

DELEGATED DECISION REPORT

SMD/2025/0492
Valid 28/11/2025

18 HIGH STREET
KINGSLEY

**LAWFUL DEVELOPMENT
CERTIFICATE FOR A
PROPOSED USE OF
PROPERTY AS RESIDENTIAL
CARE HOME (CLASS C2) FOR
UP TO 2 CHILDREN AGED UP
TO 18 YEARS WITH CARE
PROVIDED BY UP TO 3 NON-
RESIDENT MEMBERS OF
STAFF (NO MATERIAL
DIFFERENCE WITH LAWFUL
USE AS CLASS C3
DWELLING)**

**(CERTIFICATE OF
LAWFULNESS - PROPOSED)**

MAIN ISSUES

If any person wishes to ascertain whether any proposed use of a building would be lawful, they may make an application for the purpose to the local planning authority. If the authority is satisfied, on the information provided, that the use would be lawful they shall issue a certificate to that effect. The proposed use of a property would be lawful and not require planning permission in circumstances where either:

- there would be a change between two uses within a class of the Use Classes Order 1987; or,
- there would be a change that is not 'material change' and so not development that is subject to the controls of the planning system.

DESCRIPTION OF SITE

The application concerns a detached two storey dwellinghouse within a residential area of Kingsley, to the east of Stoke-on-Trent. The property lies on the northern side of High Street (the A52) at No. 18. The dwelling has its origins as an 19th century villa house.

The dwelling is set back a short distance from the footway, behind and above a stone retaining wall that supports stepped access and slim line of garden planting. There is a driveway to the side of the dwelling, proving a narrow vehicular access between roadside properties that ramps up from the roadside. The area to the side and rear of the dwelling at the top of the driveway provides the entirety of the dwelling's outdoor amenity space that, in the main, is given over to parking with shaped areas of walled planting to the edges and surrounds. This area has irregular shape and it extends to the side of the dwelling and runs to the rear of the adjacent curtilage boundaries to the

dwellings to the southeast where a detached garage is provided. The area provides parking for at least four cars.

The dwelling extends considerably to the rear where significant building form is hidden to the rear behind the ornate presentation of its front elevation. The provision of accommodation is extensive, including, 4 bedrooms, study, and utility room.

PROPOSAL

An application for a Certificate of Lawfulness for the proposed use at 18 High Street, Kingsley, to provide a residential home for up to 2 resident young people aged up to 18. The young people would be cared for by up to three, non-resident, adult carers (including site manager)

The property is currently used as a family dwellinghouse, sold to the applicant subject to contract, and is occupied by a family of two adults and three or four children.

The application seeks to establish that a material change of use would not occur 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.

The application is supported by the following drawings and documents:

- Location Plan
- Floor Plans
- Application Form
- Planning Statement (Appendices including legal judgements, case law commentary, and comparable appeal examples)

The applicant is not yet the owner of the property. They make declaration that they have informed the owner of the application and the owner has confirmed that they are aware of the submission.

The application statement describes the proposed use as follows:

The existing property has the layout, facilities, services and character of a large dwellinghouse. The proposed use would not change this. The external appearance of the building would not be changed and, no internal alterations would be required.

This home would aim to provide 2 children with an environment as close as possible to that of a traditional family home. The use of the property would not fall within Class C3 as there would not be any resident adults, living at the property as their main place of residence. Care workers would work on a shift basis and, as 18 High Street would not be their home, the property would not be occupied by a "single household". The proposed use would therefore, whilst not being materially different to a Class C3 use, fall within Class C2.

Up to 2 children up to the age of 18 years would live at the property as their principal residence. The children who would live at the provision will have been taken into care because, they are unable to live with their natural parents and are not old enough to live independently. They would be expected to leave the home on maturity to live independent lives.

At the proposed care home, day-to-day living facilities, including bathroom, kitchen, dining and sitting rooms would be shared. Each child would have their own bedroom. Bedrooms would be fitted with locks to meet legal requirements, including human rights legislation; however, the carers would have a master key to each room.

