

DELEGATED DECISION REPORT

HPK/2025/0049
Valid 27/02/2025

THE BARN JONES STREET
HADFIELD
GLOSSOP

**CERTIFICATE OF
LAWFULNESS FOR
PROPOSED USE OF
PROPERTY AS A
RESIDENTIAL CARE HOME
(CLASS C2) FOR UP TO 2
YOUNG PEOPLE (AGED 0-17
YEARS)**

**(CERTIFICATE OF
LAWFULNESS - PROPOSED)**

MAIN ISSUES

- Whether, as a matter of fact and degree, the proposed use of the property is materially different to the existing use, and thus whether the proposal falls within the definition of development under Section 55 of the Town and Country Planning Act 1990.

DESCRIPTION OF SITE

The application relates to a detached two storey 4no bedroom dwellinghouse known as 'The Barn' located on Jones Street, in a highly sustainable location within the built-up area boundary of Hadfield, within walking distance of a number of shops, services, and public transport links.

Like many properties in Hadfield and indeed on Jones Street, the existing residential property does not benefit from any off-street parking provision.

The property became two storey following the granting of planning permission under HPK/2001/0372 for the change of use of a workshop to form part of the existing building in September 2001.

PROPOSAL

The application seeks a Certificate of Lawful Development for the proposed use of the existing residential property (C3 Use) to a Children's Care Home which would provide social care for up to 2no vulnerable children up to the age of 17 years old, with care provided by a team of support staff on a rota basis.

The details of the proposed are presented within Section 2.0 of the supporting Planning Statement, and are summarised as follows:

- The applicant and care provider Care 4 Every Child, aims to prepare young people to be able to make the most of and fulfil every opportunity to develop a positive contribution to society, helping young people to progress in many areas of their development, which includes equipping them with emotional and behavioural skills, life skills, preparation for independence, academic study, and vocational opportunities
- The home aims to provide long term care to enable carers to build relationships with the children residing at the home
- The applicant is an experienced care provider with existing operational homes in the north-west region, and are committed to caring for and nurturing individuals who can make a positive contribution to society
- Children would have access to and utilise communal rooms in the same way as a family dwellinghouse. Preparation of meals would be undertaken by care staff with children encouraged to be involved. Carers and children would eat meals and cohabit in the home in the same way as a residential dwellinghouse.
- The care will be on a 1:1 basis, supported by staff who would work shifts on a 24/7 basis. Shifts are staggered to minimise the impact of shift changes on the young residents and to reduce vehicle movements to and from the site.
- The external appearance would not be altered, with the internal layout remaining consistent with the existing dwellinghouse
- During the day there would be 1 carer present, and a Registered Manager between the hours of 07:30 and 15:30, whilst the young children attend school. In the afternoon there would be 2 carers present who would remain overnight. At weekends, 2 care staff would be present (i.e. there would be no more than 2 members of care staff at the property at any one time, replicating a traditional family home environment.

At the request of Officers, a Proposed Floor Plan and indicative Staff Rota to provide more details with regards to the day to day operations of the Care Home, including the number and frequency of vehicle movements associated with staff arriving and departing the site.

The Floor Plan confirms that at first floor level two of the bedrooms would be allocated to each child, with the remaining two bedrooms allocated to staff, one of which is a bedroom which also doubles up as a staff office.

An updated weekly rota received on 10/06/2025 confirms that the home would be run by a Registered Manager who (contrary to the original details submitted within the supporting Statement) would not reside on site, and a team of support staff.

The team of support staff comprises a Deputy Manager, 2no senior residential care workers, and 4no residential care workers. Shifts are shown to begin at 07:00, which with a handover period, would also see the end of the previous overnight shift.

The rota specifies that there would not be any more than 2 staff on site at any one time, owing to the fact that the Registered Manager is stated as not being on site.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/0002/9578	Conversion To First Floor Design Studio And Ground Floor Flat (Refused 16/08/1990)
HPK/2001/0372	Change Of Use Of First Floor Workshop To Form Part Of Existing Dwelling (Approved 25/09/2001)

CONSULTATIONS

Publicity

Site Notice expiry date: N/A
Neighbour consultation period ends: N/A
Press Advert: N/A

Public Comments

1no objection has been received in connection with this application which presents the following grounds of objection:

We share a common back yard, along with 3 other houses, with this property. The Barn has no private outdoor space, It's all shared. The only entrance to the Barn is within the shared space via a communal gate.

None of the properties have off road parking, and parking is very problematic already without the increase in vehicles this change of use would bring. We therefore don't feel this is a suitable property for this proposed use.

A further objection from this same neighbour wishes to notify the Council that the company seeking permission have installed a CCTV with lights that is intrusive to neighbours as it has a light facing neighbouring yard areas, and that there was no consultation with neighbours in this regard.

OFFICER COMMENTS

Whether, as a matter of fact and degree, the proposed use of the property is materially different to the existing use, and thus whether the proposal falls within the definition of development under Section 55 of the Town and Country Planning Act 1990.

Relevant Legislation

Section 55 of the Town and Country Planning Act 1990 defines the term "development" and states the following:

- (1) *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.*
- (2) *The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—*
 - (a) *the carrying out for the maintenance, improvement or other alteration of any building of works which—*
 - (i) *affect only the interior of the building, or*
 - (ii) *do not materially affect the external appearance of the building,*

Section 192 of the Town and Country Planning Act 1990 refers specifically to applications seeking a Certificate of Lawful Development for a proposed use and states the following:

- (1) *If any person wishes to ascertain whether—*
 - (a) *any proposed use of buildings or other land; or*
 - (b) *any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.*
- (2) *If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.*

Relevant Case Law

The early court decision of *East Barnet UDC v British Transport Commission* (1962) held that not every change is material as “material” means material for planning purposes.

