

Delegated Decision Report

Application No:	25/0227	Statutory Period Expires:	13th June 2025
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Site:	132 Caerleon Road Newport NP19 7GS		
Proposal:	LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED) FOR USE AS C3(B)		
Applicant:	S White		
Type:	Lawful Development Proposed	Ward:	St Julians
Decision:	ISSUED		

1. BACKGROUND

- 1.1 The property has been operating under a House in Multiple Occupation (HMO) License since January 2007 (as confirmed by Council records) until November 2024.
- 1.2 The application site was acquired by the applicant many years ago, as a C3 Dwelling. It was subsequently licensed as a small HMO for up to 6 residents at a time when such a use fell into use class C3 for planning purposes. Such a use would now fall within use class C4. The current LDC proposes to use the property as a C3b residence providing care to up to 6 residents who are not related. The form confirms this use has not commenced although there is a degree of ambiguity over this in the supporting information. Notwithstanding, the application is taken at face value. It is advised that that the property will be used as one household and residents will receive care from "The Whitehouse". Staff attend the property daily to ensure that all individuals have the support they need to live at the property. The Whitehouse employ 6 staff, who work to a rota set out each month. The Support is funded by Newport City Council's, Supporting People funds and at present there is a contact in place to support 6 individuals at this address.
- 1.3 In relation to the use of the property, the supporting statement advises that;

The Whitehouse provides support to individuals to live as independently as possible in the community. We assist tenants with domestic living skills including cooking a range of healthy foods, to form a varied diet. Each Tennant is expected to cook once a week for the whole household with and will have as much support as is needed to do this. Tenants have a cleaning/chores rota, and all tenants are supported to ensure the home is kept clean and tidy and to a good standard. Many tenants have difficulty talking to agencies, so at The Whitehouse we will support them to do this, tenants are signposted to places of education, work, volunteering and community based projects that can help them to develop and learn, alongside supporting good mental health. Staff will support or book appointments if need be, and transportation is provided to and from these appointments. Staff ensure that any disagreements or complaints at the property are dealt with as soon as possible, any anti social behaviour is addressed and that all recycling and rubbish is dealt with correctly...

...Tenants must be 18+ years old when they move into The Whitehouse, At present the youngest tenant is 25yrs old and the oldest is 69yrs old. All the tenants at the Whitehouse are extremely vulnerable and have been selected to live together because their vulnerabilities are similar.

Referrals are made through Social Services, Psychiatric nurses, self-referral, Probation Service or through Newport City Council's homeless system...

- 1.4 No alterations are proposed to the property.

2. SITE LOCATION AND CONTEXT

- 2.1 The property is a large two storey bay fronted dwelling located to the east of Caerleon Road. It is set back from the highway behind a dwarf wall and hedge within a curtilage that comprises of small front forecourt and enclosed rear garden.
- 2.2 The property contains 1no. bedroom, a living room, bathroom, dining room and kitchen at ground floor and 5no. bedrooms and bathroom at first floor.

3. DESCRIPTION OF DEVELOPMENT

- 3.1 The application forms submitted states that the Lawful Development Certificate (Proposed) is seeking confirmation that the use of the property is C3 (Dwellinghouse).
- 3.2 The applicant has advised in the forms that although the property has been registered as a HMO for over 20 years, it has come to their attention that as there has been 6no. occupants with mental health issues receiving support to live at the address the use of the property is C3.
- 3.3 For accuracy, in agreement with the applicant the description of the application has been updated to include reference to use class C3(b).

4. RELEVANT SITE HISTORY

None.

5. PLANNING POLICY

- 5.1 NONE.

6. CONSULTATION RESPONSES

- 6.1 HMO Licensing: The property has been licenced for the following periods:

24.01.2007 - 15.06.2009
12.10.2009 - 12.10.2014
12.10.2014 - 12.10.2019
12.10.2019 - 11.10.2024

7. PUBLIC REPRESENTATIONS

None.

