



Delegated Report

Lawful Development Certificate (Existing)

Planning Application No: 20260151

Location: 30 Overcliffe Gravesend Kent DA11 0EH

Description: Application for an Existing Lawful Development Certificate; for continuing use as a dwelling house with an element of care for no more than 6. residents.

Applicant: The Hyde Group

Site Visit Date: Desktop Assessment

Plans & Documents

Planning Application Form;
Site Location Plan;
Drawing No. 100638 – Floor Plans;
Drawing No. 100638 – Elevations;
Covering Letter;
Supporting Information: Appendix A – Letter from National Autistic Society;
Supporting Information: Appendix B – Care Quality Commission Reports; and
Supporting Information: Appendix C – Redacted Tenancy Agreements.

Property Type

The property comprises of a semi-detached, two storey property with tarmacked parking area to the front and rear garden.



Legislation

Sections 171B and 191 of the Town and Country Planning Act 1990 (as amended).

Material Consideration

National Planning Practice Guidance <https://www.gov.uk/guidance/lawful-development-certificates>

Relevant Planning History

Reference	Description	Decision	Decision Date
19830187	Change of use from day school for autistic children to group home for young autistic adults	Permitted	23.05.1983

Consultations, Publicity and Representations

This is an application for a Lawful Development Certificate (LDC) that is considered on its facts and relevant planning law. As confirmed in the national planning guidance, views expressed by third parties on the planning merits of such cases are irrelevant. Accordingly, unlike planning applications, there is no statutory requirement to undertake publicity or consultation.

Despite no consultation being required, the following comments have been received.

GBC Environmental Protection

There is no objection to this application or adverse comments to make.

The Development

This LDC application seeks to establish whether the existing building has been in continued use as a dwelling house with an element of care for no more than 6. residents. The applicant seeks to confirm that the building has been operating within the Use Class C3(b) and therefore benefits from the moveability within the C3 use class in its entirety.

Officer Assessment

General approach

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). This application is for an LDC and not for a planning permission. As such, 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 burden of proving relevant facts rests with the applicant and the evidence submitted must be sufficiently precise and unambiguous to enable the Local Planning Authority to understand exactly what is involved. The decision must be made on the balance of probability.

In their covering letter, the applicants allege that the property has been in continuous and uninterrupted use as a dwellinghouse in which care is offered since at least 2008. The property has operated as a residential care facility for adults with autism by the care provider, the National Autistic Society (NAS).

The applicants' evidence is set out in the Plans and Documents section above.

The case officer has gathered the following information, which will also be taken into consideration in the determination of this application;

- Google Streetview Images (Appendix 1)
- Care Quality Commission Online Details (Appendix 2)
- Carehome.co.uk Online Details (Appendix 3)
- National Autistic Society Online Details (Appendix 4)
- NHS Online Details (Appendix 5)

Certificate of lawfulness of existing use or development

Under Section 191B of the Town and Country Planning Act 1990 (as amended), under Part 1, a person can ascertain whether – (a) any existing use of the building or other land is lawful. In order for the use of the property to be in lawful use under Use Class C3(b), it would have had to be in continued operation for 10 years or more.

Planning History

As the above planning history shows, the most recent planning permission approved was for the Change of use from day school for autistic children to group home for young autistic adults (App. Ref. 19830187) which was approved in May 1983. The permission included planning conditions which included (ii) *The premises shall be used as a group home for not more than 8 young autistic adults and one staff member and for no other purpose (including any other purpose in Class XIV of the Schedule of the Town & Country Planning (Use Classes) Order 1972).*

The applicant has stated in their covering letter that the property has been in continued and uninterrupted use as a dwellinghouse with a level of care since at least 2008. This current lawful development certificate application was made valid on 9th February 2026 and as such the date of immunity would be 9th February 2016 and as such the property would have had to be in continued use from that date.

Whilst this use class has subsequently been revoked, the condition is still relevant and as such, looking at that permission as a whole, there has been a breach of condition as the care home as a whole has been documented as caring for up to twelve adults. However, whilst there has been a breach of condition, no subsequent enforcement action was ever taken and the current use of the property and the operation of the care home has been in excess of ten years and therefore immune from enforcement action.

