

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20250472
Location	5 Lower Range Road Gravesend Kent DA12 2QL
Proposal:	Application for a Proposed Lawful Development Certificate in respect of the change of use from Class C3(a) (Residential) to Class C2 (residential institution) to provide assisted living accommodation.
Applicant:	Mrs Akingbade
Site Visit	25 June 2025

Plans & Documents

Application form for a Lawful Development Certificate for a Proposed Use or Development;
Drawing no. 2503/001 Existing site plan;
Drawing no. 2503/002 Existing layouts and elevations;
Drawing no. 2503/010 Proposed site plan;
Drawing no. 2503/011 Proposed layouts and elevations;
Email from the agent dated 30 June 2025; and
Email from the agent dated 01 July 2025.

Procedural Issues

Following a request from the case officer, the description of the proposed development was amended from 'Application for a Proposed Lawful Development Certificate for the change of use From C3 (Residential) To C3b For Proposed Use For Assisted Living' to that shown at the top of this document.

Property Type

The property comprises of a three storey, mid-terraced dwelling with front and back gardens.

Material Consideration

Town and Country Planning (Use Classes) Order 1987 (as amended) and Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Relevant Planning History

None.

Officer Assessment

Permitted Developments Rights Restrictions

Article 2 (3) Land (AONB, Conservation Area)	No
Article 4 Direction	No
Permitted Development Rights Removed/Restricted	No

General Approach

This application is for a Lawful Development Certificate and not for a planning permission and therefore, the planning merits of the case are not relevant. The determination must be based on the facts of the case and the interpretation of any relevant planning law or judicial authority. The applicant is responsible for providing sufficient information to support the application and the proposal must be described with sufficient clarity and precision to enable the Local Planning Authority (LPA) to understand exactly what is involved. The case officer has had regard to the advice contained in the National Planning Practice Guidance (the section relating to LDCs, paragraphs 005 to 009).

Details of the proposed development

The applicant has submitted a number of plans/documents, which are set out in the Plans & Documents Section above.

The applicant is proposing a change of use of the application property from a dwelling (Class C3(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO 1987)) to provide assisted living for three adults (Class C3(b) of the UCO 1987). It should be noted that these use classes were identified by the applicant on the application form.

The applicant has set out that the application property was previously used as a single family dwelling and is proposed to be used for supported living. It would be occupied by three adults with mild to moderate learning disabilities. The care/support for the occupiers would involve day to day assistance but not continuous nursing care and would be provided over a 24 hour period, by one or two carers, working on a rota covering both days and nights. No staff would reside at the property permanently and the care staff would be overseen by a care manager, who would not be based at the property full time.

Visitors to the property would include the care manager and support workers once or twice per week, cleaning visits once or twice daily, social worker/healthcare professional ad hoc visits, by appointment and occasional visits by the family and friends of the occupiers.

The property would have four bedrooms, a communal kitchen/diner and bathroom, a store room and an office in the loft space (used for administration/paperwork by staff). No cooking, bathroom or living/dining facilities would be provided within the bedrooms and the occupiers would prepare and share food and have the use of washing machines/dryer in the kitchen. The finances (bills, expenses etc) and the property would be managed by a property management company.

Officer Analysis

The application property is currently vacant but was previously used as a single family dwelling, falling within Class C3(a) of the UCO 1987.

The proposed development would use the property to provide assisted/supported living for three adults and depending on the exact nature of that use, it could fall within either Class C2 or Class C3(b) of the UCO 1987.

Class C2 (residential institutions) of the UCO 1987 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)).”

Class C3(b) of the UCO 1987 is defined as “Use as a dwellinghouse (whether or not as a sole or main residence) by not more than six residents living together as a single household where care is provided for residents.”

Whether the proposed use falls within Class C2 or Class C3(b) is a matter of fact and degree and in reaching a determination as to which use class is relevant here, it is necessary to consider what is meant by a ‘single household’, ‘care’ and ‘supported living’.

Within the UCO 1987, care is defined as “personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental health disorder”, and in Class C2 also includes the personal care of children and medical care and treatment.”

Supported living is not a defined planning term and there does not appear to be a readily recognised definition of it. On the Kent County Council website, supported living/housing is explained as follows;

Supported living and supported housing is a way of helping adults with learning disabilities or mental health problems to live as independently as possible. Supported housing means you live in a small area of housing managed by dedicated care staff. Staff are available to help you during certain times of the day and night and some of our supported housing properties also have personal or community alarms in case you need to call for help urgently. Most of the time, you have your own small flat or room to yourself and use a communal area.

On the NHS website supported living services are explained as follows;

Supported living services can help if you do not want to live in residential care but you're finding it difficult to cope at home.

They're a combination of suitable accommodation – which can be your own home – with some forms of personal care (like help with washing or cooking).

Some supported living homes are shared by 2 or 3 people with a similar health problem, such as a substance misuse problem or a particular disability.

Staff usually visit the home to help you get out of bed, go out to college or work, and do simple tasks such as shopping, housework and repairs.

They can also help with administrative tasks and personal care.

As such, supported living provides a reasonable degree of independence for the occupier and although the level of care varies, it would normally involve the occupier having and managing (possibly with help) their own living space (which can be located within a shared property).

In this instance, the proposed occupiers would receive care within a shared property but the proposed use may not constitute supported living/housing.

The following paragraphs will consider the concept of a single household and assess whether the proposed development would provide supported living/housing and whether the use would constitute a single household for the purposes of Class C3(b) of the UCO 1987.

