



PLANNING STATEMENT

‘Change of use from a C3a dwelling to C2, children’s care home for a maximum of 3 children, where care is provided’.

**Chestnut House,
Cottam,
Retford,
DN22 0EZ**

25/06/2021

1. Introduction

- 1.1. This statement has been prepared by Adrian Rose, of Rose Consulting, on behalf of Mrs. T Silver, of Kids Inc Residential Services Ltd, following a refusal of a lawful development certificate (21/00759/CTP) by Bassetlaw Council on 21 May 2021.
- 1.2. The application was for a 'lawful development certificate for the use of a dwelling (C3a) for a children's home (C2) for a maximum of 3 children, where care is provided.'
- 1.3. The Council determined: 'it is considered that the proposed use would fall within Class C2 care home for children, as defined in the Town and Country Planning (Use Classes) Order 1987, (as amended). Accordingly, as the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) makes no provision for the change of use from C3 to C2, the proposed use of Chestnut House as a care home for children could not proceed as permitted development'.
- 1.4. The fact that the proposed use was C2, based upon the North Devon case, was not in dispute. The basis of the application was that there was no material difference between the last use as a C3a dwelling and the proposed use as a home for up to three children.
- 1.5. This application has therefore been submitted with greater clarity, to demonstrate the use will not have an adverse impact on the amenity of the area.

2. The Proposal.

- 2.1. The proposed children's home seeks to replicate as close as possible a normal family environment. This type of provision, which government policy is promoting, is to help children who often through no fault of their own, have not



had good parenting in their early years. These are the types of children who would normally be looked after by 'foster families', although sadly there is an acute shortage.

- 2.2. The proposal is to register the property as a registered children's home for a maximum of three children aged up to 18 years. They would be looked after by two carers working on a rota basis, with a further one carer visiting during the day.
- 2.3. There is an urgent need for this type of care home, where young people, usually through no fault of their own, have lacked good parenting. The nature of the use is to create as closely as possible an environment similar to a family home, where they can learn the skills necessary for when they leave the home and start an independent life outside an institution. It has been found that such an environment is far more suitable than a large care home to allow these children to lead independent lives. It gives these young people a chance to make their own way in the world.
- 2.4. Kids Inc Residential Services Ltd. specialises in supporting young people aged between 8 and 18. It encourages them to focus on their strengths and build positive support networks to achieve their aspirations, whether that is returning to education, finding work or making new relationships with other people.
- 2.5. This application is to ensure that the property acquired will meet the necessary planning requirements and also will be able to achieve Ofsted registration. Ofsted, in fact requires these homes to have a non-institutional character and the only physical difference from a normal family dwelling, is the requirement for a lock on their bedroom doors which is to give the children privacy (not to detain them).

- 2.6. In terms of building regulations, the only physical requirement is to have fire doors into the kitchen area, which are of no consequence for the planning status of the building. There will be no other internal or external alterations to the building or surrounds. A person walking by would see no visual difference from any other dwelling in the street.
- 2.7. The property is a four bedroomed detached house, currently used by the applicant as his family dwelling under C3a. It comprises of a large kitchen/dining room, a lounge and 4 bedrooms upstairs. There is a large garden, with a driveway providing parking for multiple cars. It is possible to give a fairly accurate assessment of current comings and goings, which are shown below to not be significantly different from the proposed use (See below).
- 2.8. Three children will live at the house, with two carers working on a rota basis sleeping overnight. Staff will operate on a rota of 48 hours on and 48 hours off, or 60 hours on and 60 off. A manager will be on site during weekdays from 9 am to 5pm. The managers role will be as a third carer, together with some administrative work relating to the home. Clearly this level of administration will be ancillary to the main use of the premises and will have no bearing on the character of the building. Many people allocate a room in their houses as an office, without affecting the planning status of the dwelling.

