 5 young persons.
3. When the Authority made its decision on the application, it did so in respect of a smaller area of land at Ty Rhos Bach than was shown on the site plan submitted with the application. In effect, the Authority limited its consideration to an area shown as Ty Rhos Bach and the curtilage of the building when it was granted planning permission a number of years ago. I queried this with the parties. In the light of

responses received from the parties, I shall need to refer to the curtilage of Ty Rhos Bach in my reasoning set out below.

Background

4. Ty Rhos Bach is a six bedroom detached dwelling. There is a large area of tarmac to the side of the dwelling which provides off street parking and access to a detached double garage which is located at the rear of the dwelling. The dwelling is bounded to its south-west by an activity centre and to its north-west and north-east by fields. However, there are residential properties on the opposite side of the road fronting the property. There is no dispute between the parties that the existing lawful use of the Ty Rhos Bach and its original curtilage is as a family dwelling constituting a dwellinghouse within Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended ("the UCO").
5. The proposed use would involve the property being used as a home for up to 5 children in care (aged 11 to 17), though I am told that the property has been registered for 3 children. The children would live there for periods of typically 6-12 months under the supervision of adults, some of whom would sleep in at the property. I am told that 2 staff are likely to be in the building every night with one of them 'sleeping in', as back up. The 'sleeping in' would be on a shift basis, with shifts including nights between waking duties. There would be no more than 6 persons (adults and children) resident at the home at any time.
6. It is intended that those children resident at the home would live together as a group, learning skills necessary for family life, and that staff would seek to provide a stable 'family' environment. Part of the package would involve the children receiving schooling from the adults. It is envisaged that this would take place in a room within the garage building. Most of the ground floor of the main building would provide accommodation for day to day living, although a small room would be likely to be used as an office. Six bedrooms would be located on the first floor and within attic space.

Main Issues

7. The main issues are: whether the proposed use would fall within Class C3 or Class C2 of the Schedule to the UCO; and, if it falls within Class C2, whether the change of use from a family dwelling to a community home for no more than 5 young persons would be material.

Reasons

8. It appears that the land within the area shown on the site plan is now within the curtilage of Ty Rhos Bach. However, from the evidence before me, I am not satisfied that the part of the current curtilage outside that which originally received planning permission has lawful use for residential purposes. The appellant's arguments in this case are predicated upon the appeal site having a current lawful use as a family dwelling and there is no suggestion that land without lawful use for residential purposes can be used for the purposes of the proposed use as a community home for young persons. I cannot therefore grant a certificate of lawful use or development in respect of that part of the appeal site falling outside the original curtilage and will now consider the respective arguments of the parties in the context of Ty Rhos Bach and its original curtilage.

Whether the proposal would fall within Class C3 or C2 of the Schedule to the UCO

9. I shall start by referring to the wording of the UCO, and to what I consider to be the most relevant of the case law drawn to my attention by the parties. Following this, I shall then examine whether the proposal would fall within Class C3 or Class C2.
10. Class C3 of the Schedule to the UCO (as it applies to Wales) is: 'Use as a dwellinghouse (whether or not as a sole or main residence) by – (a) a single person or by people living together as a family, or (b) by not more than six residents living together as a single household (including a household where care is provided for residents)'.
11. Class C2 (which refers to residential institutions) is: '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'.
12. 'Care' is defined in Article 2 of the UCO and means 'personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in Class 2 also includes the personal care of children and medical care and treatment'.
13. The case of *North Devon DC v First Secretary of State* [2003] EWHC 157 (Admin) is authority for the fact that children cannot, by themselves, constitute a household. *North Devon* has been relied on in a previous appeal decision¹ where the Inspector found that the use before him fell within Class C2 rather than Class C3 and said that *North Devon* 'provides authority for the view that children cannot, as a matter of law, form a household'.
14. It has been suggested that the reference to personal care of children in Class C2 means that where children are receiving such care, their home could not fall within Class C3 (b). I do not accept this. Clearly, children needing care living in a home without resident adults could not form a household (following *North Devon*) and would therefore fall within Class C2. However, where there are resident adults living in a home, the use would not necessarily be precluded from Class C3 (b). It seems to me that the determinative issue of whether the proposal would fall within Class C3 (b) is whether residents of the home (including adults) would be living together as a 'single household', irrespective of whether one or more of the children would be receiving care, including personal care. I shall now look at the proposal in the context of this.
15. At this stage, I consider it appropriate to quote extracts from paragraphs 16 and 17 of the judgement in *North Devon* as follows: "...Children need to be looked after. They cannot run a house. They cannot be expected to deal with all the matters that go into running a home....the whole point of these homes is that children are regarded as needing full-time care from an adult, someone to look after them, someone to run their lives for them and someone to make sure that the household operates as it should. It seems to me that, in the context, "household" means more than merely bodies. You have to consider whether the bodies are capable of being regarded, in the true sense, as a household.... One has to have regard to the need that they be living together as a single household. The question then arises as to whether carers who do not live but who provide, not necessarily through the same person, continuous 24-

