

Mrs Kimberly Nevison  
Inspire Together Childrens Services  
C/o Gareth Jones  
ET Planning  
200 Dukes Ride  
Crowthorne  
RG45 6DS

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

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

**CERTIFICATE OF LAWFUL USE OR DEVELOPMENT**

APPLICATION NO **24/01418/COL**

APPLICANT **Mrs Kimberly Nevison** PARISH: **Kingsdon**

Description: **Application for a Certificate of lawfulness to demonstrate that no development is occurring in the change of use from dwelling to childrens home (Use Class C3(b))**

Location: **Wheelwrights Cottage Top Street Kingsdon Somerton Somerset TA11 7JU (GR:351614/126181)**

**SOMERSET COUNCIL** hereby certify that on 19/06/2024 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 red on the plan attached to this certificate would be lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

On the evidence presented to the Council, the proposed use described in the application for this Certificate would be lawful under Class C3 (b) of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

**Signed:**

Mickey Green  
Executive Director  
Climate and Place

Date: 17 July 2024

### **First Schedule**

Application for Certificate of Lawfulness for proposed use of Wheelwrights Cottage as a residential children's home (Use Class C3(b))

### **Second Schedule**

Wheelwrights Cottage, Top Street, Kingsdon, Somerset, TA11 7JU

### **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 operations specified in the First Schedule taking place on the land described in the Second schedule would be lawful, on the specified date and, therefore, would not be liable to enforcement action under section 172 of the 1990 Act on that date.
- 3 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 operations which are materially different from those described or which relate 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.

## **Officer Report On Planning Application: 24/01418/COL**

|                                    |                                                                                                                                                                    |
|------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Site Address:</b>               | Wheelwrights Cottage Top Street Kingsdon                                                                                                                           |
| <b>Ward :</b>                      | SOMERTON                                                                                                                                                           |
| <b>Proposal :<br/>CIL Liable =</b> | Application for a Certificate of lawfulness to demonstrate that no development is occurring in the change of use from dwelling to childrens home (Use Class C3(b)) |
| <b>Recommending Case Officer:</b>  | Jacqui Churchill (Case Officer)                                                                                                                                    |
| <b>Target date/Ext of time</b>     | 14th August 2024                                                                                                                                                   |
| <b>Applicant :</b>                 | Mrs Kimberly Nevison                                                                                                                                               |
| <b>Type : 22</b>                   | Certificate of Lawful Use                                                                                                                                          |

### **Site Description and Proposal:**

The application site relates to 'Wheelwrights Cottage', a three-bedroom, end-terrace, single-storey dwellinghouse situated facing the junction of School Road and Top Street within Kingsdon, in a predominately residential area.

This is an application for a Certificate of lawfulness to demonstrate that no development is occurring in the change of use from dwelling (Use Class C3) to children's home (Use Class C3(b)). The proposal is for 2 children aged between 13-17 years old and under the ward of the Local Authority to live at the property. In addition, there will be up to 3 staff in the day and 2 overnight (a maximum of 5 staff at the property for a limited time during handover).

There are no external changes to the property.

### **History**

24/00296/COL Application for Certificate of Lawfulness for proposed use of Wheelwrights Cottage as a residential children's home (Use Class C2). Application Refused 04/04/2024

23/00010/COU Proposed change of use of 2no. C1 class use holiday lets into 2no. C3 class use independent dwellings Application permitted with conditions 16/03/2023.

### **Representations**

Six representations were received, 3 in support, 2 objections and 1 neither objecting or supporting.

Concerns raised can be summarised as:

- The property refers to a 3 bedroom and 2 bathroom house, a bit (sic) open plan kitchen and living room, allowing children to live alongside each other in different ways. This is inconsistent with plans submitted under 23/00010/COU.
- Inadequate parking
- Busy bus route with no speed limits or street lighting
- Dangerous entrance door close to road
- There are no similarities between a family dwelling and a property used for the purposes of housing supervised vulnerable young homeless children
- The property is being used as a business, income is being earned via social services to home one young person
- Cost to society
- Anti-social behaviour
- Lack of pride in property's appearance
- Already in use

Full comments can be viewed online at [www.somerset.gov.uk](http://www.somerset.gov.uk)

Whilst acknowledging the representations above, a local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific use is or would be lawful without the need for a planning application for change of use. Planning merits, policies or guidance are not relevant in this instance.

### **Policy**

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

## Considerations

The site relates to an existing 3-bedroom dwellinghouse which was previously in Class C3 use.

This is an application for a Certificate of Lawfulness seeking confirmation that the dwellinghouse can lawfully operate a home for 2 children with three staff within use Class C3.

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).

A C3(a) dwellinghouse covers the use by a single person or a family. Class C3(b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for young people sits within the C3 Use Class .

Therefore, the consideration for this application is whether the proposed use falls within Use Class C3(b). Should the proposal be considered to fall within this use, then the use would be considered lawful and planning permission would not be required.

The proposal seeks to use the dwelling as a children's home to accommodate two children, and three staff. It is noted that C3(b) provides permitted use for up to six people.

There will be no external changes to the dwelling. Two staff will be at the dwelling overnight and shift handovers would take place at 7-7.30am and 7-7.30pm which resemble the normal comings and goings of a typical family home. In this case, the layout and appearance of the dwelling will remain largely unchanged and still appear as a single, residential dwelling. The site would continue to operate as a single household with up to two children (aged between 13 and 17) and up to three staff in the day and two overnight at any one time. The children will have their own bedrooms and there is one bedroom for an overnight carer. The occupants will share communal facilities including the kitchen/dining area, lounge, dining room, and garden.

Based on the information submitted, it is considered that, given the number of future occupants at any one time, and the nature of how the use will operate, that the proposed use of the property at Wheelwrights Cottage as a dwellinghouse will be as defined by Class C3(b) of the Order and as such, no material change of use will take place from the previous use within Class C3.

Therefore, based on this, it is considered that the use would fall within Use Class C3 (b), which would be lawful and that a certificate should be granted.

## Recommendation

That a Certificate of Lawfulness be issued.

## SUBJECT TO THE FOLLOWING:

01. TOWN AND COUNTRY PLANNING ACT 1990: SECTIONS 191 AND 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 LAWFUL USE OR DEVELOPMENT

SOMERSET COUNCIL ('the Council') hereby certify that on 19/06/2024 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 red on the plan attached to this certificate would be lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

On the evidence presented to the Council, the proposed use described in the application for this Certificate would be lawful under Class C3 (b) of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

First Schedule:

Application for Certificate of Lawfulness for proposed use of Wheelwrights Cottage as a residential children's home (Use Class C3(b))

Second Schedule:

Wheelwrights Cottage, Top Street, Kingsdon, Somerset, TA11 7JU

Signed (Council's Authorised Officer)

On behalf of Somerset Council

Date xxxxx

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 operations specified in the First Schedule taking place on the land described in the Second schedule would be lawful, on the specified date and, therefore, would not be liable to enforcement action under section 172 of the 1990 Act on that date.

3 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 operations which are materially different from those described or which relate 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.

**Case Officer Signed** :.....

**Date** :...../...../20.....

**Agreed:** YES/NO

**Senior Officer Signed:** :.....

**Date** :...../...../20.....