3. Case for approving the application

- 3.1. It is accepted that where care is provided and this is not the main residence of the carers, the use falls within C2 and not C3b. There is some case law which establishes that if the carers work on a rota basis and that it is not their permanent residence, the use must be regarded as C2 and not C3b. In the judgement of Mr. Justice Collins in North Devon District Council v First Secretary of State [2003]. J. Collins was clear on the facts of that particular case, that carers who do not live but who provide, not necessarily through the same



person, a continuous 24-hour care cannot be regarded as living together and that, whilst there would be less than 6 residents, the children, without at least one adult living with them at the premises, would not be capable of being regarded in the true sense as a household.

- 3.2. By way of a guide, differences which might be considered 'material' are those which are measurable or quantifiable as resulting in a significant or substantial change or step up in the character or impact of a use.
- 3.3. In appeal (APP/C4235/A/11/2162636) attached in the appendix, quoting from paragraph 5, the inspector assesses a very similar use and concludes the presence of an office is not material to the character of the planning unit. *'Evidence that the property is not in use as a single-family home includes the use of one ground floor room as an office, safety notices in the kitchen, locks on the office and bedroom doors, a fire alarm and alarms on external doors. Whilst safety notices and locks on internal doors are not usual features of family homes, the use of one room as an office for a member of the household to be able to work from home is becoming more common and the alarms were not dissimilar to those fitted in some modern homes. Overall there was little evidence in the fabric of the building to differentiate it from a home in single family occupation.'*
- 3.4. During the day it is expected that all the young people will engage in various activities: attend a mainstream school or possibly receive home schooling as the children settle in. In fact, any home schooling would be carried out remotely with no additional staff visiting the home. The carers themselves would provide the support for the children, if home schooling proved to be necessary.

Impact on character

- 3.5. It has been explained above that there would be no visual distinction between the existing and the proposed use.
- 3.6. In terms of the nature of the use, the activity within the building will not be materially different from the current use by a family.
- 3.7. In most respects the use would operate in a way that is very similar to a normal family home, the last use of this property. It would provide the young people with their sole and main residence, with free and shared access to living, dining, and kitchen facilities, able to take shared meals prepared for them or make their own food or drink.
- 3.8. It is maintained that there is no significant material difference in planning terms between the proposed use and a typical residential household. The carers, working on a rota basis, would effectively live at the dwelling house to provide 24-hour care, as a single household. Facilities such as the bathroom/wc, kitchen and living rooms would be shared and the living mode would be communal.
- 3.9. There is sometimes concern that the use would result in more noise and possibly anti-social behaviour due to the background of the children. The best answer to this concern is contained in appeal decision (APP/C4235/A/11/2162636- see appendix 8-12):

11. The fear of crime is a material consideration in the determination of the appeal. However, the weight that can be attributed to it depends on whether or not the evidence shows that the potential risk of crime is shown or expected to be high and the consequences for the community and individuals are serious. Whilst it is acknowledged that the incidents cited by the local residents would cause upset, they are not altogether



unusual occurrences in modern society. Some of the incidents raised issues relating to the running of the home which have the potential to be overcome by changes to the management of the site. None of the evidence suggests that the potential risk from crime is shown or expected to be high or that the consequences for local residents are serious.

12. The evidence therefore leads me to conclude that the effect of the development on the living conditions of the occupiers of neighbouring dwellings regarding risk of crime would be low and carries insufficient weight to warrant dismissing the appeal on these grounds.

3.10. The applicant's evidence is that the proposed use is to provide a stable home environment for the occupants as their main and sole residence and that the length of stay is generally more than temporary or passing. It would not be a 'half way' house or provide overnight emergency lodgings for example. However, in any event, the courts have provided some assistance in determining the significance of there being a commercial factor to a residential use or an arrangement where the occupants have generally only a limited period of stay. Cases such as *Blackpool BC v Secretary of State for the Environment* [1980] and *Moore v Secretary of State for the Environment* [1998] where houses were used for holiday lettings on a limited basis, established that a change to holiday lettings is not necessarily 'material', since the character of the use need not have changed.

