



Appeal Decision

Site visit made on 12 December 2025

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

an Inspector appointed by the Secretary of State

Decision date: 17 DECEMBER 2025

Appeal Ref: APP/R0660/X/25/3361133

15 Blakelow Bank, Macclesfield, Cheshire, SK11 7GD

- 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 Esland North Limited against the decision of Cheshire East Council.
 - The application ref 23/4826M, dated 22 December 2023, was refused by notice dated 9 September 2024.
 - The application was made under section 191(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 the use of the property as a children's home within use class C2 on the basis that there has been no material change of use from a dwellinghouse within use Class C3.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In respect of the use for which the certificate of lawful use is sought, I have taken the description from the appellant's LDC application covering letter dated 21 December 2023. This adds necessary precision when compared to the Council's refusal notice (first schedule). This is because the LDC application is essentially made to lawfully confirm that the existing use of the property as a 'C2' residential care home has not involved a material change of use from its former use as a 'C3' dwellinghouse.
3. The appeal is made in the company name of Esland North Limited. However, the LDC application was submitted in the name of Esland Group Holdings Limited. It has been confirmed that Esland Group Holdings Limited has authorised Esland North Limited to submit the appeal on its behalf.
4. An LDC is not a planning permission. Its purpose is to enable owners and others to ascertain whether specific operations or activities would be lawful. Therefore, for the avoidance of doubt, I make clear that planning merits are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority. The burden of proof in respect of LDC applications made under section 191 of the Act lies with the applicant and the relevant test of the evidence is on the balance of probability.
5. The Planning Practice Guidance states that if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse

the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Main Issue

6. The main issue is whether the Council's decision to refuse to grant the LDC was well founded with particular regard as to whether the existing C2 (residential institution) use of the property is lawful in so far that there has not been a material change of use from a C3 (dwellinghouse) use.

Reasons

7. The appeal property is detached and is in use as a residential care home. The evidence is that it was first used as a residential care home since 18 December 2015. It includes a hard surfaced car parking area and can be reached at the end of Blakelow Bank via an unmade road serving other residential properties. The locality has a semi-rural character.
8. The appellant states that the property accommodates one child aged between 8-18 years. Staff do not permanently live at the property, although there are two carers working on a rota basis of two days on and two days off which includes providing nighttime supervision and sharing facilities. A Home Manager is also on-site Monday-Friday from 0900 to 17.30 hours. The appellant states that at the most there are three adults and one child in the property. It is stated that the child is at a local school during the day where carers take and pick up. There is some contradictory evidence about the latter based on a Council site visit that took place on 25 June 2024 (see below).
9. The appellant states that a social worker and clinician visit the child once a month at separate times. The appellant says that there are 'typically' four cars parked at the property, those of the carers and manager and a 'home car'.
10. There is no dispute between the parties that the existing use of the property falls within use Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), as distinct from the former use of the property as a C3 dwellinghouse. I do not disagree with that conclusion based on how the property is being used and given that those that are occupying it are not living together as a single household.
11. It is not the case that a change from use class C3 to use class C2 (residential institution) automatically means that planning permission is required. In fact, the correct legal approach to assessing such a matter is in the context of section 55 of the Act which defines what is development. In particular, section 55(1) of the Act states that development includes *'the making of any material change in the use of any buildings or other land'*. Consequently, it is necessary for me to establish whether, on the facts of the case, the existing use of the property as a residential care home has amounted to a material change in the use of the property to the extent that planning permission is required for it.
12. In considering whether a material change of use has occurred, it is necessary for me to consider if there is some significant difference in the character of the activities from what has lawfully gone on previously, as a matter of fact and degree.