¹ Appeal decision Ref: APP/U5930/C/11/2151319 and A/11/2146559.

hour care can be regarded as living together. In my view, the answer to that is no.... What is required is indeed residential care with a carer living in full time and looking after those in the premises who otherwise would be unable to live as a household."

16. In *North Devon* and in Appeal decision Ref: APP/U5930/C/11/2151319 and A/11/2146559, the houses were under the supervision of teams of adult carers who worked shifts, but who did not 'sleep in' at the premises. The Court in *North Devon* and the Inspector in the previous appeal decision therefore found that in those cases there was no household to bring the use in Class C3 (b). With the proposal, there would be carers 'sleeping in' at the premises. However, this would be on a shift basis (albeit shifts lasting a number days), with those carers being there as back up at night, whilst another carer was at the premises. To my mind, this is more akin to a 'household' than the situation in *North Devon* and the previous appeal decision. Nevertheless, on balance, I am not satisfied that the 'sleeping in' arrangements would demonstrate that there would be a single household. This is because the shift system suggests to me that carers would not be resident at the property 'full time' and, in any event, primary responsibility for looking after the children at night time would fall to carers other than those 'sleeping in'.

17. I therefore conclude that the proposal would fall within Class C2 of the Schedule to the UCO, rather than Class C3 (b).

Whether the change of use would be material

18. I now need to consider whether the change of use from a family dwelling to a community home for no more than 5 young persons would be 'material'. This is a matter of fact and degree and depends upon the particular circumstances of each case. Established case law provides that it is necessary to look at whether the change gives rise to planning considerations which can include the effects of the change on local amenity.

19. The proposal would display many features of a family dwelling. For example, most of the accommodation on the ground floor would be used for day to day living. It is also intended that staff would seek to provide a stable 'family' environment for those in care. However, in appeal decision Ref: APP/U5930/C/11/2151319 and A/11/2146559, the Inspector identified a number of characteristics of a children's care home which could distinguish it from a family dwelling. These include: possible noise and disturbance arising from incidents of extreme behaviour of residents (with consequential visits from regulatory agencies); the presence of fire alarms, reinforced fire doors and locks on bedroom doors; the property having an office; and the cumulative level of activity, traffic movements and requirement for parking given the comings and goings of staff over a 24 hour period, and the visiting of residents by family and friends. I shall now look at the proposal in light of these points and also others raised by the Authority

20. The grounds of appeal lodged by the appellant refer to the fact that, due to their background, some of the children may be in receipt of 'care' that goes beyond the care normally associated with bringing up a child or adolescent. It is possible that such children could make more noise and create more disturbance than children associated with a typical family dwelling, but I note that the proposal is small in scale (with no more than 5 children at any time) and that Ty Rhos Bach is a detached house (which could reasonably be occupied by a family with more than 5 children) and not bounded by other residential properties. This was not the case with the house the subject of the previous appeal decision which was an end of terrace dwelling where

noise could be heard by the occupiers of the adjoining property. In my view, any change to the character of the Ty Rhos Bach arising from noise and disturbance emanating from the intended occupiers of the proposal would not be significant and would not have a material impact on local amenity.

