

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20260491
Location	29 Orchard Avenue Gravesend Kent DA11 7NX
Proposal:	Application for a Proposed Lawful Development Certificate; Change of Use from a Class C3 dwellinghouse to a Class C2 Children's Residential Care Home with associated care staff.
Applicant:	Super Young Minds Ltd
Site Visit	30 June 2026

Plans & Documents

Application form for a Lawful Development Certificate for a proposed use or development;
Drawing no. TQRQM26131134726320 Block plan;
Red line site boundary plan received 12 May 2026;
Existing and proposed ground floor layout received 12 May 2026;
Existing and proposed first floor layout received 12 May 2026;
Management Scheme;
Noise Management Plan;
Planning Statement; and
Email from the applicant received 02 July 2026.

Property Type

The property comprises of a semi-detached, two storey dwelling with front and rear gardens.

Material Consideration

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

Relevant Planning History

Reference	Description	Decision	Decision Date
19860035	Erection of garage at the rear	Permitted	05.05.1986

Consultations, Publicity and Representations

As set out in paragraph 008 Reference ID 17c-800-20140306 of the Government's Planning Practice Guidance, there is no statutory requirement to consult third parties on Lawful Development Certificate applications. Despite this, comments have been received from the Kent Police Designing Out Crime Team. The comments are as follows;

Kent Police Designing Out Crime Team

We have reviewed this application in regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF).

Applicants/agents should consult us as Designing out Crime Officers (DOCO's) to address CPTED and incorporate Secured By Design (SBD) as appropriate. We use details of the site, relevant crime levels/type and intelligence information to help design out the opportunity for Crime, Fear of Crime, Anti-Social Behaviour (ASB), Nuisance and Conflict.

There is a carbon cost for crime and new developments give an opportunity to address it. Using CPTED along with attaining an SBD award using SBD guidance, policies and academic research would be evidence of the applicants' efforts to design out the opportunity for crime.

We recommend SBD guidance is utilised to address designing out crime to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety and to meet our Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998. The points below identify my recommendations for the layout and design of this scheme.

1. Due to the proposed use of the site, we would recommend the applicant review current site security and boundary treatments. We advise boundary treatments to be a minimum of 1.8m in height with support beams facing inwards, any gates to a rear/ side access must also be securely lockable from both sides. It is essential that there is no unauthorised access to the rear of the site either via the side access route or via neighbouring premises.
2. We recommend CCTV be installed at the main entrance doors to monitor the movements of the occupiers. In some circumstances, it can be advisable for staff carry personal attack alarms and in some instances BWV cameras for safety purposes.
3. We recommend lighting to cover entrances to aid in natural surveillance.
4. If new external doors and windows are proposed, we recommend these to meet PAS 24: 2022 UKAS certified standard, STS 201 or LPS 2081 Security Rating B+. Existing rear doors and windows that are not being replaced may require limiters/ restrictors to help maintain security.

To note, as Designing Out Crime Officers we use Secured By Design Guidance in our recommendations. Whilst our comments may be standardised within this letter, we encourage the applicant to contact us to discuss the plans in further detail.

If approved, site security is required for the construction phase. There is a duty for the principle contractor "to take reasonable steps to prevent access by unauthorised persons to the construction site" under the Construction (Design and Management) Regulations 2007. The site security should incorporate plant, machinery, supplies, tools and other vehicles and be site specific to geography and site requirements.

We welcome a discussion with the applicant/agent about site specific designing out crime. If the points above are not addressed, they can affect the development and local policing.

This information is provided by Kent Police DOCO's and refers to situational crime prevention. This advice focuses on CPTED and Community Safety with regard to this specific planning application.

Officer Assessment

Permitted Developments Rights Restrictions

Article 2 (3) Land (AONB, Conservation Area)	N
Article 4 Direction	N

Permitted Development Rights Removed/Restricted	Y*
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* Condition (ii) of planning permission 19860035 requires the garage to be used only for parking a private vehicle.

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 a single occupancy children's residential care home (Class C2 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 that the application property was previously used as a single family dwelling and is proposed to be used as a children's residential care home. It would be occupied by a single child of between 5 and 18 years of age. Care staff would provide support, supervision and safeguarding on a 24 hour basis, operating on a shift pattern, at a ratio of two carers to one child. No staff would reside at the property permanently and the care staff would be overseen by a care manager and senior support worker, who would not be based at the property full time.

The application property would have three bedrooms (one for the child and two for the carers on duty), a bathroom, kitchen, w.c., living/dining room and a second living room. The smaller living room would be used as an office/staff living room by the carers/care manager. Three parking spaces would be provided at the front/side of the application property and secure cycle storage would be provided at the rear/in the outbuilding.

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 care for one child and depending on the exact nature of that use, it could fall within either Class C2 or Class C3(b) of the UCO 1987.

