

Delegated Decision Report

Application No:	24/0751	Statutory Period Expires:	7th November 2024
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Site:	82 Cotswold Way Newport NP19 9DL		
Proposal:	LAWFUL DEVELOPMENT CERTIFICATE FOR A PROPOSED CHANGE OF USE FROM C3 TO C2		
Applicant:	G Senior		
Type:	Lawful Development Proposed	Ward:	Ringland
Decision:	GRANTED		

1. BACKGROUND

- 1.1 There is no planning background available for the application property. The use as a dwelling house benefits from Use Class C3.

2. SITE LOCATION AND CONTEXT

- 2.1 The property is a large 4no. bedroom detached dwelling house located to the north of the highway and at the end of a residential cul de sac. The property has living accommodation across the ground and first floor, with an integral garage located below with parking space to the front.
- 2.2 The property is accessed via steps leading to a pathway and the main door is located in the eastern side elevation. To the rear, the property benefits from an enclosed rear garden and there is a vegetated buffer to the north (rear), with the M4 motorway laying further beyond. Either side, the property shares a boundary with a detached residential property of comparable set up.

3. DESCRIPTION OF DEVELOPMENT

- 3.1 The application is seeking a Lawful Development Certificate (Proposed) confirming that there is no material change of use from the lawful C3 use to the proposed C2 use.
- 3.2 No physical or operational development is required to facilitate the proposal with the internal layout of the property being retained as per the existing dwelling layout. The use is described as being for one or a maximum of two children living together and using the property in a way akin to a family home. The children would be cared for by two (if one child) or three (if two children) members of staff. The description later goes on the state that the applicant would anticipate there being one child/two children to two/three staff during the day (08:00 – 23:00) and one member of staff overnight (23:00-08:00).
- 3.3 It has been advised that the kitchen door may have a lock for safety reasons and any unused bedrooms may also have a lock on the door. This will depend on the young person's needs and requirements. However, the young person(s) who will occupy the property will not have locks on their bedroom doors. Education will either be web based from the dwelling or the young person(s) will travel to an educational facility via staff vehicle. All visits from family or professionals will take place away from the site in a neutral location.

4. RELEVANT SITE HISTORY

None.

5. PLANNING POLICY

5.1 NATIONAL PLANNING POLICY

NONE

5.3 NEWPORT LOCAL DEVELOPMENT PLAN (2011-2026)

NONE

5.4 SUPPLEMENTARY PLANNING GUIDANCE

NONE

6. CONSULTATION RESPONSES

6.1 None.

7. PUBLIC REPRESENTATIONS

7.1 None.

8. ASSESSMENT

8.1 The Concept of a 'Household' – North Devon 2003

8.1.2 The lawful use of the application property is a dwelling house (Class C3). A children's home may fall within Use Class C3 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 truly be regarded as living as a household, and this would not be the case where carers do not live there all the time.

8.1.3 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). The proposed use is C2 not C3. 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 a home for no more than 2no. children in care (C2) with up to 3no. staff 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.

8.2 Children's Care Home vs Family Dwelling

8.2.1 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.

8.2.2 Up to two residents and three members of staff being present during the daytime, excluding shift change over, could be considered akin to the number of occupants reasonably associated with a residential property of this large size, given that there are currently four bedrooms at the property. The residents and staff members would share communal facilities such as a traditional household i.e. shared kitchen, dining and living areas. Depending on the needs of the child(ren) they would either be taught via web based education or would go to offsite educational facilities during the day time and will travel together in a staff driven

vehicle, which is typical of a residential household. It is stated that all family or professional visits will take place off site at a neutral location and not the house.

8.2.3 In terms of vehicular movements, there is parking for 1no. car within the garage and 1no. car on the driveway to the front of the property which also has its own enclosed front garden area separating the dwelling itself from the highway. The existing 4no. bedroom dwelling requires on street parking for 1no. vehicle in accordance with the adopted Newport Parking Standards. Assuming each of the three members of staff drove to work then that would generate a parking demand of 3no. spaces, comparable to the existing dwellinghouse. At the staff change over times of 08:00 and 23:00 a further vehicle may be associated with the site and would need to park on street, however this would be limited to 12 hour change overs as opposed to several changes over the course of a day. The property is located near the end of a cul de sac on a street where properties have off road parking spaces. There does appear, from site visits, to be some pressure for overspill on street spaces from residential properties in the street but it does appear overly congested. The dwelling has open space to the rear and only 2 adjoining neighbours, one each side but all properties are detached with their own spacious rear gardens, garages, front gardens and drives. Based on the information that has been provided demonstrating how the property will be used with up to 2 children, 3 staff during day/1 staff during night, no family visits at site, etc, it is not considered that vehicular movements or parking would be a sufficient basis for determining that a materially different character of use would be taking place.

8.2.4 Similarly, with no expected family members or professional visits, no unusual vehicular movements relating to the supported living, education at home or via staff car, no physical changes to the property inside and out, the ability for children to interact and live as a household with staff member supervision, and the fallback lawful use as a 4no. bedroom dwelling, the change to a use falling within Class C2 is not material in this particular case. 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.

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, the fallback use and the specific details provided with this submission, it is considered that on the balance of probability, the proposal would not result in a significant change in the character of the existing lawful use as a 4no. bedroom dwellinghouse and would not have a material impact on local amenity. In this instance the proposal for up to two residents and three members of staff providing care over 12 hours shifts would not be material. As such, it would not require planning permission.

11. DECISION

GRANTED

01 The use of the property for the care of up to 2 young persons with 3 daytime and 1 night time member of staff would not result in a material change of use of the property and planning permission would not be required.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Location Plan (Received 12/09/2024); Floor Plan (Received 12/09/2024).

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.