In *Palsar v Ginling* (1948) it states that for a material change of use to have occurred, the new activity must be “substantially different” from that which preceded it.

The *North Devon Judgement* (2003) considered the change of use from a residential family home (C3) to a Children’s Care Home (C2) whereby children were cared for by a team of support staff on a rota basis and held that carers who provided 24hr care but were not resident could not be regarded as forming part of a household.

This judgement also held that it does not necessarily follow that a change of use class amounts to a material change of use, and that whether a material change occurs is a matter of fact and degree, based on the specifics of each case.

PPG Guidance

The online Planning Practice Guidance (PPG) contains further guidance for assessing and determining applications for Certificates of Lawful Development and includes the following:

“A local planning authority needs to consider, whether on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.”

In determining an application for a prospective development under Section 192 a local planning authority needs to ask ‘if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes.

A local planning authority may choose to issue a lawful development certificate for a different description from that applied for, as an alternative to refusing a certificate altogether...”

Assessment

Each application should be determined on its own individual merits to decide whether a material change of use from that of a 4no bedroom dwellinghouse (C3 Use), to a Care Home for 4no Adults with care needs (C2 Use).

Firstly, it is clear that the proposed change of use does not include any external alterations to the dwellinghouse and thus would not materially alter the character and appearance of the building.

Second, it is necessary to compare the functionality and operations of the existing residential dwellinghouse, how this would change as a consequence of the proposed change of use, and whether this change is material.

The 2no. children residing at the Care Home would live alongside staff members as a single household, having full access to all communal rooms within the property. Staff would care for children in the similar way to that of a parent caring for their children in a similar dwellinghouse.

Whilst it is accepted that a change of use does occur by virtue of the existing residential property being occupied by 2no children, being cared for by a team of care staff on a rota basis, it is considered that the change in the way in which the property operates and functions as a Care Home (C2) is not “materially” different to the existing dwellinghouse (C3) owing to the fact that the home would function and operate much in the same way as a family unit, with staff and children sharing communal living areas, with staff undertaking domestic chores such as cooking and

cleaning in the same way as parents would care for children in a family dwellinghouse.

Thirdly, it is necessary to assess whether there are any material change of use with regards to the number and frequency of vehicle movements or 'comings and goings' associated with the Care Home, comparable to the current residential dwellinghouse.

The existing 4no bedroom property (C3 Use) is reasonably capable of accommodating a family of 5, made up of 2no adults, and 3no children, two of which are of driving age (17+ years old), who all own their own private vehicle – amounting to a total of 4no private vehicles associated with the property.

Allowing for each vehicle departing the site to attend work or higher education as appropriate, and returning to the property in the evening, this would equate to a total of 8no vehicle movements per day, and 50 movements per week (Monday-Friday). When allowing for other vehicle movements associated with social trips, shopping, medical appointments etc, in mid-week evenings and at weekends, it is not unreasonable to conclude that the number of vehicle movements associated with the existing dwellinghouse would exceed 60-70no movements within a 7 day week.

The information provided by the applicant confirms that the 2no staff being on site at any one time would arrive and depart within half an hour of each other at 07:00, with the Registered Manager not working from the premises. 2no staff would be on site overnight.

An analysis of the vehicle movements associated with the above staffing levels reveals that based on this shift pattern extending across the whole (7 day) week, it would amount to a total of 4-6 vehicle movements per day, and approximately 40-50 movements per week. Given the highly sustainable location of the site, it is anticipated that some members of staff may arrive on site by public transport and therefore this represents the 'worst case scenario'.

Based on the specific facts of the case, it is considered that the number and frequency of vehicle movements associated with the proposed use and the demand for parking would not be materially different to the existing residential dwellinghouse, particularly when considering its location within a densely populated residential area.

Moreover, the existing residential dwellinghouse does not benefits from any off-street parking provision, with any vehicles associated with the dwellinghouse required to take advantage of on street parking free from restrictions.

Other Matters

The objection raises two points, the first of which relates to a lack of parking and the second in relation to the installation of a CCTV camera.

With regards parking, whilst this matter is relevant in considering whether the proposed change of use is lawful, it is not a matter that can be given any weight with regards to potential impacts. There would be no material change to demands for parking provision when comparing the existing and proposed use.

Secondly, with regards to CCTV, it can be permitted under the General Permitted Development Order 2015, subject to several criteria. However this application is not seeking to establish if the CCTV is lawful or not, and therefore should be reported to the enforcement team to investigate. If the CCTV is found to comply with the GPDO, the applicant is not required to consult with neighbours if they do not wish to.

CONCLUSIONS

The application seeks a Certificate of Lawful Development for the proposed change of use of an existing dwellinghouse (C3 Use) to a Children's Care Home for 2no children supported by a team of staff, with a maximum of 2no staff members (carers) on site at any one time.

A detailed assessment of the proposed use confirms that whilst the proposal does constitute a change of use, this proposed change is not "material" as a matter of fact and degree having regards to the specific facts of the case, in line with relevant case law. It is considered that there would be no additional coming and goings or a greater degree of disturbance than could be generated by the lawful use as a C3 dwellinghouse.

As such, it is recommended that the Certificate be granted in line with the amended description of development.

It should be made clear that should the details relating to the function or operations of the Care Home differ or intensify from details contained within supporting information submitted with this application that informed the Council's assessment, a degree of intensification could occur that means planning permission may be required.

OFFICER RECOMMENDATION : Grant Certificate

Case Officer: James Stannard

Recommendation Date: 24th June 2025

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council