21. Staff would work on a shift basis with some staff working on extended shifts over a number of days. The website for Fairview Care (UK) Ltd (which would operate the home) suggests that at other homes run by it there is a minimum of one to one staffing throughout the day. However, I am advised that whilst one to one care may be provided on occasion, this does not necessarily result in a rotation of three staff per child. There would be visits by the Care and Social Services Inspectorate Wales and also, possibly, by other agencies. However, visits by friends and relatives would not be encouraged and would not be likely given the remote location of Ty Rhos Bach.
22. Ty Rhos Bach is a sizeable family home set in a rural location, where there is every likelihood that family members of appropriate age would have their own vehicles. Again, visitors to a family occupying the property would be likely to arrive by car. I also understand that, in the past, bed and breakfast accommodation has been provided at the property. The evidence suggests to me that whilst the traffic movements associated with the proposal may be more than those associated with the existing lawful use, the increase is not likely to be significant. From what I saw on my site visit, the existing parking area should be able to accommodate parking associated with the proposal without there being a change in the character of the property.
23. The property already has fire alarms and fire safety doors which remain from when it provided bed and breakfast accommodation. Doors to the bedrooms have locks on them, but it is intended that only the staff bedroom be locked. The small size of the ground floor office is such that it is unlikely that it would be used for meetings. The office would be locked at times but, in my experience, it is not unusual for this to happen at 'home offices'. There would be activity associated with the 'classroom' in the garage but home education is an option available to the parents of any children and, in my view, the level of activity associated with the building is unlikely to be significantly more than that associated with a hobby room/games area at a large family home. The 'classroom' would also have supervised access. However, it is again not unusual for unsupervised access to certain rooms or outbuildings at family homes to be restricted, particularly where they might contain dangerous tools or materials.
24. The Authority has suggested that the proposal would result in the loss of a residential dwelling in a small community, but has given no detailed explanation as to how this could impact on the community. The proposal would, however, be used as living accommodation throughout the year with residents making use of local facilities and adding to activity levels in the community. I consider this to be positive in an area where residential properties are used as holiday homes.
25. After taking all the evidence before me (including the case law and previous appeal decisions cited by the parties) into account, I find, on the balance of probability, that the proposal would not result in a significant change in the character of the existing lawful use at Ty Rhos Bach and that it would not have a material impact on local amenity. It follows that the change of use from a family dwelling to a community home for no more than 5 young persons would not be material and that, as such, it would not require planning permission.

Conclusion

26. For the reasons given above, I conclude, on the evidence now available, that the Authority's refusal to grant a certificate of lawful use or development in respect of the proposed use of Ty Rhos Bach, Heol Senni, Brecon, Powys LD3 8SU as a community home for not more than 5 young persons was not well-founded, insofar as it relates to Ty Rhos Bach and land within its original curtilage and that the appeal should succeed in this respect. I will exercise the powers transferred to me under section 195(2) of the Act.

James Ellis

Inspector

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE)
ORDER 1995: ARTICLE 24

IT IS HEREBY CERTIFIED that on 12 December 2012 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in green on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

'The change of use of the land from a family dwelling (within Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended) to a community home for no more than 5 young persons (within Class C2 of the Schedule to the 1987 Order) would not constitute a material change of use and would not, therefore, require planning permission'.

Signed

James Ellis
Inspector

Date: 18 February 2014
Reference: APP/P9502/X/13/2205394

First Schedule

The use of the land as a community home for no more than 5 young persons

Second Schedule

Land at Ty Rhos Bach, Heol Senni, Brecon, Powys LD3 8SU

NOTES

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use/operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was/were not liable to enforcement action, under section 172 of the 1990 Act, on that date.
3. This certificate applies only to the extent of the use/operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.
4. The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

