

Delegated Report

Planning Reference: 25/00733/CLP
Applicant(s): Mr Liam Toland
Ward: Hinckley Trinity



Hinckley & Bosworth
Borough Council

Application Site: 6 Aldin Way, Hinckley

Proposal: Certificate of proposed lawful development for change of use of a dwellinghouse (C3) to a children's care home (C2)

Case Officer: Ashleigh Gade (Senior Planning Officer)

1. Recommendations

1.1. Grant Certificate of Lawful Proposed Development

2. Planning Application Description

- 2.1. This application seeks a Certificate of Lawful Proposed Development to confirm that the change of use of a Use Class C3 dwelling to a Use Class C2 residential care home for up to three young people at 6 Aldin Way, Hinckley constitutes lawful development.
- 2.2. No physical works are proposed as part of the change of use and the property will retain its existing layout and appearance.
- 2.3. To facilitate the operation of the residential care home, a maximum of three care staff shall be present during daytime shifts, and a maximum of two staff shall be present over the night shift. The daytime shift operates between 7:00am and 10:00pm and the night shift between 10:00pm and 7:00am, ensuring 24-hour coverage.
- 2.4. Visits to the site by the site manager will occur between 9:00am and 5:00pm. Outside of staff, visits to the site are anticipated to be minimal as professional appointments, including healthcare, are to be undertaken off-site. It is anticipated that family visits would be in rare circumstances only and would in such cases be pre-arranged.

3. Description of the Site and the Surrounding Area

- 3.1. The application site is located within the settlement boundary of Hinckley, to the north-west of the settlement. It is located approximately 1.2 kilometres from the town centre of Hinckley.
- 3.2. The application site contains a two-storey detached dwelling. The dwelling comprises four bedrooms, two bathrooms and one WC, a kitchen and breakfast

room, lounge room, dining room, an office and an integrated garage. The dwelling is of brick construction with red and orange facing bricks and a tiled roof. To the front of the site is a paved car parking area.

- 3.3. The application site has existing vehicle access from Aldin Way. Aldin Way is an adopted and unclassified road subject to a speed limit of 30mph.
- 3.4. The surrounding area is predominantly residential in character and comprises mostly a mix of detached and semi-detached two-storey dwellings. The scale and design of surrounding dwellings in the area to the north and west of Aldin Way is relatively consistent, forming part of the same estate and built out at approximately the same time.

4. Relevant Planning History

- 4.1 Nil.

5. Publicity and Consultation

- 5.1. There is no statutory requirement to consult third parties on an application for a lawful development certificate. It may, however, be reasonable for a local planning authority to seek evidence from these sources, if there is a good reason to believe they possess relevant information about the content of a specific application.
- 5.2. Notwithstanding this, 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 not relevant when determining the application given that it seeks the formal opinion of the LPA as to whether the proposed use requires planning permission.
- 5.3. In this instance, letters were sent out to neighbouring properties.
- 5.4. A total of five responses were received from five separate addresses. All five responses objected to the proposal.
- 5.5. The responses in objection to the proposal are broadly summarised as follows:
- Many local neighbourhoods and communities are being damaged by planning applications such as this one to change family homes to residential institutions.
 - These types of planning applications undermine foster care, which is in decline.
 - There are reports which highlight poorer outcomes and financial impact from private children's care homes funded by taxpayers through local councils.
 - Applications of this nature go through rapid timescales with limited evidence and scrutiny beyond planning material considerations and proceed in spite of valid objections from local communities.
 - Planning officers and committees do not have the expertise to consider wider decision making on the requirements of services for vulnerable children.

