

2025/1036

Mr Christopher Goundry

18 - 20 Church Street, Royston, Barnsley, S71 4QU

Certificate of proposed lawful development for the change of use from dwellinghouse (Use Class C3) to be used as small children's home (maximum 3 children) with non-resident carers (Use Class C2).

Site Description

The application relates to a detached 2 storey four bedroom dwelling which was formerly a pair of semi-detached houses. The dwellings' address is Church Street (a classified road, B6132) from where it is accessed via a private road which also serves a terrace of three dwellings. The access is narrow and has limited visibility onto Church Street (which has double yellow line parking restrictions in the vicinity). The dwelling also has access off New Street, where there are predominantly terraced houses with no off street parking and one business property, a carpet shop. New Street also provides access to Royston Cemetery.

Planning History

Application Reference	Application description	Status
2025/1052	Certificate of proposed lawful development for the change of use from dwellinghouse (Use Class C3) to be used as supported living for up to 4 young adults with non-resident carers (Use Class C3b).	Under consideration
2025/0820	Change of use from dwellinghouse (Class C3) to 4 Child Children's Home (Class C2)	Under consideration
2023/0028	Residential development of 2no. dwellings with primary access off New Street (Outline will all matters reserved apart from means of access)	Withdrawn
2017/1121	Residential development of 2no. dwellings with primary access off New Street (Outline will all matters reserved apart from means of access)	Granted
B/00/0535	Outline for residential development	Granted

Proposed Development

This application is for a Lawful Development Certificate under Section 192 of the Town and Country Planning Act 1990 and seeks confirmation that a proposed change of use from C3 to C2 to provide a children's home for four children is lawful and does not require planning permission. Section 192(1) the Town and Country Planning Act 1990 states that if any person wishes to ascertain whether any operations proposed to be carried out in, on, over, or under land, would be lawful, they may make an application for the purpose to the local planning authority describing the use or operations in question.

Section 192(2) then states that 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 shall refuse the application. No special restrictions or designations affecting the proposal are considered to apply to this site, such as permitted development rights having been removed, or listed status etc.

The application is supported by a planning statement, a statement of purpose, site layout plans, a staff rota, several application and appeal decisions and supporting emails. Submitted existing and proposed layout plans indicate that there would be no alterations to the dwelling but there would be internal and external alterations to the outbuildings.

Consultations

There is no statutory requirement for a Local Planning Authority to consult third parties on a lawful development certificate application, including neighbouring residents, since such applications are a matter of fact and law and are not determined on planning merits or judged against national and local planning policies and guidance. Nonetheless, the application was made available online. No comments were received.

Advice was sought from the following consultees:

Highways DC – Initial comments recommended that the application be deferred for further information

- Further comments received in response the submission of a site layout plan objected on the basis that the parking layout extends over sloping, patio and a raised border but there are no details to demonstrate that appropriate levels will be achieved or suitable materials used.

Legal Services – Initial comments sought additional evidence

- Further comments advise that on the balance of probabilities the use would fall within Class C2. Confirmed that this was on the basis of clarification including no on-street parking anticipated.

Ward Councillors – No comments received.

Assessment

The decision on a lawful development certificate application is based on the facts of the case and any relevant judicial authority. This means that any planning merits are not relevant to the application. The burden of proof is on the applicant to show that, on the balance of probability, the proposed use would be lawful.

Judicial authority (North Devon) states that children who need to be looked after and are looked after by carers who do not reside at the premises, do not function as a proper household. The proposed use involves the care of three children with care provided by a minimum of staff at all times. The carers would not reside at the property but would operate a work pattern on a 12-hour rota. There would always be two carers present and there would in addition be a manager present during the day on weekdays. This means that there would twice daily at shift turnover be five adults present at the premises. On the balance of probabilities, it is concluded that the use would fall within Class C2. It does not follow that Class C2 use would necessarily be materially different from the current C3 use of the property.