3.11. Following *Gravesham BC v Secretary of State for the Environment* [1982], the court accepted that the distinctive characteristic of a dwellinghouse was its ability to afford to those who used it the facilities required for day-day private domestic existence. It did not lose that characteristic if it was occupied for only part of the year, or at infrequent intervals, or by a series of different persons,



or if it was under commercial management for holiday or other temporary lettings.

- 3.12. The prevailing character of the proposed use would be that of a small group of children living together and using the property in a way similar to that of a family home where they would be supervised and cared for by adult guardians. While there might be identifiable differences, between proposed and existing uses, these would not be 'material' or easily measurable and quantifiable against the rather flexible characteristics and impacts of a lawful dwellinghouse.
- 3.13. The number of comings and goings can have an impact on the character of the use.
- 3.14. A number of planning appeals address this point. Appeal (APP/E2205/X/16/3161037) re an LDC application was approved for a similar care home: *'A house of this size could easily accommodate a typical family with 2, 3 or more children and 2 adults and it seems to me that the use of the house as a home for a maximum of 3 young people and their carers would not be materially different from the authorised use as a 4-bedroom family home. It is likely that there would be vehicle movements created by the carers coming to and leaving the site on a daily basis as they start and leave their shifts and journeys undertaken by the children when being taken to and from school. Nevertheless, I do not consider that the number of such movements is likely to be significantly more than those undertaken by a family and certainly not enough to result in an intensification of use that would give rise to planning concerns'*.
- 3.15. The residents would be taken to and brought home from school each day and with their carers they would interact with the property and the residence in a way that is very similar to an adult resident, parent or guardian. The residents



Schedule 2 Proposed use

Activity	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Care worker for night shift	2		2		2		
Home Manager		2	2	2	2	2	
School run		4	4	4	2	4	
Social/recreational outings	4						2
Other visitors					2		
Total Movements (in and out)	6	6	8	6	8	6	4

3.18. On this basis it is maintained that the proposed use as detailed in this supporting statement would not be materially different from the current use. This is supported by the Egerton Appeal (App/E/2205/x/16/3161037) where the Inspector concluded a similar use would not result in significantly more movements to give rise to planning concerns: *'Nevertheless, I do not consider that the number of such movements is likely to be significantly more than those undertaken by a family and certainly not enough to result in an intensification of use that would give rise to planning concerns (10).'*

3.19. A similar conclusion is drawn in the Dale Road appeal (APP/P1045/x/20/3263178) : *'The number of these movements is unlikely to be significantly more than the number that would be undertaken by a family and certainly not enough to result in a level of intensification in the use of the site that gives rise to concerns from a planning point of view. There is insufficient evidence before me to show that the use would be likely to result in greater levels of noise and disturbance than the existing authorised residential use.'*

3.20. It has been suggested that the need for regular visits by other agencies to inspect the premises can make a material difference to its character. There are in fact no regular visits which are required which will have any material impact.



Ofsted will usually inspect annually, involving two inspectors visiting the premises for a day. There can also be annual visits by local social services, also involving two officers. There are no other regular visits to the premises by other social services staff or clinicians.

4. Conclusion

- 4.1. It is maintained that the nature of the use is not materially different from a normal household. Comings and goings would be no greater than a typical house, hence there would be no disturbance to any neighbours. The number of cars attracted to the home would be no more than that generated by the current household.

- 4.2. The local authority is respectfully requested to grant planning permission for the use so that this important and much needed facility can be established.



Appendix

Appeal Decision

Site visit made on 24 January 2012

by Kay Sheffield BA(Hons) Dip TP MRTPI an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 February 2012

Appeal Ref: APP/C4235/A/11/2162636

73 The Crescent, Davenport, Stockport, Cheshire, SK3 8SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Choices Homes for Children against the decision of Stockport Metropolitan Borough Council.
- The application Ref DC046099, dated 2 December 2010, was refused by notice dated 19 April 2011.
- The development proposed is change of use from residential property to children's home.