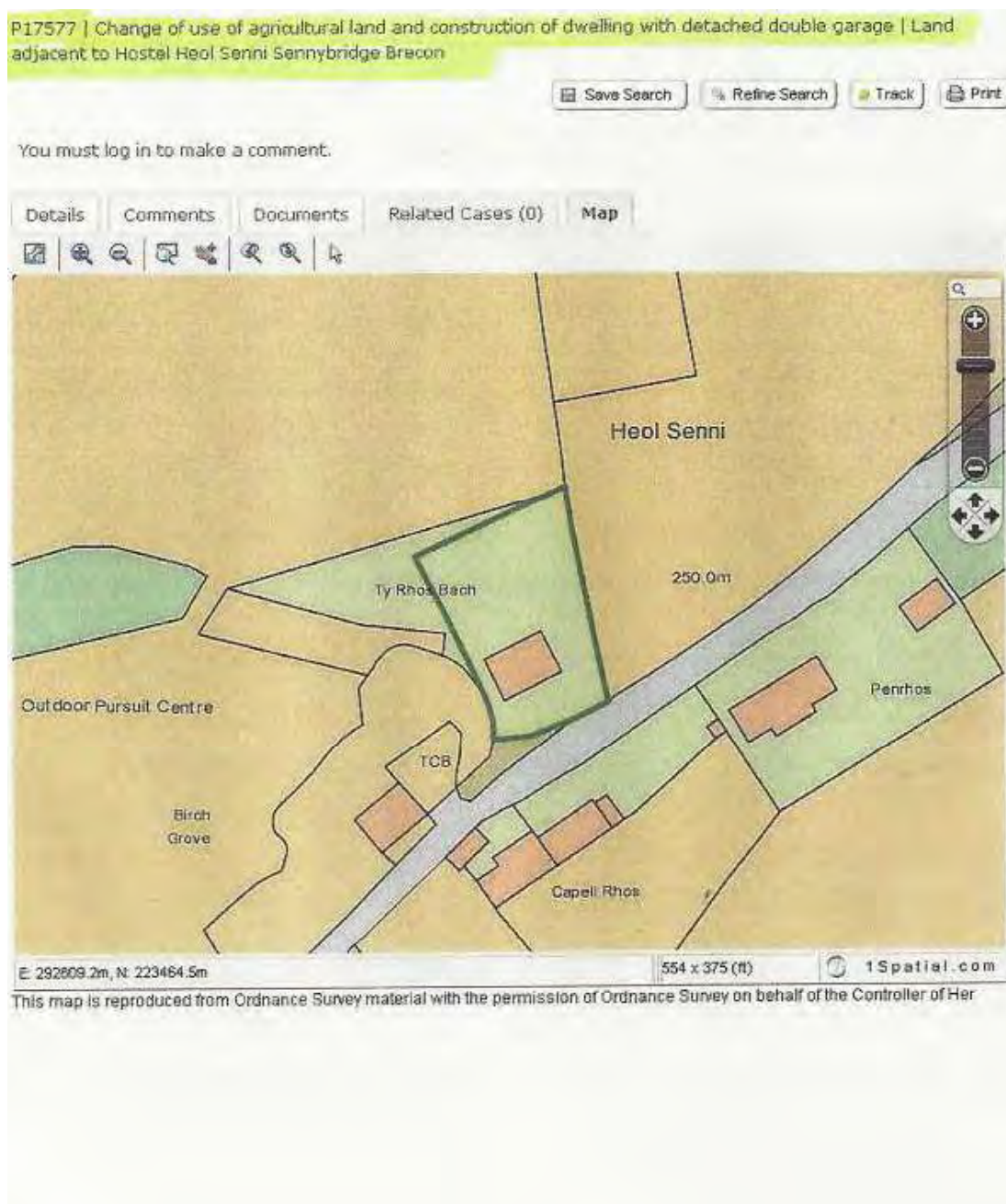
This is the plan referred to in the Lawful Development Certificate dated:

by James Ellis LLB (Hons) Solicitor

Land at: Ty Rhos Bach, Heol Senni, Brecon, Powys LD3 8SU

Reference: APP/P9502/X/13/2205394

Scale: Not to scale





WOKINGHAM
BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACTS

TOWN AND COUNTRY PLANNING ACT 1990:
SECTION 191 AND 192

TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2015: ARTICLE 39

. ET Planning
ET Planning
200 Dukes Ride
Crowthorne
RG45 6DS

NOTIFICATION OF APPROVAL OF CERTIFICATE OF LAWFUL PROPOSED USE OR DEVELOPMENT

Application Number: 240778
Applicant Name: c/o Agent
Site Address: 23 Almond Close, Barkham, Wokingham, RG41 4UU
Proposal: Application for a certificate of lawfulness to demonstrate that no development is occurring in the change of use from dwelling to children's home.
Date of Decision: 31 May 2024