- Private providers are seizing opportunities and loopholes created by irrelevant planning rules to apply to approve changes to residential homes in a view to capitalise on the demand for care.
- Applications for change of use from C3 to C2 should be rejected until considered by a separate independent regulatory body or group with appropriate experience to consider all associated factors.
- The property is unsuitable for such a purpose due to its positioning, proximity to neighbouring families with young children, and lack of appropriate infrastructure.
- A full risk assessment should be conducted as several critical issues have not yet been addressed.
- The property directly overlooks neighbouring garden and living spaces and raises concerns about privacy and safety.
- Young children reside in properties which overlook, are overlooked by, or have gardens which back on to the property in question.
- Children in neighbouring dwellings may be exposed to disruptive or inappropriate behaviour.
- There are concerns for the safety and wellbeing of the children who may be placed in the care home, in relation to activities involving other neighbours on the street.
- The application lacks detail regarding incident response procedures and who to contact, expected response times in event of incidents and measures to mitigate noise from staff, visitors, installed safety alarms and sirens.
- The property is located near the entrance of the estate's primary access road, and the operation of the site involves multiple staff members arriving and departing through the day.
- The increased vehicle movements and on-street parking could obstruct visibility and pose a safety risk to drivers and pedestrians, including young children.
- The application does not address staff changeover times, which may lead to 5 or 6 vehicles being present during transitional periods.
- Houses of multiple occupancy of this nature cause fears of anti-social behaviour, crime, vandalism, and noise for everyone.
- Neighbours have not been made aware of the proposed change formally and there has been no prior consultation.
- The area is a quiet, family-oriented residential estate with many young children, the care home with staff on rotating shifts and children with complex needs could alter the character of the neighbouring and affect the peaceful environment.
- The property has a covenant stating a business of this type cannot be run from the property.

5.6. No further responses have been received.

6. Policy

6.1 Section 192 of the Town and Country Planning Act 1990.

7. Appraisal

- 7.1 Section 192 of the Town and Country Planning Act 1990 enables any person with the opportunity to ascertain whether any proposed use of buildings or other land, or any operations proposed to be carried out in, on, over or under land would be lawful.
- 7.2 The statutory framework covering, 'lawfulness,' for lawful development certificates is set out in Section 191(2) of the Town and Country Planning Act 1990. Section 191(2) of the Town and Country Planning Act 1990 confirms that uses and operations are lawful at any time if:
- (a) No enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
 - (b) They do not constitute a contravention of any of the requirements of any enforcement notice then in force.
- 7.3 Planning Practice Guidance (PPG) states that the applicant is responsible for providing sufficient information to support an application. In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable to a local planning authority to understand exactly what is involved. Without sufficient or precise information, a local planning authority may be justified in refusing a certificate. However, this does not preclude another application being submitted later on if more information can be produced.
- 7.4 Ultimately, the PPG highlights that 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.

Use Class

- 7.5 There are no provisions within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) that enable a Use Class C3 dwellinghouse to be converted to a Use Class C2 residential institution via Permitted Development Rights.
- 7.6 The Town and Country Planning (Use Classes) Order 1987 defines Use Class C3 uses as:
- "Use as a dwellinghouse, as a sole or main residence and occupied for more than 183 days in a calendar year by–*
- (a) A single person or by people to be regarded as forming a single household; or*

- (b) *Not more than six residents living together as a single household where care is provided for residents; or*
- (c) *Not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4)."*

7.7 A Use Class C2 use is defined as:

"Use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3 (Dwellinghouses, used as sole or main residences)). Use as a hospital or nursing home. Use as a residential school, college, or training centre."

7.8 Paragraph 3.3.1 of the Applicant's Planning Statement confirms that staff on the site will operate under a rotating shiftwork pattern. This clarifies that while the children will live at the property, the care staff would not be permanent residents of the premises.

7.9 Whilst Government Guidance confirms that the law does not confirm an age when you can leave children on their own, it is an offence to leave a child alone if it places them at risk. It was established in the case of *North Devon District Council v the First Secretary of State (Queen's Bench Division)* (2003) at Paragraph 16, that:

"Children need to be looked after... As a matter of principle and approach the whole point of these homes is that the children are regarded as needing full-time care from an adult, someone to look after them, someone to run their lives for them and someone to make sure that the household operates as it should."

7.10 This justification was utilised at Paragraph 8 of the allowed appeal decision at 15 Crownhill Road, Burbage against the refusal of application 11/00279/CLU. Paragraph 8 of this Appeal Decision states that:

"Children need to be looked after and could not, on their own, be regarded in the true sense as a household without the presence of a carer. Carers who provide 24-hour care but who are not resident could be regarded as living together in a household. The concept of living together as a household means that in the context of Class C3(b), that a proper functioning household must exist."

