

2026/0631

Mr Andrew Taylor

19 Saville Lane, Thurlstone, S36 9RE

Lawful Development Certificate for the proposed use of a domestic dwelling to be used as a children's home of up to 4 children

Site Description

The host dwelling is a large six bedroomed property which is stone built and set off Saville Lane, Thurlstone. The dwelling has one principle elevation facing onto Saville Lane which also faces onto the applicant's main garden area. The property has been extended previously with a two storey side extension, a loft conversion and front extension. There is no driveway or on-site parking available. Vehicles appear to park on Saville Lane where there are no parking restrictions, this is the same for neighbouring dwellings.

Planning History

Reference	Description	Decision
2012/1334	Raise height of roof to form loft conversion and installation of Velux windows	Approved with conditions
2020/0265	Erection of single storey front extension	Approved with conditions
B/91/0887/PU	Erection of two-storey extension	Approved with conditions

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(a) to C3(b) to provide a children's home for up to four children is lawful and does not require planning permission. A supporting statement states that no internal or external works are proposed. 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.

Consultations

There is no statutory requirement for a Local Planning Authority to consult third parties on a lawful development certificate application, including neighbouring residents or parish councils 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 and one comment was received from the neighbouring property.

Assessment

Where activity will result in a material change of use of a building to a use falling within a different use class, planning permission will be required to authorise that change of use. Depending on the circumstances of each case, a children's home will fall into either a C3 (dwellinghouses) or C2 (residential institutions) use classification.

The starting point is to first establish as a matter of fact and degree, whether such a use would constitute a change of use from C3 to C2. The issue largely centres on whether the occupants are in themselves capable of living together as a single household. Class C3(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended) refers to the use of a building as a dwellinghouse, as a sole or main residence and occupied for more than 183 days in a calendar year by "not more than six residents living together as a single household where care is provided for residents". If a children's home was operating on this basis, with children being cared for by a permanent occupant of the dwelling, then there would be no requirement for planning permission. However, the matter is less clear when the care could be more of a temporary arrangement and where staff work on shift patterns.

For the proposal to require planning permission, the local planning authority must be satisfied that the proposal amounts to a material change of use. What constitutes a material change is not defined within planning legislation and is a matter of fact and degree to be determined on the individual merits of each case, so the local planning authority must weigh up the facts of this case and make a planning judgement as to whether the change would amount to a material change or not.

The application relates to a substantial detached dwelling located within an established residential area characterised by family housing. The property currently functions as a dwellinghouse and the proposal seeks a Lawful Development Certificate for its use as a children's home accommodating up to four children within the provisions of Use Class C3(b).

Appeal decisions have found that the use of a dwellinghouse as a children's home may still, on its facts, fall within use class C3 even where staff are on a shift system and are providing care to residents but living in their own homes.

The submitted information indicates that the property would provide accommodation for a maximum of four children living together in a domestic environment. Care staff would operate on a shift basis, with staff members attending the property throughout the day and overnight as required. The owners of the dwelling house are formally foster carers and will be involved in the day care of the children as they have been for a number of years but will no longer reside at the property. Whilst this introduces a level of staff presence that would not necessarily occur within a typical family household, appeal decisions have consistently found that staffing arrangements alone are not determinative of whether a material change of use has occurred. In this case, staff are present primarily to provide parental-style care and supervision within a domestic setting rather than to operate a commercial business.

In assessing the likely impact of the proposal, consideration has been given to the level of comings and goings associated with the use. The main vehicle movements would occur at staff shift changeovers. However, given the modest scale of the operation and the occupation by only four children, it is not considered that the frequency of vehicle movements would be materially greater than those associated with a large family dwelling, which could reasonably generate regular trips from household members, visitors, carers, deliveries and service providers. Furthermore, there are no parking restrictions in the vicinity and there is no evidence to suggest that parking demand arising from the use would be materially different from the existing lawful residential use, especially given the long standing commitment of foster caring that the applicants have provided.

Similarly, with regard to residential amenity, there is no evidence that the occupation of the dwelling by up to four children would result in noise, activity levels or general disturbance that would exceed

those typically associated with occupation by a family. The day-to-day activities of residents would remain domestic in nature and would take place within a residential environment. The proposal would not involve any physical alterations to the property, external activity areas, or operational features that would give rise to an institutional character or materially alter the relationship between the property and neighbouring dwellings.

On balance, the Local Planning Authority is satisfied that the proposed use of the property as a children's home for up to four children would not result in a material change of use from its lawful use as a dwellinghouse. The proposal would therefore fall within Use Class C3(b) and would not constitute development requiring planning permission. Accordingly, the proposed use is considered lawful and the Lawful Development Certificate should be granted.

Recommendation

Grant Certificate