

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20240597
Location	8 Dunkirk Close Gravesend Kent DA12 5ND
Proposal:	Application for a Lawful Development Certificate in respect of use of existing house (C3a) for the provision of care to no more than 4 children and up to two carers living together as a single household (C3b).
Applicant:	Charlotte Wellington
Site Visit	N/A Desktop Assessment

Plans & Documents

Application Form
24-008-01 Rev P2 – Existing and Proposed Floor Plans
24-008-02 Rev P1 – Site Location and Block Plan
Planning Statement

Material Consideration

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Relevant Planning History

No relevant planning history.

Relevant Case Law

Court Cases:

North Devon District Council v First Secretary of State and Southern Childcare [2003]

Officer Assessment

Permitted Developments Rights Restrictions

Article 2 (3) Land (AONB, Conservation Area)	N
Article 4 Direction	N
Permitted Development Rights Removed/Restricted	N

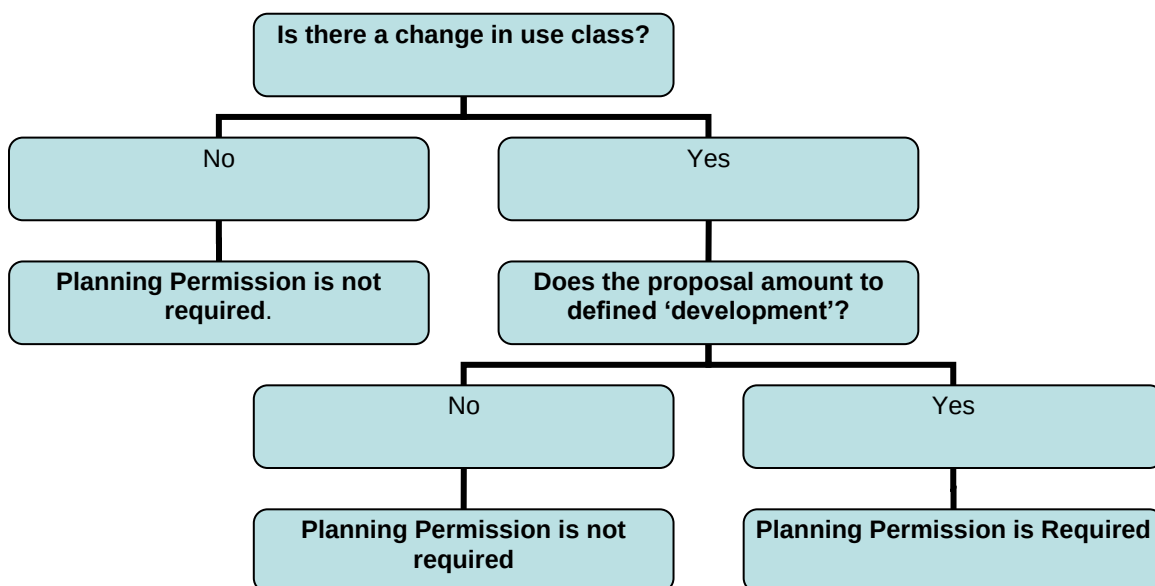
This proposal to use the existing dwellinghouse under use class C3, as a children's home for the occupation of up to 4 children at a time aged between 8-15 and 2 carers, is determined by whether the new way of using the

property would be considered development or not, under the definition applied by Section 55 of the Town and Country Planning Act 1990 (as amended).

If the proposed use class is a material change of use and therefore falling within the definition of 'development', planning consent would be required as there are no existing permitted development rights for such a change of use. Whether the development would be considered to be 'Development', is a matter of fact and degree, a decision for the Local Planning Authority. However, this assessment is guided by the existing policy, definitions, and planning case law in order to achieve a consistent approach, whilst ensuring that planning legislation is applied in an appropriate way, reflective to the extent of the proposed change.

Therefore, there are two strands of assessment to be undertaken here. Firstly, does the proposed use result in a change of ascribed use class? If so, does the proposal result in a change which constitutes defined 'development'?

The below diagram explains the stepped process of this assessment.



Use Class C3 is described as:

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(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).

Use Class C2 is described as:

Class C2. Residential institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

There is potential that such a use would fall under class C2 – Residential Institution. The use classes order 1987 specifically refers to Class C2 as including the personal care of children.

Assessment of Use Class

In the case North Devon District Council v First Secretary of State and Southern Childcare [2003], it was assessed that where carers did not reside in the property full time, it would not be considered to be a 'household' under the requirements of class C3(b) and the use class would then revert to Class C2. This judgement was applied independent of the size of the 'institution'.

The applicant has confirmed in this case that the property would be occupied by up to 4 children. It would be attended by 2 members of staff on a shift pattern which would be;

Carer 1 - 8:00am – 8:00pm then 8:00pm – 8:00am
Carer 2 – 7:30am – 5:30pm

The planning statement confirms that only 1 carer will sleep at the property with the children and this person will be present on site, 24/7.

As per the aforementioned judgement, as a staff member would be permanently residing within the property, it would be considered to be a 'household' in this regard. Therefore, the proposal would not constitute a change of use as the proposed use would remain C3 (C3a to C3b). Therefore, as there would be no change of use class Planning Permission is not required and whether the proposal would amount to 'development' under the planning definition does not require further assessment.

Conclusion

This proposed development would not require a change of use class from C3(a) to C3(b) as both fall under the umbrella of C3 (dwellinghouse) use. Therefore, planning permission is not required and it is recommended that this Lawful Development Certificate is granted.

Recommendation: Grant Lawful Development Certificate

Case Officer:	Mrs Lisa Fisher	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	12th August 2024	Dated:	21 August 2024