8. ASSESSMENT

- 8.1 Notwithstanding the historical use of the site over the last 20 plus years, the C3(b) use proposed would have a lawful permitted change from either a C3 or C4 Use.. The key consideration as part of this Lawful Development Certificate is whether the use as described is lawful having regard to the apparent lawful use as C3 dwelling to be used as a C3b dwelling providing care to residents.
- 8.2 An appeal case concerning the occupation of a bungalow in Nottinghamshire by five adults with learning difficulties and mental health issues throws light on the distinction between C3 and C2 Use Classes (DCS Number [200-004-885](#)). The Council had served an enforcement notice alleging the unauthorised change of use of the property from a dwellinghouse (C3) to a residential care home (C2). Meanwhile, the appellant sought a certificate of lawfulness, claiming that the existing use was for five residents living together as a single household and receiving care as permitted by C3(b). The inspector found that the enforcement notice had been issued without the proper authority and therefore declared it a nullity. Turning to consideration of the LDC appeal, however, he recorded that Class C3(b) is defined as the use as a dwellinghouse by not more than six residents living together as a single household where care is provided for residents. He reasoned that the fundamental question was whether the residents of the property formed a single household.
- 8.3 The inspector referred to *North Devon District Council v First Secretary of State [2003]* in which it was held that children were not capable of forming a single household in the absence of a live-in carer on the basis that children are not generally capable of running a

household themselves. In the North Devon case the judge remarked that the same would apply to adults who suffer from mental or physical disability who need care in the community. However, that judgment was considered in detail in *R (on the application of Crawley Borough Council) v FSS and Eve Helberg (Trading as the Evesleigh Group)*. In reaching his judgment on 'Eve Helberg' the judge remarked that he would be reluctant to read the comments of the judge in the North Devon case as laying down a principle that those who suffer from disability or are in need of care can never constitute a household. He concluded that the correct position is that a judgement needs to be made based upon the facts of each individual case having regard to the nature of the disability suffered and the degree of care required.

- 8.4 The inspector saw that the layout of the property was largely what one would expect of any family home, with a communal lounge, kitchen and garden area. Locks were provided on bedroom doors to provide privacy and security but he held that that, of itself, did not dictate that the residents did not form a single household, having regard to the prevailing sense of communal living. In proportion to the scale of the building as a whole he considered that the manager's office was small and not unexpected in a home where care was provided. There was nothing inherent within the layout of the property that would suggest that the use would fall outside Use Class C3(b), the inspector determined. In addition, he recorded that the residents had formed friendship bonds. The communal living arrangements and the way in which household tasks were undertaken indicated to him that they were living as a single household, and care was provided on a shift basis such that none of the care workers were resident at the property. He noted that there had been incidents of noise and antisocial behaviour but reasoned that it is inherent within the terms of the Use Classes Order that those with mental disorders may fall within Class C3(b). Whilst acknowledging that the behaviour of residents might seem unusual or intimidating to neighbours, the incidents recorded by the police did not indicate that the residents were incapable of forming a household for the purposes of Class C3(b). A certificate of lawfulness was issued on the basis that the property was in use as a dwellinghouse as defined by Class C3(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and no material change of use had taken place from the previous lawful use within Class C3(a) of that Order.
- 8.5 A site visit to the property was undertaken on Tuesday 27th May 2025. The six current residents were present at the property during the visit. The layout was largely what you would expect of any family home and it was apparent that residents were occupying the property as a single household using the shared facilities such as the living room, dining room, kitchen and bathrooms as well as rear garden. In the dining room there was a notice board which included information such as daily rotas for household duties such as cooking, washing up and shopping. Cleaning rotas for residents were provided in the bathrooms. It was noted that bedroom doors included locks to provide privacy and security but it is held that this, of itself, did not dictate that the residents did not form a single household. There was nothing inherent within the layout of the property that would suggest that the use would fall outside Use Class C3(b). Care/support is provided within the hours of 0900-1700 and outside of those hours contact details are provided on the notice board should residents require assistance. The residents are confirmed as being placed by separate authorities having regard to shared vulnerabilities that will facilitate them living as a household and able to form bonds within it.
- 8.6 Having had regard to the aforementioned decisions, the information submitted by the applicant and from the site visit undertaken, it is considered that the use of the property for up to 6no. adults who live as a household and receive support has demonstrated the use is C3(b) and is a lawful use of the property.

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 The use of the property as outlined within the application falls within the C3(b) use class and is lawful. The Certificate is granted.

11. DECISION

GRANTED

01 The applicant has shown that the proposed use of the property is as C3(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and its use as a residence providing supported living for up to 6 adults is lawful.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Location Plan; 2025.492 SK01 A – Existing Ground/First Floor Plans; Access to the White House (June 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.