Wokingham Borough Council hereby certifies that on 8 April 2024 (being the date of application for this certificate), and subject to any conditions and/or informatives below, the operations described in the First Schedule to this certificate in respect of the land specified in the Second Schedule hereto and edged red on the plan attached to this certificate, **would have been lawful** within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason(s):

1. The proposal is considered to still accord with the Class C3 use class and as such, no development is occurring. It is therefore considered that the proposal should fall within the lawful use of the site as a dwellinghouse (Use Class C3), and that no material change of use would occur, therefore the proposed change of use is considered to qualify as permitted development.

Informatives

1. This Certificate/Decision is issued in respect of Location Plan & Site Plan received by the Local Planning Authority on 27/03/24 & 11/04/24.

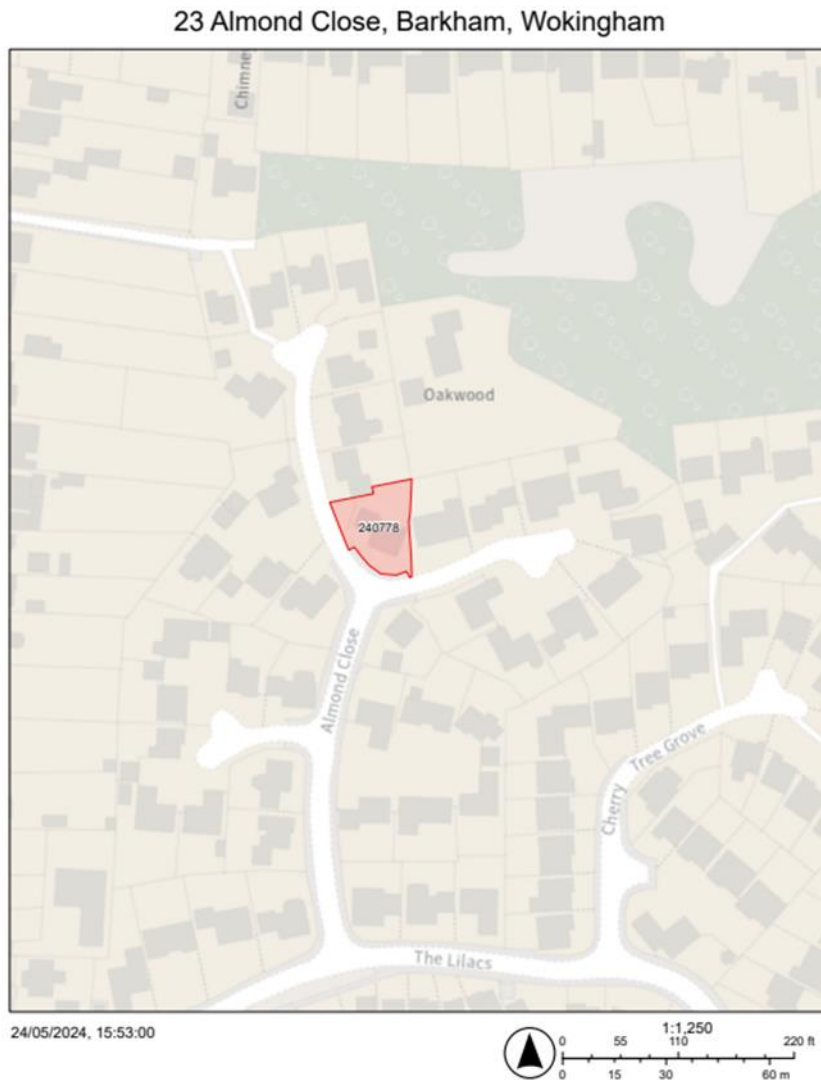
FIRST SCHEDULE

Proposal: Application for a certificate of lawfulness to demonstrate that no development is occurring in the change of use from dwelling to children's home.

