

# Comments summary

Dear Sir/Madam,

Planning Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 10/01/2026 4:20 PM from [REDACTED]

## Application Summary

Address:	19 The Fairway Gravesend Kent DA11 7LN
Proposal:	Application for a Proposed Lawful Development Certificate; Change of use from a dwellinghouse to a children's residential care home.
Case Officer:	Ms Amanda Cue

[Click for further information](#)

## Customer Details

Name:	[REDACTED]
Email:	[REDACTED]
Address:	[REDACTED]

## Comments Details

Commenter Type:	Member of the Public
Stance:	Customer objects to the Planning Application

Reasons for comment:

Comments: I object to the above application for a Lawful Development Certificate (LDC). Having reviewed the submitted Planning Statement, I do not consider that the applicant has discharged the statutory burden of proof required under section 191 of the Town and Country Planning Act 1990.

It is well established that an LDC may only be granted where the applicant demonstrates, on the balance of probabilities, that the proposed use would be lawful. The evidence must be clear, precise, and unambiguous. Where reasonable doubt exists, a certificate must be refused (Secretary of State v Arun DC [2006]).

Use Class and Lawfulness

The proposal is to operate a children's residential care home accommodating up to two children, supported by a total of eight staff operating on a rotational shift basis.

The Planning Statement confirms that:

- Occupiers will be unrelated children placed through formal care arrangements.
- Care and supervision are the primary purpose of the premises.
- Professional staff will be present on site at all times, including overnight.

- Staffing is organised through managed shift patterns.

In planning terms, the distinction between Use Class C3 and C2 depends on the nature and character of the use, not simply the number of residents. In *R (Moore) v Secretary of State* [2012], the court confirmed that the key test is whether a property operates as a single household or as a form of institutional care.

The presence of rotating staff, formal safeguarding procedures, controlled access arrangements, and continuous supervision strongly indicates a residential care use rather than occupation as a single household. While Class C3(b) allows for care within a dwelling, it does not apply automatically where the care function predominates.

In *North Devon DC v First Secretary of State* [2003], the court confirmed that organised care and supervision may place a use outside Class C3. The applicant's assertion that the proposal falls within C3(b) is not supported by decisive evidence and is insufficient for the purposes of an LDC.

#### Material Change of Use and Intensification

Even if the use were theoretically capable of falling within Class C3, the issue of material change through intensification must be considered.

A material change may arise where the scale, intensity, and character of activity materially differ from that of a private dwelling (*Hertfordshire CC v Secretary of State* [2010]). The Planning Statement confirms eight staff, regular shift changes, external professional visits, and continuous management and safeguarding activity.

In *East Hertfordshire DC v Secretary of State* [2018], it was confirmed that increased staffing and operational intensity can amount to a material change in the character of a residential use. The proposed level of organised activity goes beyond that normally associated with a dwellinghouse and cannot be certified as lawful via an LDC.

#### Parking and Operational Evidence

The application relies on on-street parking for staff and visitors, yet no quantified transport or parking evidence has been provided. In *Uttlesford DC v Secretary of State* [2021], the High Court confirmed that where operational impacts form part of the character of a use, a lack of objective evidence undermines claims of lawfulness.

#### Burden of Proof

The burden of proof rests entirely with the applicant (*Impey v Secretary of State* [1984]). Management intentions and future controls do not establish lawfulness. Any residual doubt must be resolved against the grant of a Lawful Development Certificate.

#### Conclusion

On the evidence provided, the proposal is capable of constituting either a Class C2 use or a materially intensified residential use requiring planning permission. The statutory tests for granting a Lawful Development Certificate have not been met, and the application should therefore be refused.