7.11 By virtue of these factors, the Local Planning Authority (LPA) considers that the proposed use of the property does involve a change of use from Use Class C3 as a dwellinghouse to Use Class C2 for use as a residential institution for the care of children.

Material Change of Use

7.12 Paragraph 55(1) of the Town and Country Planning Act 1990 defines, 'development,' as 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.

7.13 Planning Practice Guidance (PPG) confirms that there is no statutory definition of 'material change of use;' however it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree and this will be determined on the individual merits of a case.

7.14 The Applicant in Paragraph 4.1.5 of their Planning Statement has referred to the statement made by the Minister of State for Housing and Planning on 23 May 2023. The 2023 Ministerial Statement confirms that:

"Planning permission will not be required in all cases of development of children's homes, including for changes of use from dwellinghouses in Class C3 of the Use Classes Order 1987 where the children's home remains within Class C3 or there is no material change of use to Class C2."

7.15 The proposal involves no external or internal alterations. It would therefore not result in a material change to the character and appearance of the property.

7.16 As a Use Class C3 dwelling, the property can be occupied by up to six residents who receive care and live as a single household. This proposal is for a residential care home providing care for up to three children with a maximum of three members of care staff on site during the day. Therefore, the proposed use involves the occupation of the property by up to six persons and does not exceed the limitations of a property as it could be utilised for a Use Class C3 use.

7.17 Paragraph 12 of the allowed appeal decision against the refusal of 11/00279/CLU at 15 Crownhill Road, Burbage considered potential vehicle movements of up to three staff members and concluded:

"Looking at the numbers involves, they are not materially different from what might be expected of a large family house in which, say, a parent and two teenagers or young adults live together, and each uses a car to get to work or college and for socialising."

7.18 The proposal involves a maximum of three members of staff on site during the daytime to provide care and a maximum of two staff members on site overnight. The Applicant's Planning Statement confirms that the changes in shift would occur at 7:00am and 10:00pm daily. The vehicle movements therefore arising from the use are not considered to be materially different in number to what might be expected of a large family home or a dwelling comprised of young adults living together.

7.19 Paragraph 3.4.1 of the Applicant's Planning Statement confirms that visitation to the site will be minimal. The children will not receive home visits from social workers or clinicians and where these consultations are required, they will occur off-site.

- 7.20 Paragraph 3.4.2 of the Applicant's Planning Statement clarifies that family visits in the circumstances of these children are typically arranged in neutral off-site locations and are not a regular occurrence.
- 7.21 The Applicant's Planning Statement confirms that professional meetings and training are not held on site, nor is the site expected to receive any deliveries beyond the typical delivery of grocery shopping.
- 7.22 Given the above, it is not considered that such visits to a use of this capacity would materially depart from that of a typical Use Class C3 dwellinghouse.
- 7.23 By virtue of these factors, whilst the proposal is considered to be a Use Class C2 Use, the scheme does not result in a material change to the use of the premises as a Use Class C3 use. In these site specific circumstances, the proposed change of use is therefore not considered to amount to development for which planning permission is required.
- 7.24 As a result, it is considered that a Lawful Development Certificate for the change of use of the property at 6 Aldin Way, Hinckley to a residential home (Use Class C2) for up to 3 young people between the ages of 8 and 18 years should be granted.

8. Equality Implications

- 8.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; and
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 8.3 There are no known equality implications arising directly from this development.
- 8.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights,

specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

9. Conclusion

9.1 Based on the facts of the case and the relevant planning law, the change of use of property at 6 Aldin Way, Hinckley to a residential home (Use Class C2) for up to 3 young people between the ages of 8 and 18 years does not represent a material change in the use of the application site and therefore the Lawful Development Certificate should be granted for the proposed use in these site-specific circumstances. This conclusion is made on the basis of details provide by the Applicant, and as shown on the following documents received by the Local Planning Authority:

- Application Form
 - Planning Statement
 - Location Plan
- All submitted 28.07.2025.

10. Recommendation

10.1 Grant Certificate of Proposed Lawful Development