Class C3 Use

- **C3 Dwellinghouses** - This class is formed of three parts
 - o C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child
 - o C3(b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems
 - o C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger

Class C2 Use

- **C2 Residential institutions** - Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres

Is the property in use as C2 or C3(b) Use?

Use Class C2 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 disorder, and in class C2 also includes the personal care of children and medical care and treatment*'.

The distinction between Use Class C2 and C3(b) comes down to the level of independence. Class C3(b) applies when up to six individuals live as a single household with care support. Use Class C2 relates to residential care home, hospitals, nursing homes, boarding schools, residential colleges and training centres. This would usually be defined by timetables, shift-based staff rotas, and an institutional management structure.



As stated with the definition of Use Class C3(b), it allows for a level of care of up to six people with learning difficulties or mental health problems.

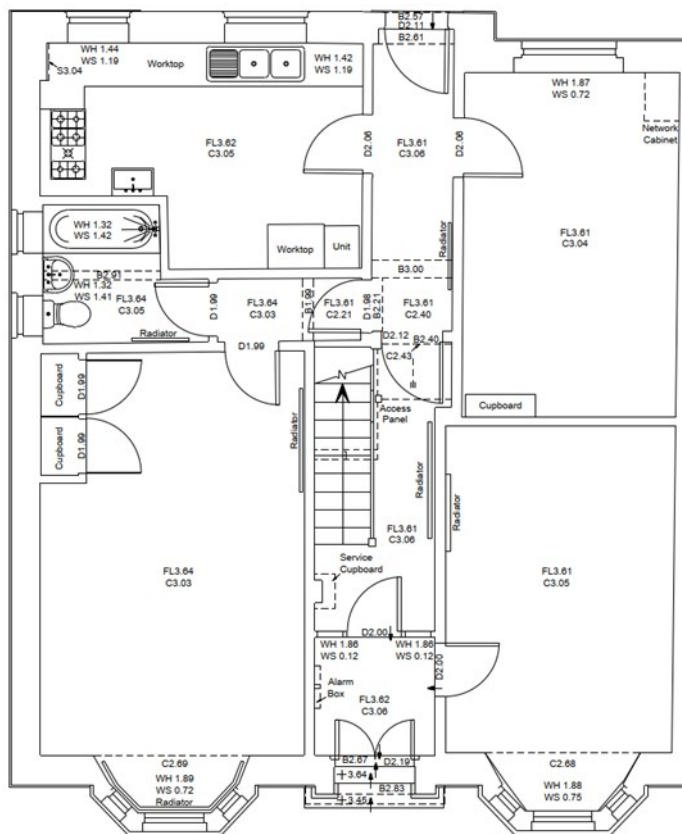
No. 30 Overcliffe, along with the adjacent dwelling of No. 31 Overcliffe, has been stated to be in operation for the care of adults with autism and is registered with the National Autistic Association. The information provided about the care home lends itself that it has operated as a single household for less than 6 adults and the information available online, including the NHS website states that it is a care home without nursing.

Within the covering letter, the applicant refers to a recent appeal decision (APP/B5480/X/24/3339187) dated 2 December 2025, the Inspector confirmed that *"For the use of the property to fall within Class (C3(b), it must be a dwellinghouse; there must be no more than six residents; those residents must live there as their sole or main residence; they must live together as a single household; and care is provided for the residents. Class C3(b) envisages an element of care that can be provided by staff"*.

Looking at the submitted floor plans, the property is shown to have an existing layout of a large domestic family dwelling house, consisting of entrance hall, 3no. reception rooms, bathroom, kitchen and rear lobby at ground floor level and 6no. bedrooms bathroom and separate toilet.

Floor Plans

Ground Floor



The reports from the CQC have consistently reported that the total capacity has always been 'up to twelve adults' between the two properties. The submitted floor plans, also show that both properties are separate of each other.