SECOND SCHEDULE

Address: 23 Almond Close, Barkham, Wokingham, RG41 4UU

PLAN



Wokingham Internal
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Signed

MHead

Marcia Head

Head of Development Management - Place & Growth

Date: 31 May 2024

PLEASE READ THE NOTES ISSUED WITH THIS DECISION NOTICE BELOW



WOKINGHAM BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACTS

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191 AND 192

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39

Other statutory legislation: This decision notice relates to the above stated acts and regulations only and does not constitute approval under any other legislation.

Tree Preservation Order: This decision notice does not give consent for any work that may be required as a result of the development above to a tree protected by a tree preservation order. You should apply separately for works to trees through the [Planning Portal website](#).

Community Infrastructure Levy: If the application includes 100 sqm or more of new floor area then it is liable for the community infrastructure levy.

The Town & Country Planning (Development Management Procedure) Order: This decision has been made in accordance with the requirements of the National Planning Policy Framework (NPPF) and in the requirement to work with the applicant in a positive and proactive manner.

Officer Report: An officer report explaining the decision will be available to view online.

Appeals to the Secretary of State: If your application has been **refused** by the Borough Council or **granted subject to conditions** that you are not happy with, you have the right to appeal to the Planning Inspectorate (under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990). There is **no time** limit for the submission of appeals in respect of certificates of lawful proposed use/development.

The Planning Inspectorate is an Executive Agency reporting to the Secretary of State for Communities and Local Government. The Inspectorate has an online appeals service as set out on the [.gov.uk](#) website which contains information and guides on the appeal process. Alternatively you can obtain a form from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, 0303 444 5000 or through the [Planning Inspectorate website](#). Please note all documents will be published online by the Planning Inspectorate

and therefore you should not include personal information you do not wish to be displayed in this way. This includes personal information of third parties.

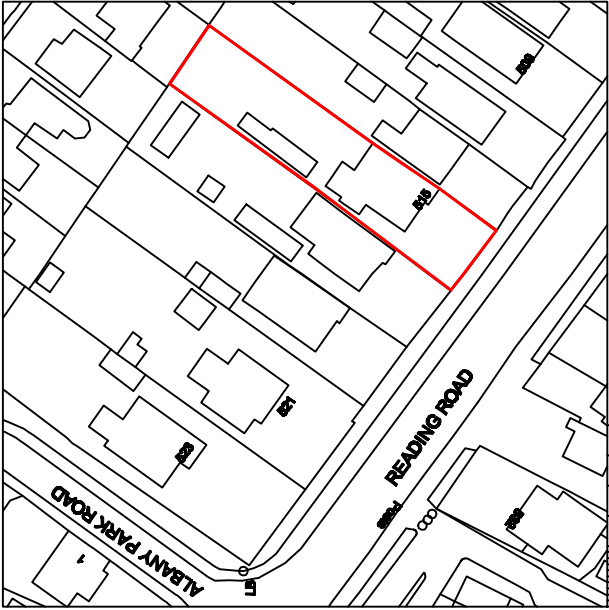
Gas Mains and Services: Building over a gas main or service that is located within your site could cause damage to pipework or potential gas leaks within buildings. You should check for information relating to services within your site at [Home - LinesearchbeforeUdig \(lsbud.co.uk\)](http://lsbud.co.uk) and contact the Plant Protection Team at SGN on 0800 912 1722 or plantlocation@sgn.co.uk.

Building Control: The development subject to this certificate may also require Building Regulation approval to ensure it is built to national safety, design, and environmental standards. The Council's Local Authority Building Control (LABC) service offers a full range of plan approval, inspection, and associated services through an ISO9001 nationally accredited team of qualified building surveyors. These surveyors work closely with the Council's planning department to ensure the appropriate construction of your build. To find out more visit the Council's Building Control website or call 0300 790 0580 to speak to a member of the team.