A material change of use is not defined in statute and is a question of fact and degree to the circumstances of an individual case. In judging whether there would be a material change of use in any given case, there must be a significant difference in character of any activity from what took place previously, that is from the use of the property as a dwellinghouse. Any off-site impacts of any new activity may also be relevant to the considerations in making such a judgement, including the impact on residential amenity, highway safety and parking. These are not determinative in themselves and should not be considered in isolation but should instead be considered as part of the determination as to whether the increase in scale of use has reached the point where it gives rise to materially different planning circumstances.

The proposed use of the home would provide care for three children by care staff working on a shift pattern. In addition to the comings and goings set out in the planning statement, including taking

children to school and bringing them home again, and visitors to the home as a children's home (2 per month weekdays) there will be the comings and goings of vehicles associated with the staffing of the home. The proposed shift changes at 8am and 8pm would result in increased vehicle movements at that time. This would be significantly greater than the comings and goings that would be associated with a single household living at the property and particularly in respect of the evenings, focused on a time of day when the character of the street is expected to be quiet. In addition, for the reasons given below, it is likely that there would be increased parking on New Street, in a situation where parking is a premium because of the lack of existing off street parking for the majority of the dwellings on the street.

The application site has existing vehicular access off both Church Street and New Street. The access off Church Street appears to have provided access to a single parking space, with space on the site to allow vehicles to turn such that they could both enter and exit from Church Street in a forward gear. The submitted site plans (March 2026) indicate a proposed single parking space accessed off Church Street, fenced such that there is no turning provision within the application site. This space would be accessed via a long private drive, where there is no turning provision, meaning that vehicles could not both enter and exit Church Street in a forward gear. Reversing manoeuvres onto and off Church Street, a classified road, would be detrimental to highway safety.

The access off New Street provides access to a parking area within the garden. The submitted site plans indicate that four parking spaces could be provided with a suitable turning area to allow vehicles to enter and exit the site in a forward gear. However, the parking area shown on the submitted site plans covers existing areas that include grass, slope, patio and raised beds. It is clear that works would need to be undertaken to provide these parking spaces. The applicant has not responded to the request for information to demonstrate that the levels and materials of the proposed parking spaces would meet an acceptable standard and not result in parking for the new use being displaced onto New Street or result in grass/mud being deposited on the public highway, to the detriment of highway safety.

Taking into account all these factors, the use of the property would result in a significantly different character from the existing residential use and would result in off-site impacts as a consequence of the proposed use including the comings and goings by staff, and their vehicles, with the likelihood of parking being displaced on to New Street and of vehicles reversing onto Church Street. Therefore, it is considered that there would be a material difference in the character of the proposed use of the property in comparison to the existing use of the dwellinghouse. The applicant has not demonstrated, on the balance of probabilities, that the proposed use would be similar in character to the existing use such that the proposed use would be lawful.

There does not appear to be any reason to conclude that the proposed use of the dwellinghouse itself would present any significant noise and disturbance over and above what would be experienced from a typical family home. However, it is considered that the use as a children's home for up to three children would result in significantly increased levels of impact above those associated with the lawful use of the application property as a C3 dwellinghouse. This is due to the off-site impacts on local residents as a result of the comings and goings by staff and visitors and their vehicles, and the parking displacement onto New Street, and the highway safety implications of vehicles reversing on to of off Church Street.

Accordingly, it is concluded that applicant has not demonstrated on the balance of probabilities that the proposed use would not constitute a material change of use of the application property and therefore this lawful development certificate for a proposed C2 should be refused.

Recommendation

Refuse Certificate for the following reason

The applicant has failed to demonstrate on the balance of probability that the change of use of the property from a dwellinghouse (Use Class C3) to a small children's home (maximum 3 children) with non-resident carers (Use Class C2) would not result in a material change of use. It is therefore concluded that the proposed change of use is not lawful and this lawful development certificate is refused.