As such, and without an evidence to the contrary, the existing use of the property would fall within the Use Class C3(b) due to the number of occupants, layout of the property, the residential nature of the care home and the level of care received.

Summary of evidence

The submitted application form and covering letter states that No. 30 Overcliffe has been operating as a care facility for adults with autism under Use Class C3(b) since 2008. The submitted Care Quality Commission Inspection Reports and have been very detailed and clear that whilst the application property, No. 30 and the adjacent dwelling No. 31 have operated collectively as 'Overcliffe House' the home only provides care for up to twelve adults across both properties and that they are completely separate and individual buildings from each, both with similar layouts and facilities. The reports have detailed that each individual property has no more than 6 residents in each one and the level of care falls with the C3(b) parameters.

In terms of timescales, the reports submitted span from 2012, 2013, 2014, 2015, 2016, 2017 and 2022. The reports from 2012, 2014, 2015 and 2022 state that the service provided residential care without nursing which would demonstrate that the level and intensity of care provided being less intensive.

A letter from National Autistic Society also confirms that No. 30 and 31 Overcliffe have been in operation as a care home for adults with autism since at least 2008 and have done so on a continuous and uninterrupted basis and that neither property shared facilities. The letter also goes on to explain the reason to discontinue the use due to the demand towards supported living models which offer self-contained or en-suite accommodation.

It is noted that the Google Streetview information gathered by the case officer (Appendix 1) shows little change to the frontage of the property from October 2008 to October 2024.

The information gathered by the case officer (Appendices 2 - 5) all paint a similar picture in terms of the operation, timescale and use of the property and the level of care of the care home and the individual properties themselves.

Analysis of evidence

Planning History

As addressed above, the existing planning permission for the property for the Change of use from day school for autistic children to group home for young autistic adults (App. Ref. 19830187) was subject to planning conditions, of which condition (ii) restricted the occupants to 8 young autistic adults. Whilst there technically has been a breach of condition, no enforcement action was taken and whereby the current use has been in operation in excess of ten years, is therefore immune from enforcement action.

External Appearance of the Building

As can be seen from the Google Streetview images, the property has not altered considerably from 2008 to 2024.

Operation of Care Home

The submitted Care Quality Commission Inspection Reports and letter from the National Autism Society, together with all public available evidence found online, support that Overcliffe House, consisting of the individual properties of Nos. 30 and 31 Overcliffe, have operated under provided residential accommodation for no more than twelve adults across the two properties with autism with a level of care, within the Use Class C3(b) for a continuous period of in excess of 10 years.

Use Class C3(b) Assessment

As previously laid out above, the Borough Council are satisfied that the property has been in use within the Use Class C3(b).

Summary

Overall, the evidence provides support that, for a period of at least 10 years, 30 Overcliffe has been used as a residential facility, that the number of residents did not exceed 6, that the property was operated as a small-scale domestic setting in which residents would form a single household, and that a level of care was provided. The Borough Council has no evidence to the contrary, it is considered likely that the property has been in Use Class C3(b) for a period in excess of ten years.

Conclusion

Having reviewed all of the information submitted by the applicant and gathered by the case officer, it is considered that whilst there has been a breach of Condition (ii) attached to planning permission 19830187, this is now immune from enforcement action through the passage of time. Furthermore, sufficient evidence has been provided to conclude, that on the balance of probabilities, the existing property of No. 30 Overcliffe, Gravesend, has been operating in continued use for a period in excess of 10 years as a care home under the Use Class C3(b) which *covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems*. As such, the property is within Use Class C3 Dwellinghouses.

The Borough Council is therefore satisfied that the property of No. 30 Overcliffe, Gravesend is in lawful use of Class C3 by reason of Section 191(2)(a) of the Town and Country Planning Act 1990 (as amended) and a Certificate of Existing Lawful Use can be granted.

Recommendation: Grant Lawful Development Certificate

Case Officer:	Ms Amanda Cue	Team Leader:	Richard Hart
Signed:	<i>A Cue</i>	Signed:	<i>R Hart</i>
Dated:	2 nd June 2026	Dated:	3 rd June 2026