If the proposed use is Class C2 and constitutes a material change, then the proposal would fall within the definition of 'development' and planning permission would be required because there are no existing permitted development rights for such a change of use. Whether the change of use would be considered to be 'development', is a matter of fact and degree and will be discussed in the following paragraphs.

Therefore the two main issues for consideration are;

- Whether the proposed use falls within Class C2 or C3(b) of the UCO 1987; and
- Whether the proposed use constitutes a material change of use.

Whether the proposed use falls within Class C2 of the UCO 1987

Use Class C2 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 (dwelling houses, used as sole or main residences)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

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.”

The applicant considers the proposed use to fall within Class C2. But 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’ and ‘care’

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.” Therefore, the personal care of children relates mainly to a Class C2 use.

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/or whether children/young persons can undertake the tasks associated with running and living in a dwelling themselves.

Relevant case law relating to this is *North Devon District Council v FSS & Southern Childcare Ltd* [2003] EWHC 157 (Admin); [2003] JPL 1191, which determined that children cannot form a household and that if their carers do not live permanently at the property, the use would fall within Class C2 of the UCO 1987.

For 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 care home would be for a single child of between 5 and 18 years of age, who by virtue of their young age would lack the capability for domestic responsibilities.

Care staff would provide support, supervision and safeguarding for the child occupier on a 24 hour basis, operating on a shift pattern, at a ratio of two carers to one child. Therefore, for most of the time, the number of

persons at the property would be three (the child and two carers). A manager would attend the property as required during the working week and it is noted that the manager would also have responsibility for other similar care homes, which they would also visit during the working week. Therefore, the manager would be an intermittent presence between Mondays to Fridays only.

The applicant has set out that;

In terms of day-to-day living arrangements, the property would operate as a normal household. Meals would be planned and prepared within the kitchen at the property. Staff would support and involve the children in age-appropriate ways, including choosing meals, helping with preparation, setting the table, eating together and clearing away afterwards, depending on each child's needs, routines and care plan.

Other household tasks would be managed in the same way as in a family home. Laundry would be carried out using the domestic facilities at the property, with children encouraged to participate where appropriate. Cleaning would be undertaken by staff as part of the ordinary running of the home and, where suitable, children would be encouraged to help with basic household routines such as keeping their rooms tidy or helping with shared spaces. Gardening and external maintenance would be dealt with as part of the normal upkeep of the property, either by staff or through occasional domestic maintenance/gardening support as required.

However, no care staff would reside at the property permanently, instead they would be working on a shift basis, with an intermittent presence that does not form part of a shared living situation with the permanent occupier.

The smaller living room would be used as an office/staff living room by the carers/care manager (and not the occupant) to administer the day-to-day running of the residence/care arrangements and two bedrooms would be used by the carers but the rest of the property would be available to the occupier and be communally used.

Overall, despite the mainly communal layout, the inclusion of an office/living room to be used to manage care and day-to-day household matters, which is not available to occupier of the property, the lack of capability for domestic responsibilities for the occupier (by virtue of their young age) 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 1987 but instead it would fall within Class C2 of the UCO 1987.

Whether the proposed use constitutes a material change of use

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. But 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) of the Town and Country Planning Act 1990 (as amended).

The application property is a two-storey, semi-detached dwelling situated in a residential street, where surrounding properties are predominantly in single occupancy as dwellinghouses. There would be no external changes to the building and the only proposed internal alteration would be the use of a living room as an office/staff living area. To the front/side of the property is driveway with parking for three vehicles which would

not be altered. As such, there would be nothing externally to visually differentiate between the existing and proposed use of the application property.

The application property would, in outward appearance, look like a dwelling and the shared nature of the facilities, except for the staff office/living room, 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 applicant has set out that;

The intention is for the property to function as a stable domestic home for the children living there, rather than as an institutional or intensive-care setting. The staffing arrangements are there to provide appropriate safeguarding, supervision and support, but the pattern of occupation and day-to-day use would remain residential in character.

The day-to-day use of the application 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). As such, it could accommodate five 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, the property would generally accommodate three persons, with ad hoc visitors (including a manager and domestic maintenance/gardening support) adding intermittently to the numbers of persons present. It is considered that 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).

Other Issues

The comments of the Kent Police Designing out Crime Team are noted but cannot form part of the above assessment. They can be brought to the attention of the applicant in an informative attached to any LDC granted.

Conclusion

The proposed development would result in a change in the use of the property from a dwelling (Class C3(a) of the UCO 1987) to a residential institution (Class C2 of the UCO 1987) 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:	Richard Hart
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Signed:	<i>K Joyce</i>	Signed:	<i>R Hart</i>
Dated:	7th July 2026	Dated:	9th July 2026