



Appeal Decision

Site visit made on 2 September 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5TH SEPTEMBER 2025

Appeal Ref: APP/W4705/X/25/3367896

10 Aireworth Close, Keighley, West Yorkshire, BD21 4DS

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by SW Town Planning Ltd against the decision of City of Bradford Metropolitan District Council.
 - The application ref 25/00488/CLP, dated 9 February 2025, was refused by notice dated 7 April 2025.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is change of use from class C3(a) to C3(b).
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is found to be lawful.

Preliminary Matter

2. For the avoidance of doubt, I make clear that the planning merits of the proposal are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded with particular regard to whether on the date of the LDC application the proposed use of an existing dwellinghouse by up to two children between the ages of 8-18, and for up to two adult carers providing 24 hour care on a shift basis, constituted an act of development (i.e., a material change of use of the building) for which planning permission was required.

Reasons

4. There is no dispute between the parties that this mid-terraced property is lawfully a dwellinghouse, i.e., a use falling within use class C3(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO). I have no reason to disagree with this common ground position.
5. The appellant claims that the proposal would fall within use class C3(b) of the UCO which states '*not more than six residents living together as a single household where care is provided for residents*'. However, and, as a matter of fact and degree, I do not find that children on their own can form a single household and, moreover, the use of carers on a shift basis would mean that adults did not permanently live at the appeal property. In this context, I find that the proposal

would instead fall within use class C2 of the UCO which is '*use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3. Dwellinghouses, used as sole or main residences)*'. There is no dispute between the parties that those children occupying the property would need 'care' as defined in Article 2 of the UCO.

6. Given the above, I find that the Council were correct to conclude that the proposal did not fall within use class C3(b) of the UCO. However, a change to a new use class only requires planning permission to authorise it if it is material in planning terms. In other words, it is not the case that simply because the proposal would amount to a change from use class C3(a) to use class C2 of the UCO, it automatically means that a material change of use of the building would occur.
7. In considering whether a material change of use would have occurred if the proposal was instigated or begun on the date of the LDC application, it is necessary for me to consider if there would be some significant difference in the character of the activities from what has gone on previously, as a matter of fact and degree.
8. The appeal property is a three-bedroom dwellinghouse. Use of the property by two children in need of care, and by up to two adults working to a shift pattern would not in my judgement be materially different from the authorised use as a use class C3(a) dwellinghouse. While there would likely be vehicular and pedestrian movements associated with the carers coming to and leaving the site on a day-to-day basis as they start and leave their shifts, I do not find that such movements, or indeed any other activities associated with the proposal, would be significantly more than those activities undertaken by a family. They would not be on a scale that one could reasonably and objectively conclude that it would give rise to material planning concerns.
9. I note the Council's comment that planning permission has been approved for similar development to the neighbouring property, i.e. No. 10 Aireworth Close¹. The Council allege that in the context of this development, coupled with '*other granted permissions in the area*' (no details or evidence is submitted by the Council in this regard), the proposal would result in a degree of planning change and activity that fundamentally alters the character of activities in the area. In this regard, the Council consider that the proposal would amount to a material change of use requiring planning permission.
10. I do not find that the Council's comments above are reasonably substantiated. While my site visit was only a snapshot in time, I was able to experience a typical residential environment in a cul-de-sac location and with relatively low levels of activity and comings and goings. There is no objective or compelling evidence before me to suggest that the planning permission granted at No. 8 Aireworth Close, or indeed elsewhere in the locality, has significantly changed the character of activities in the area, or indeed that even a small increase in the level of activities, comings, and goings associated with the proposal, would in effect tip the balance from the point of view of the use class C2 proposal amounting to a material change of use of the land.
11. In any event, and, relative to the lawful use of the appeal property, I do not find that the proposal would, as a matter of fact and degree, result in a significant difference in the character of the activities from what has gone on previously. In reaching this

¹ Planning application 22/00841/CLP

conclusion, I note the additional information submitted by the appellant in section five of the statement of case, particularly in respect of car sharing, staff rotation and shared professional visits for Nos. 8 and 10 Aireworth Close. While these proposals would help in terms of further reducing levels of activity to and from the appeal site, they have not in themselves been a determining factor from the point of view of me concluding that the proposal would not amount to a material change of use.

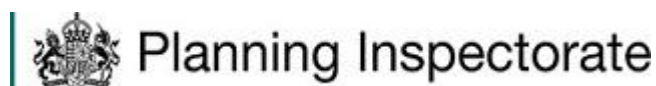
12. Given the above, and, as a matter of fact and degree, I find that on the date of the LDC application the evidence indicates that the proposal would not have amounted to a material change of use and hence planning permission would not have been required if instigated or begun on that date.
13. In reaching the above conclusion, I have considered comments made by the Council's Children's Social Care Commissioning Team who comment on the need for specific information on the needs and behaviours of the children to be placed, the competency of staff, and the risks/implications of having two use class C2 buildings side by side. I do not have any information before me to substantiate the so-called risks or implications. The evidence before me does not therefore suggest that the proposal would lead to any demonstrable planning harm in this regard, or any significant change to the character of activities in the area. Moreover, staff competency and the specific care needs of children that would occupy the appeal property are not relevant considerations from the point of view of determining this LDC appeal.

Conclusion

14. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of use of the property as a use class C2 use for two children and two adult carers providing 24-hour care on a shift basis, was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

D Hartley

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 9 February 2025 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and shown on the location plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

Based on the submitted information, and, as a matter of fact and degree, the proposed use, while falling within use class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO), would not represent a material change from the authorised use of the site as a dwellinghouse falling within use class C3(a) of the UCO.

Signed

D Hartley

Inspector

Date: 5TH SEPTEMBER 2025

Reference: APP/W4705/X/25/3367896

First Schedule

The use of the dwellinghouse within use Class C2 of the UCO for the occupation by no more than two children and two adults at any one time.

Second Schedule

Land at 10 Aireworth Close, Keighley, BD21 4DS

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in the Lawful Development Certificate dated: **5TH SEPTEMBER 2025**

by **D Hartley BA (Hons) MTP MBA MRTPI**

Land at: 10 Aireworth Close, Keighley, BD21 4DS

Reference: APP/W4705/X/25/3367896

Scale: Not to Scale