Procedural matter

1. In refusing planning permission the Council cited saved Policies HC1.4 and CDH1 of the Stockport Unitary Development Plan Review, 2006 (UDP). However, it is understood that subsequent to the determination of the application the Council has adopted the Stockport Local Development Framework: Core Strategy Development Plan Document (DPD) and as a consequence Policy CDH1 of the UDP has been superseded by Policies CS8, SIE-1 and SIE-3 of the DPD. Regard has therefore been had to these policies in the determination of the appeal.

Decision

2. The appeal is allowed and planning permission is granted for change of use from residential property to children's home at 73 The Crescent, Davenport, Stockport, Cheshire, SK3 8SL in accordance with the terms of the application, Ref DC046099, dated 2 December 2010, subject to the conditions set out in Annex A to the decision.

Main Issues

3. The main issues are the effect of the development on the living conditions of the occupiers of neighbouring dwellings regarding risk of crime and the effect of the proliferation of such uses on the character and appearance of the Egerton Road and Frewland Avenue Conservation Area.

Reasons

4. The appeal site lies in a residential area within the Egerton Road and Frewland Avenue Conservation Area. The appeal property is a large detached dwelling with living accommodation over three floors. Space for parking is provided to the front of the property and there is a private garden to the rear. The use which is the subject of the appeal has commenced.

5. The proposed use would provide accommodation for a maximum of four children. There would also be two carers on site at any time, although they would not be permanently resident in the property. The property is sufficiently large to cater for this level of occupation, which would not be out of character in a residential area. Evidence that the property is not in use as a single family home includes the use of one ground floor room as an office, safety notices in



the kitchen, locks on the office and bedroom doors, a fire alarm and alarms on external doors. Whilst safety notices and locks on internal doors are not usual features of family homes, the use of one room as an office for a member of the household to be able to work from home is becoming more common and the alarms were not dissimilar to those fitted in some modern homes. Overall there was little evidence in the fabric of the building to differentiate it from a home in single family occupation.

6. It is evident from the submitted documentation and observations on site that the home is run to emulate a single family home. The children, aged between 8 and 17 years, would attend school and outside activities as well as being encouraged in social pursuits. The level of supervision from the carers is dictated by the age of the children and their individual circumstances but shares a common theme with family homes generally where there is a need to foster a child's growing independence and ability to cope in the modern world.

7. It is understood that there are two other similar uses in the area, a home for the autistic on The Crescent and a children's home on Egerton Road. No details of the former use have been provided, but it is understood that the latter has 8 beds and caters for children aged 16 years and above.

8. Local residents have expressed a fear of crime related to the use of the property as a children's home. Incidents of a missing child and anti-social behaviour have been referred to and the disturbance these have caused to local residents. The Safer Stockport Partnership (SSP) has suggested that the fear of crime and anti-social behaviour in the area may be influenced by the perception of the behaviour of the residents of the home in Egerton Road which has been the subject of complaints from local residents over the years.

9. There is no definitive evidence that the incidents cited by the local residents related to children resident at the appeal site or whether those responsible were resident elsewhere in the area. However, the observations submitted by SSP indicate that the police have been contacted regarding the appeal property on 23 occasions between March 2008 and February 2011. It is understood that 90% of these instances related to a child who absconded on a number of occasions and such matters generate a visit from the police each time. The appellant has indicated that this situation has been resolved. In comparison it has been stated that the home in Egerton Road generated 228 incidents over the same time period.

10. Whilst none of the children have been clients of the Youth Offending Team, the SSP report indicates that there was one reported crime during the two years ending February 2011, although no details have been provided. The report concludes that the impact on the community of the residents of the appeal property has been slight and that the use represents a low to medium risk in terms of crime and anti-social behaviour.