13. The evidence appears to indicate that a hardstanding has been formed in association with use of the property as a C2 residential institution. It is of a size that it can accommodate up to the parking of eight cars. Prior to this, the evidence indicates that there was an informal track/drive leading to the property and from the lane. While I acknowledge that the evidence indicates that the formed car park is immune from enforcement action owing to the passage of time, there is no suggestion from the appellant that it was not formed to facilitate the use of the property as a residential care home.
14. In my judgement, the car park has changed the character of the area from one that otherwise included a softer and undeveloped landscape character. Moreover, and importantly, the evidence does not sufficiently support the appellant's contention that four cars are 'typically' parked on the land in association with the residential care home use. The Council's aerial photographs dated 2020 and 2023 show the parking of six and seven cars on this land respectively. In addition, and following a visit undertaken by the Council on 25 June 2024, the officer noticed that six cars were parked on the land and that there were five professionals within the property. I do not consider that use of the property as a three-bedroom dwellinghouse would likely result in the parking of so many vehicles or indeed the sort of turnover of parked vehicles on a day-to-day basis.
15. The appellant has responded to the Council's site visit observations. It is stated that *'more staff are often needed when a new child starts to live at the property given the need for training and that this was a one off'*. The appellant has not provided me with precise details of the number of children who have separately been cared for in the property since 2015 or indeed the continuity of the residential care home use. There is at least the potential that there have been different children occupying the property over the years and months and hence that there has been a need for training activity to take place more regularly. The appellant also comments that a 'tutor' was occupying the property at the time of the Council's visit and that such a tutor was *'temporary and until the child had a school placement'*. The evidence is not precise in terms of whether this was in fact a *'one off'*. Indeed, I have very little information before me in terms of actual occupation of the property from 2015 until the date of the LDC application.
16. As part of the appellant's response to the Council's site visit, the appellant also states *'I can confirm that the two 'on shift' care workers work two days and nights and then on the third morning, both of these care workers go off shift and two new care workers arrive to start their shift – there is normally an on-site handover between the two teams that takes 30 mins to an hour'*.
17. While there may be occasions when the number of cars parked on the site is four, the collective evidence indicates that there are periods of time when that is much more. The evidence certainly indicates that this is likely to be the case during on-site handover periods and the Council's aerial photographs also suggest high car parking numbers. In my judgement, the car parking numbers, and associated movements and activity, are more likely than not to be materially greater than would have been associated with the former C3 three-bedroom dwellinghouse. In my judgement, the amount of car parking and the associated comings, goings and activity associated with staff change overs, visits and car parking movements, is such that the use of the property as a residential care home has materially changed the character of activities from what has occurred previously, i.e., the use of the property as a three-bedroom C3 dwellinghouse.

18. The Council appears to assert that because there are fire escape signs and a first aid box on the wall it means that a material change of use has occurred. This is despite the Council stating that the *'the property, internally and externally, presented itself as a dwelling'*. I was able to observe on my site visit that externally the appeal property still had the appearance of a dwellinghouse. The existence of fire escape signs or a first aid box on the wall are not matters that reasonably indicate that a material change of use has occurred.
19. The Council refers to extensions to the property. The evidence is that a rear extension to the property was completed prior to the property being first used as a residential care home, i.e., the building control completion record dated 21 January 2014. The Council does not dispute that the extension was permitted development, and, in any event, it would now be immune from enforcement action due to the passage of time. There is no credible or reasonable evidence before me to conclude that the residential care home use constitutes a material change of use of the property from a C3 dwellinghouse because any extension has been added to it.
20. Part of the Council's case appears to be that part of the land falling within the red edged site location plan constitutes a material change of use from agricultural land to a garden. The Council's aerial photographs appear to demonstrate that some form of enclosed area was formed between 2010 and 2016. The onus is on the appellant to provide precise and unambiguous evidence about this matter. The appellant comments that such land falls within the registered title. The latter is not sufficient of itself to precisely and unambiguously demonstrate lawful use.
21. There is sufficient doubt, given the Council's aerial photographs, about whether the planning unit associated with the appeal property has in fact been enlarged to include land used as a garden area. In the absence of precise and unambiguous evidence from the appellant about this matter, I am unable to conclude, on the balance of probability, that this part of the site falling within the red edged land on the location plan which accompanies the LDC application, forms part of the lawful planning unit or indeed that it has been lawfully used for a C3 or C2 purpose. This is a further reason for dismissing the appeal.
22. On the evidence that is before me, and, for the reasons outlined above, I conclude that a material change of use from use class C3 to use class C2 has taken place. In this regard, an act of development under section 55 of the Act has occurred. Moreover, the evidence is neither precise nor unambiguous in terms of the enclosed garden land to the north of the property in terms of whether this has resulted in an enlarged planning unit, and/or a different material change of use of land. In addition, there is no precise or unambiguous evidence before me to demonstrate that on the date of the LDC application, the property had been continuously used as a residential care home for more than ten years. Consequently, and, on the balance of probability, I cannot conclude that the property can lawfully be used as an existing C2 use under section 171B of the Act.

Conclusion

23. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the use of the property as a children's home within use class C2 on the basis that there has been no material change of use from a dwellinghouse within use Class C3 is well-founded and that the appeal

should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

D Hartley

INSPECTOR