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended). It certifies that the operations specified in the First Schedule taking place on the land described in the Second Schedule would have been lawful on the specified date and, therefore, was not liable to enforcement action under Part 7 of the 1990 Act on that date.

1. This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any matters which are materially different from that which is described or which relates to other land may render the owner or occupier liable to enforcement action.

The effect of the certificate is also qualified by the proviso in Section 192(4) of the 1990 Act (as amended) which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.



LOCATION PLAN

20 @ 1:1250 on A4

Production Date: 27 March 2024
Top Left: 476362 182027 Bottom Right: 476482 181827
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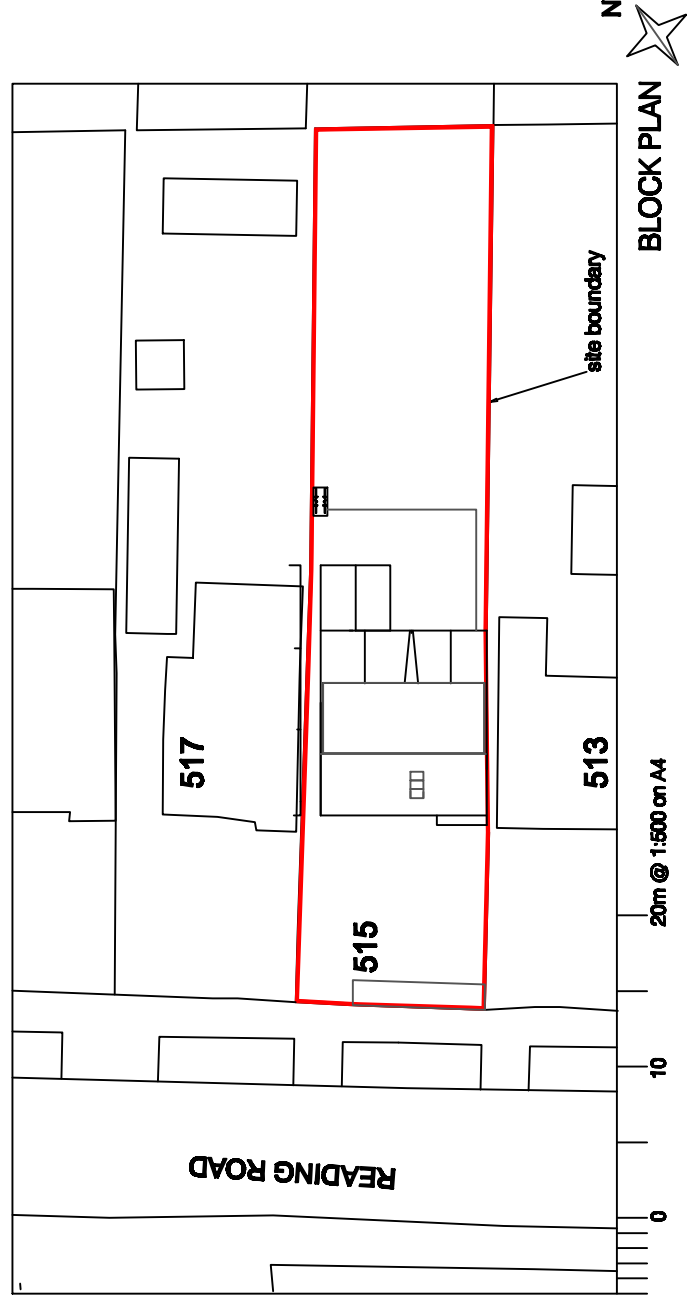
515 Reading Road
Winnersh, Wokingham, Berkshire
Brighter Living Care Ltd.
Block and Location Plans

drawing no: 1403 / 3 / a

M D Howlett
architectural consultant
11 Prospect Street, Caversham, Reading
Berkshire RG4 8JG; tel: (0118) 947 7117
Email: mdh@mdh.co.uk

Date: January 2025

Rev. a: Amended to support CLD application, May 2025



BLOCK PLAN

20m @ 1:500 on A4