11. The fear of crime is a material consideration in the determination of the appeal. However, the weight that can be attributed to it depends on whether or not the evidence shows that the potential risk of crime is shown or expected to be high and the consequences for the community and individuals are serious. Whilst it is acknowledged that the incidents cited by the local residents would cause upset, they are not altogether unusual occurrences in modern society. Some of the incidents raised issues relating to the running of the home which have

the potential to be overcome by changes to the management of the site. None of the evidence suggests that the potential risk from crime is shown or expected to be high or that the consequences for local residents are serious.

12. The evidence therefore leads me to conclude that the effect of the development on the living conditions of the occupiers of neighbouring dwellings regarding risk of crime would be low and carries insufficient weight to warrant dismissing the appeal on these grounds.

13. The area in the vicinity of the site contains a mix of Victorian, Edwardian and inter-war dwellings with a scattering of some more modern properties. The maintenance of the character of the area is important and depends on the control of new development. The change of use of the appeal site from residential to a children's home would not necessitate any external alterations to the property or its grounds. The site has parking space for at least four vehicles which should be sufficient to cater for the traffic generated by the site without a heavy reliance on on-street parking. Whilst the number of vehicles parked on the road during my site visit exceeded the level observed generally in the neighbourhood, it was ascertained that none of the vehicles were associated with the appeal site.

14. It is acknowledged that at staff changeover times there would be the potential for noise and disturbance from vehicles manoeuvring, but as these changes take place every two days and occur during the daytime there is no indication that these events would be disturbing to local residents. There is no evidence to suggest that the movements to and from the site at any other times would be significantly different from those generated by a single family household, and they would therefore not result in an intensification of use which would harm the residential character of the area.

15. Visually, therefore, there would be no significant difference between the use of the property as a children's home and other properties in the area in residential use. In respect of the similar uses in the area, on inspection during my site visit, neither their external appearance or the comings and goings in association with them highlighted their use. This leads me to conclude that the development on its own or in combination with the other two similar uses in the area would not have a harmful effect and would therefore preserve the character or appearance of the Conservation Area.

16. Reference has been made to an appeal¹ in respect of a Certificate of Lawful Use which sought to confirm whether the use of the appeal property as a dwelling for not more than six persons living as a family unit constituted a material change of use which required planning permission. The matter before the Inspector was therefore whether planning permission was required and not, as in the case before me, whether the use of the property as a children's home would be acceptable.

17. It is accepted that many of the issues considered by the previous Inspector were similar to those raised in the current appeal and although his conclusion that the development would constitute a material change of use was based on his observations that there would be the potential for more comings and goings than might be expected to be generated by a dwelling; that troubled children could cause more disturbance than most family homes; and that the reference



to police visits would suggest that the nature of the use is not that of a normal domestic use, there is no conclusive evidence before me that such a use is not suitable within a residential area, that the level of comings and goings would be significantly different from a single family home or that the appeal proposal would create a potential risk from crime which is shown or expected to be high or that the consequences for local residents are serious.

18. On balance I conclude that the effect of the development on local residents with regard to fear of crime would be low and the character or appearance of the Conservation Area would be preserved, in accordance with saved policy HC1.4 of the UDP and Policies CS8, SIE-1 and SIE-3 of the DPD.

19. In the light of Circular 11/95 The Use of Conditions in Planning Permissions I have had regard to the conditions suggested by the Council. As the use has already commenced there is no need for the standard time limit condition although, for the avoidance of doubt and in the interests of proper planning, I have confirmed the drawing on which I have based my decision. In order to ensure that the property could not be used for another institutional use without planning permission and that no intensification of use beyond that proposed in the application can take place I have confirmed the number of children and staff who can be in the property and I have restricted the use to that of a children's home operated by the appellant only.