The preparation of meals would be principally undertaken by the carers; however, the children would be encouraged to assist. Both carers and children would eat their meals together at the dining table and children would socialise together. Children would usually attend a local school.

Staff would work shifts to provide 24/7 cover. Shift changes normally take place between 8 and 9am and staff would sleep over between shifts. The purpose of staggering shift changes is to minimise the impact of shift changes on the young residents and to reduce vehicle movements to and from the site.

Not all staff would be present on the site, at all times. During the day there would be 2 carers present and a registered manager would work flexibly on and off site to provide oversight to meet the needs of children and the staff team. During the night 2 care staff would be present to provide care and/or support for the children should they wake during the night.

In addition to carers, there would be short and infrequent visits from social workers and other support professionals. Family visits are rare but where appropriate, the visits would be pre-planned in accordance with the child's contact arrangements. Vehicles trips for day-to-day activities such as shopping, school runs and social outings for the children would be undertaken by the carers and, as with any family dwelling, shopping can also be ordered online for delivery.

The application site has ample off-road parking and outdoor amenity space for the proposed use. Typically, there would be approximately 2 or 3 cars on the site during the day which can easily be accommodated within the site.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

None

CONSULTATIONS

Publicity

Site Notice expiry date: 30/01/2026

Neighbour consultation period ends: 30/01/2026

Press Advert: N/A

Public Comments

There is no statutory requirement to consult third parties including parish councils or neighbours. It may, however, be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any

private rights to carry out the operation, use or activity in question, are irrelevant when determining the application. In this case a site notice has been posted.

None

OFFICER COMMENTS

The Town and Country (Use Classes) Order 1987 ("UCO 1987") groups and specifies different uses within broad categories of classification. By s55(2)(f) of the Town and Country Planning Act 1990 ("the Act"), where a use falls within a particular designated class, then no planning permission is needed for any change which falls within the same class. One of those classification categories is Class C3 'Dwellinghouses' which specifically includes the use of any dwellinghouse by either, a single person or family (Class C3a); up to six people living together as a household and receiving care (Class C3b); or groups of up to six people living together as a household, not receiving care (Class C3c). Additionally, by the exception at s55(2)(d) of "the Act", the dwelling and its curtilage can, without planning permission, be used for any purpose that is incidental to the enjoyment of the dwellinghouse.

The building in this case is a sizeable 4/5 bedroom dwellinghouse purpose built on a tightly constrained plot where private parking and amenity space is accessed from between and behind roadside properties. The area of outdoor amenity is largely given over to hard surfaced parking space, and up to four cars could reasonably park and turn in this area.

The dwellinghouse, it is said by the applicant's agent, is currently occupied by a family of five or six (2 adults and 3 or 4 children) (Class C3a). The applicant proposes to provide a home and care for up to two unrelated children (ages up to 18) who would live together and be cared for by, up to three, non-resident staff, it is clear that these residents would not be a family and therefore, not included at Class C3a.

Turning to whether this proposed use would then remain with Class C3 but fall within Class C3b instead, we have the benefit of the judgement of Mr. Justice Collins in *North Devon District Council v First Secretary of State* [2003]. Collins J 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 resident adult living with them at the premises, would not be capable of being regarded in the true sense as a household. Taking all of this on board it seems clear that, applying Mr Justice Collins precepts from *North Devon*, the proposed use would not fall within Class C3(b).

However, it is well established by the courts that, notwithstanding whether the use might fall within Class C3, a different use class, or no class at all, planning permission will not be required, if the change of use would not be a 'material change' of use. The local planning authority must still consider therefore whether the change of use proposed would be 'material'. It is a matter of fact and degree, in the circumstances of an individual case, as to whether a change of use will be material.

The determination, therefore, rests with whether the differing use as set out and proposed by the applicant would be 'materially' different to that of a dwellinghouse and

result in development requiring planning permission. "The Act" does not define 'material change of use' and in general therefore, it is necessary to exercise some considered judgement in individual cases, and this is regarded by the courts as being primarily a matter of fact and degree for the Local Planning Authority.