Established case law (notably *R(Hossack) v Kettering BC* [2002] EWCA Civ 886) indicates that Class C3(b) of the UCO 1987 was intended to include small community care homes consisting of up to six people living together under arrangements which include some care from staff. Furthermore, it highlights that people coming together not as a preformed group or for a predetermined period and only as a result of a common

need for accommodation, support and resettlement, could enjoy a relationship that enables them to be regarded as living in a single household.

Relevant to the consideration of whether a single household would exist are the characteristics of the property, including its layout and how it would be occupied and managed. For a single household use, you would expect communal living arrangements and a shared day to day responsibility for running the household, including some pooling of financial resources, shared preparation and eating of meals and the division of household tasks amongst the people living together.

Also relevant is whether the residents would be able to form a single household, for example, there are levels of disability or mental health needs, beyond which individuals would not be able to live communally and form bonds with each other and as such, they would not form a single household.

Lastly in the case of Class C3(b) uses, whether the carers are resident or non-resident and/or live communally with the occupiers is a consideration. Although it is noted that the Hossack case indicates that full-time, non-resident carers do not necessarily preclude a single household from being formed.

In this case, the proposed residents would have mild to moderate learning disabilities, which are not likely to preclude them from living communally and forming relationships with each other but it is noted that no specific information has been provided in this regard. The occupiers would have shared kitchen, bathroom and dining facilities, would prepare and share food and would have the use of washing machines/dryer. But the management of the property and financial arrangements would be done by a specific company (and not the occupants) and cleaning would also be outsourced. In addition, the proposed layout of the application property would include an office, which would be used only by staff (and not the occupants) to administer the day-to-day running of the residence/care arrangements. Lastly, carers would not reside at the property, working instead on a shift basis, with an intermittent presence that does not form part of a shared living situation with the permanent occupiers.

Taking all these factors into account, it would appear that the proposed use would entail personal care being provided but at a level above that of a typical supported living situation. Despite the mainly communal layout, the inclusion of a permanent office to manage care and day-to-day household matters, which is not available to residents in the property, the lack of shared domestic responsibilities amongst the residents and the intermittent presence of carers would suggest that the occupants would not form a single household. As such, the proposed development would not fall within Class C3(b) of the UCO but instead it would fall within Class C2 of the UCO 1987.

Section 55(1) of the Town and Country Planning Act 1990 (as amended) sets out the definition of development, which includes the making of any material change in the use of any buildings or other land. A material change of use is not defined in any statute or statutory instrument and is a question of fact and degree in each individual case. In judging whether there would be a material change of use in any given case, there must be a significant difference in the character of the new activity, from that which has taken place previously. Any off-site impacts of any new activity may be relevant in making such a judgement, including the impact on residential amenity, highway safety and parking. However, these issues are not determinative by themselves and should not be considered in isolation. They can be indicators of whether the increase in scale of a use has reached the point where it gives rise to materially different planning circumstances.

In this instance, the proposal would result in a change in the use of the property from a dwelling (Class C3(a)) to a residential institution (Class C2). The following paragraphs will compare the characteristics of the existing and proposed uses, in order to determine whether this change would be material and therefore constitute development under Section 55(1).

The application property would, in outward appearance, look like a dwelling and the shared nature of the facilities, except for the bedrooms, would retain many of the inherent characteristics of a dwelling. However,

the inclusion of an office to be used only by carers and the lack of occupation by a single household would undermine the domestic nature of the property. Although it is noted that many domestic properties include offices used solely for home working, which do not detract from their residential nature overall.

The day-to-day use of the property would be very similar to that of a dwelling, with the comings and goings of people and a domestic use of the garden and building. The existing property has three bedrooms (two doubles and a single) and a study that is large enough to be used as a single bedroom. As such, it could accommodate six persons living together as a single household. It is noted that a family in occupation could comprise of multiple adults with multiple vehicles, include occupiers with care needs (which could result in daily visitors to the property) and occupiers may undertake shift work, leading to comings and goings throughout the day and night.

In this instance, there would be three individuals with care needs, which could lead to the comings and goings by the occupiers, staff, visitors, multi-agency workers, vehicles and parking being greater than that associated with a single family dwelling. However, the applicant has set out that one or two carers would permanently be located at the property, on a shift basis, with a care manager and support workers visiting once or twice per week, cleaning persons visiting once or twice daily, ad hoc social worker/healthcare professional visits by appointment and occasional visits by the family and friends of the occupiers. As such, the property would generally accommodate five persons, with daily cleaning visits and other ad hoc visitors adding intermittently to the numbers of persons present. This level of comings and goings and domestic usage would not be greater than that of a large family.

Taking into account all the factors, it is considered that the proposed use of the property would not have a significantly different character to that of the existing residential use and as such, there would not be a material change of use, that would constitute development under Section 55(1) of the Town and Country Planning Act 1990 (as amended).

Conclusion

The proposed development would result in a change in the use of the property from a dwelling (Class C3(a)) to a residential institution (Class C2) but it would not constitute a material change of use. As such and in line with section 55(1) of the Town and Country Planning Act 1990 (as amended), planning permission would not be required. The proposal would therefore be lawful and pursuant to section 192(2) of the Town and Country Planning Act 1990 (as amended), a Certificate of Proposed Lawful Development/Use can be granted.

Recommendation: <u>Grant</u> Lawful Development Certificate
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Case Officer:	Mrs Kelly Joyce	Team Leader:	Mrs Faye Walsh
Signed:		Signed:	
Dated:	3rd July 2025	Dated:	08 July 2025