20. For the reasons given above and having had regard to all other matters raised, the appeal is therefore allowed.

Kay Sheffield

INSPECTOR

Appeal Decision

Site visit made on 17 February 2017

by Katie Peerless Dip Arch RIBA

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

Decision date: 28th February 2017

Appeal Ref: APP/E2205/X/16/3161037

The Cottage, Stonebridge Green Road, Egerton, Ashford TN27 9AP

The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).

The appeal is made by Parkview Care against the decision of Ashford Borough Council.



The application Ref 16/01000/AS, dated 1 July 2016, was refused by notice dated 24 August 2016. The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended. The use for which a certificate of lawful use or development is sought is as a C3(b) private dwelling.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the extent of the matter constituting a proposed use which is considered to be lawful.

Procedural matters

1. At the time the application was considered, the Planning Statement submitted with the application form noted that the house was intended for use by 4 young people, between the ages of 8 and 17, and their carers. However, the appellants' Appeal Statement refers to a maximum of 3 children and 2 adult carers and their submissions justifying the proposed use are based on this number. As this is the latest information submitted in support of the appeal, I have considered the merits of the case on this basis.
2. The appellants now appear to agree that this scenario would not constitute a 'household' as set out in Class C3(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO) and as defined in Government Circular 8/2010. This Class is defined as not more than 6 residents living together as a single household where care is provided for residents.
3. A similar scenario to the appeal proposal was considered in the case of *North Devon District Council v First Secretary of State [2004] 1 P. & C.R. 38* which determined that children alone cannot form a 'household' and that if their carers do not live permanently at the property, the use would fall within Class C2 of the UCO. This is defined as use for the provision of residential accommodation and care, other than within a Class C3 use. Examples given are as a hospital, nursing home, residential school, college or training centre.
4. Nevertheless, a change to a new use class only requires planning permission to authorise it if it is material in planning terms. The appellants consider that, in this instance, a change from Class C3(a) to C2 would not be material and planning permission is not therefore required for the proposed use. I have considered the appeal on this basis.

Main Issue

5. I therefore consider the main issue in this case is whether the proposed use is a material change from the lawful use as a single dwellinghouse falling within Class C3(a).

Site and surroundings

6. The appeal site is a detached house with a generous garden in an enclave of other properties on the outskirts of the village of Egerton. At present it has 2 living rooms, a kitchen and a cloakroom on the ground floor and 4 bedrooms and 2 bathrooms on the first floor. An entrance drive leads to a garage and off street parking.

Reasons

7. As noted above, the proposal is for the use of the property for a maximum of 3 young people between the ages of 8 and 17 who would live in the house under the care of 2 adults at all times,



although the identity of the carers would change and the carers would not have the property as their main residence.

8. The Council relies on the report of the Officer who determined the application and this report concludes that the proposed use falls within in Class C2 and, given the findings of the judgement set out above, I concur with this view. However there is no assessment made in the report as to whether a change of use between Class 3(a) and Class 2 as described in this case would be material. To establish this, a comparison between the existing and proposed uses needs to be considered.
9. A house of this size could easily accommodate a typical family with 2, 3 or more children and 2 adults and it seems to me that the use of the house as a home for a maximum of 3 young people and their carers would not be materially different from the authorised use as a 4 bedroom family home. It is likely that there would be vehicle movements created by the carers coming to and leaving the site on a daily basis as they start and leave their shifts and journeys undertaken by the children when being taken to and from school. Nevertheless, I do not consider that the number of such movements is likely to be significantly more than those undertaken by a family and certainly not enough to result in an intensification of use that would give rise to planning concerns.
10. I have noted the village location and the lack of facilities available for young people in the immediate area, but again, there would be nothing to stop the property being occupied by a family, to whom the same concerns would apply.
11. The appellants will be required to comply with all relevant rules governing the accommodation for children in care and their full time supervision and, if the property can meet these regulations and the appellants can meet the staffing requirements, I see no reason why the use proposed would have any planning impacts that would cause it to be considered as a material change of use.
12. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the use of the property for a class C2 use for 3 children and 2 adults was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Katie Peerless

Inspector

Appeal Decision

Site visit made on 9 March 2021

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2021

Appeal Ref: APP/P1045/X/20/3263178

214 Dale Road, Matlock Bath DE4 3PT



The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).