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.

As a starting point, the previous and lawful uses of the property, against which the materiality of the applicant's proposed change must be measured, provide the base line for comparison. The property was last used as that of a sizeable, 4/5 bedroom detached family home by a large family and, indeed, it was built for that purpose in the 19th century. There is no limit on the size of 'family' that can occupy a dwellinghouse and obviously a sizeable property with ample grounds is likely to be occupied by a relatively large family. It is the applicant's evidence that it was last occupied by a family that included at least 3 children. Included, within the same C3 use class, the property might also be used and occupied by up to 6 people, who are not related as a family, but live together as a single household, and this could include an arrangement where the residents are provided with care.

The task then is to compare against that 'baseline' the character of the land use proposed by the applicant. In so many respects the use would operate in a way that is very similar to a normal family home. The property 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. The residents will be taken to and brought home from school each day and while their carers would not be resident, while in attendance, 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 would eat together and get ready on a daily basis to attend school. The home would seek to foster lifestyles which would be the same as if the residents were living in a family home.

It is acknowledged that the home would be provided by a commercial organisation and that the carers would be employees attending the home as their place of work. However, these are perhaps more coincidental factors which have little effect on the character and way in which the property would be used on a day to day basis. The conduct, activity and interaction between residents and staff would in all likelihood be very similar to that of a family unit. If for example, the care staff use an office provided within the property, this is not obviously different in character and impact to the resident of a dwellinghouse normally using a home office or study.

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. It might also be noted that interior preparations might include the installation of an office, fire alarms, fire doors and ensembles. However, these are not facilities that are uncommon within any other dwellinghouse and are not in themselves obvious indicators that the proposed use would be materially different.

The residents would not be detained offenders or have any medical or clinical condition requiring secured facility or hands on attention, and these more extreme behaviours are unlikely to define the prevailing character of the resident's conduct or the land use.

The impact and character of a use needs to be considered in the context of the planning unit on which it takes place. In this case the planning unit is that of a very sizeable dwelling with ample grounds/parking space. The dwelling does have immediate boundaries with its neighbours and the outdoor amenity space is surrounded by other residential properties. However, the accommodation is considerable and can lawfully, and is likely to, be occupied by a large family or group forming a household (just simply by the scale of accommodation that can be offered). The occupation of the dwelling could include a number of children, it is said the last family had three or four children. The application proposal, however, is for just two children to live and be cared for at the property. The scale of the proposed use, with comparison to the size of the dwelling, is such that it could be absorbed and not result in a material change or differences.

The house would have just two full time residents (the cared for young people), none of whom drive or own a car. This would be in contrast to most family households, where it is likely that at least two adult members, often more where there are adult children, own and use a car; and, in the case of a house share, it is possible that all six members of the household could all use their own car, with all of the comings and goings associated with a household. Whilst the residents themselves would not drive, there will of course be some vehicle movements associated with the proposed use. On the applicant's evidence submitted with the application, the limited number of staff (who provide supervision on a shift basis) would come and go over a 24-hour period, there would be trips taking the residents to and from school and social activities, shopping, visits from resident's different family and friends, and cleaners. When considered together, that cumulative level of activity, traffic movement and requirement for parking, is unlikely to be any greater than any of those 'dwellinghouse' uses, where many or all of the residents make journeys to and from work, school, shops and services and can take any number of deliveries and visits from friends, family, cleaners, maintenance tradesman etc.

The application site has off-road parking with space to turn and/or an entrance and exit arrangement on the dedicated space on the substantial driveway pull-in off the road to the north of the house.

CONCLUSION / PLANNING BALANCE

The lawful use of a dwellinghouse, included at Class C3 of "the UCO 1987", is broad in scope and could in association bring with it considerable activity, associated and ancillary use, or vehicle movement. The prevailing character of the proposed use would be that of just two 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.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst

Recommendation Date:

X *J Curley*

Signed by: Jane Curley

On behalf of Staffordshire Moorlands District Council