

Delegated Decision Report

Application No:	25/0493	Statutory Period Expires:	8th October 2025
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Site:	28 Haisbro Avenue Newport South Wales NP19 7HY		
Proposal:	LAWFUL DEVELOPMENT CERTIFICATE FOR THE PROPOSED USE OF THE PROPERTY AS A CHILDREN'S HOME FOR ONE CHILD		
Applicant:	D Kursitis		
Type:	Lawful Development Proposed	Ward:	St Julians
Decision:	GRANTED		

1. BACKGROUND

1.1 None.

2. SITE LOCATION AND CONTEXT

2.1 The property is a detached, modern dwelling that was granted planning permission along with two other properties of a similar design and scale in 2008. They are set back from the highway and accessed via a private drive. The wider area is predominantly residential in character and the site is neighboured by older style properties. The property has a parking space to the front, enclosed rear garden and the north-eastern boundary lies directly adjacent to the bank of the River Usk.

3. DESCRIPTION OF DEVELOPMENT

- 3.1 This application seeks a Lawful Development Certificate (Proposed) for confirmation that the use of the property as a care home to be occupied by one child does not represent a material change of use from the lawful C3 use.
- 3.2 No external alterations are proposed, and the existing and proposed floor plans show no changes and comprise of a hallway, living room, kitchen, utility room, bathroom, bedroom and storage room with a bedroom, bathroom, activity room at first floor.
- 3.3 It is stated that the use would involve occupancy by one child with learning difficulties. The property will operate as a solo placement residential care home, offering individualised, person-centred support. The home is intended to promote the independence, dignity, and well-being of the individual in a setting that reflects the structure of a typical family home. In terms of staffing levels, in general two staff will be present during the day, with one waking night staff overnight, and a registered manager on-call. A manager will oversee the home and attend the site on an ad hoc basis. Staff will work on a 24-hour shift rota to ensure 24/7 support for the resident.

4. RELEVANT SITE HISTORY

07/1555	ERECTION OF THREE DWELLINGS AND NEW VEHICULAR ACCESS	GRANTED WITH CONDITIONS
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5. ASSESSMENT

5.1 The current lawful use of the application property is a dwelling house (Class C3a). A children's home may fall within Use Class C3B, where the total number of residents does not exceed six and the carers and the cared-for live as a single household. The starting point here is the concept of the 'household', which would have to be satisfactorily met for a children's home to fall within Class C3. In *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, 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

indeed be regarded as living as a household, and this would not be the case where carers only live there sometimes.

- 5.2 Since *North Devon 2003* this matter has been the subject of many appeal decisions and the generally established position is that where the staff of a children's home work on a shift basis there will not normally be a 'household' formed and, therefore, the use will not fall within Class C3(b). However, as has been consistently confirmed over many years, even if a proposed children's home does not operate in a way that means that it squarely falls within Class C3, there still needs to be a proper assessment as to whether such use would involve a material change of use requiring planning permission. This has been tested many times at appeal and is a case-by-case assessment. It is therefore necessary to establish whether the change of use from a family dwelling to (in this instance) a home for no more than one child in care with generally not more than 2no. staff for the majority of the day although potentially more at staff changeover times 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.

Children's Care Home vs Family Dwelling

- 5.3 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 visit 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.
- 5.4 In this instance, in terms of the way in which the proposed use would operate it has been confirmed that adults will always be present with the resident child in the home, there will be one resident child and generally two staff members present, excluding shift changeover and occasional visits from a manager. Staff work on a 24 hour shift pattern. The resident and staff would share communal facilities such as a traditional household, i.e., a shared kitchen, bathroom and living area. There will be no signage or commercial features to indicate that the property is operating as a care home. As such, it is not considered that this would amount to the property being a secure unit or materially different to a dwellinghouse, as has been satisfactorily demonstrated throughout the supporting statement. This view is supported within appeal decision APP/X3025/X/15/3003794 against the decision of Mansfield District Council.
- 5.5 In terms of vehicular movements and parking, there is one off street parking space at the property at present and excluding the original garage. Other than the shift changeover whereby there would be a short overlap between staff, the property would not result in vehicle movements or parking demand that are reasonably considered to be over and above what could be generated by the existing use as a three/four-bedroom dwelling house. Not taking into account staff lift sharing or using public transport, which is feasible, there could be up to a maximum of four staff vehicles associated with the property during a changeover. This would take place at 24 hour intervals and in one instance, as opposed to several changes over the course of a day so shift changeovers are not considered as being 'frequent'. Whilst not referred to in the supporting information, it is anticipated that there may be visits from professionals such as social workers on an occasional basis. It is also important to acknowledge that a residential property would not only generate vehicle movements solely by residents, but you could also reasonably expect regular visits from family and friends or healthcare professionals if a household had an elderly occupant for example. In the current day and age residential properties also are subject to regular delivery vehicles attending site.
- 5.6 Based on the information that has been provided demonstrating how the property will be

used, it is not considered that vehicular movements or parking would be of a materially different character to a dwellinghouse. However, it is acknowledged that such changes can and are material under other circumstances and should the way the property is to operate change significantly over and above that described then this could be considered material in the future.

- 5.7 The original planning permission for the property and two neighbouring dwellings (07/1555) included a condition requiring parking, turning and garaging facilities serving each plot to be completed and kept available. The plans show that the garage has been converted without permission. It is not known how long ago the garage was converted although a recent site visit identified that there are renovation works taking place at the property and the garage conversion looks to have been undertaken recently. However, this is not considered to affect the considerations of this application and the lawfulness of the proposed use. The possible breach of planning control arising from the garage conversion is a separate matter.

9. OTHER CONSIDERATIONS

9.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

9.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

- 9.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

- 9.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

9.5 *Planning (Wales) Act 2015 (Welsh language)*

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

9.6 *Newport's Well-Being Plan 2018-23*

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact

upon the achievement of wellbeing objectives as a result of the proposed decision.

10. CONCLUSION

- 10.1 When taking the submitted case law and previous appeal decisions into account, the context of the site and the surrounding area, and the specific details provided with this submission with regards to how the use will operate with not more than one child and stated staffing levels, there would not be a material change of use and the certificate is granted.

11. DECISION

GRANTED

01 The proposed use of the property for the care of one child is not a material change of use of the property. The proposed use is lawful and the Certificate is granted.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site location plan, HA-01, Supporting Statement submitted 5/8/25.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). No Policies were relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.