The appeal is made by Mr Sandeep Manaktala of Blue Mountain Homes against the decision of Derbyshire Dales District Council.

The application Ref 20/00902/CLPUD, dated 14 August 2020, was refused by notice dated 13 November 2020.

The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.

The use for which a certificate of lawful use or development is sought is described on the application form as C2 – _residential institution.

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.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant a certificate of lawful use or development was well-founded. In this case that turns on whether the proposed use is a material change of use from the lawful use as a single dwellinghouse falling within Class C3.

Reasons

3. The appeal property is a detached two storey dwellinghouse situated on the main road (A6) between Matlock Bath and Matlock. It is situated adjacent to a row of terraced houses and is separated from the main road by a small front garden with a path leading to the front door. It has a small rear garden that backs onto a steep cliff and there is on-site parking immediately adjacent to the house. The proposed use is as a home for up to three children or young people with care provided on a rota basis. A member of staff would sleep on the premises to provide 24 hour care and a carer would attend during the day. Therefore, the carers would not live permanently at the property but rather would operate on a shift basis.
4. A similar scenario to this case was considered in the case of *North Devon District Council v First Secretary of State [2004] 1 P. & C. R. 38* which determined that children cannot form a household and that if their carers do not live permanently at the property, the use would fall within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO). This is defined as use for the provision of residential accommodation and care, other than within a Class C3 use.
5. As previously set out in this decision, the property would be occupied by up to three children or young people who would live in the house under the care of two carers working on a rota basis sleeping overnight (two days on and two days off). A manager would be on site during weekdays between 0900 and 1700 and there may be occasional visits from a social worker or clinician. The property would not be the main residence of the carers. Consequently, the Council states that the main consideration in this case is that the carers would not be full time residents, but would work in shifts, consistent with a C2 use. The Council goes on to argue that there is no permitted change from C3 to C2 under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) and the proposed use cannot therefore be considered



to be permitted development.

6. However, a change of use to a different use class only requires planning permission if it is material in planning terms. In this case, the appellant accepts that the proposed use is within Class C2 but contends that the nature of the use as detailed in the application would not be materially different than a typical household in Class C3. That is the basis on which I have determined this appeal and in order to establish whether or not there would be a material difference a comparison between the existing and proposed uses must be carefully considered.
7. The property currently comprises of a sitting room, living room, dining room, kitchen, WC and hall at ground floor level with four bedrooms, an additional bedroom/dressing room, WC and bathroom on the first floor. The house could quite easily accommodate a family with two adults and three or more children and therefore the proposed use for up to three children or young people and their carers would not be materially different from the authorised use as a single four or five bedroom family dwellinghouse. There would be some vehicle movements associated with carers coming to and going from the site on a daily basis in accordance with their shift patterns and there would be additional journeys linked to taking children and young people to school or college and taking them to other activities or appointments. The number of these movements is unlikely to be significantly more than the number that would be undertaken by a family and certainly not enough to result in a level of intensification in the use of the site that gives rise to concerns from a planning point of view. There is insufficient evidence before me to show that the use would be likely to result in greater levels of noise and disturbance than the existing authorised residential use.
8. It is my understanding that the appellant will be required to comply with a range of regulations and rules governing the operation of the accommodation for children and young people in care, including their supervision. Should these regulations be adhered to and the appellants meet the necessary staffing and management requirements, I do not find there to be any reason why the use proposed would have planning impacts that would result in it being considered to be a material change of use.

Conclusion

9. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of use of the property for C2 - residential institution purposes was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

A A Phillips
INSPECTOR