



Appeal Decision

Site visit made on 12 January 2026

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 February 2026

Appeal Ref: APP/P2365/X/25/3360618

57 Southport Road, Ormskirk, Lancashire L39 1LN

- 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 Nesting Care LTD against the decision of West Lancashire Borough Council.
 - The application ref 2024/0985/LDP, dated 17 November 2024, was refused by notice dated 16 January 2025.
 - 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 a Children's Care Home for up to 3no. children (C2 Use).
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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 existing use which is found to be lawful.

Main Issue

2. The main issue in this appeal is whether the Council's decision to refuse to grant an LDC was well-founded.

Reasons

3. An application under section 192(1)(a) of the Town and Country Planning Act 1990 (the Act) seeks to establish whether any proposed use of buildings or other land would be lawful. In an application for an LDC, the onus is firmly on the applicant to demonstrate on the balance of probabilities that the proposal would be lawful.
4. Section 55(1) of the 1990 Act provides the meaning of development, which includes the making of any material change in the use of any buildings or other land. In accordance with the provisions of section 55(2)(f), in the case of buildings or other land which are used for a purpose of any class specified in the Town and Country Planning (Use Classes) Order 1987 as amended (the UCO), the use of the buildings or other land for any other purpose of the same class shall not be taken to involve the development of the land.
5. There is no dispute the proposal would involve the change of use of the building from a C3 use to a C2 use. The crux of the matter is whether the proposed change of use would be a *material* change of use.
6. To establish whether a material change of use would occur, a comparison between the proposed use and the existing use needs to be made, as opposed to considering a hypothetical range of activities. For a material change of use to occur, there must be some significant difference in the character of the activities,

from what has gone on previously. The assessment is a matter of fact and degree, for the decision maker to determine on the available evidence.

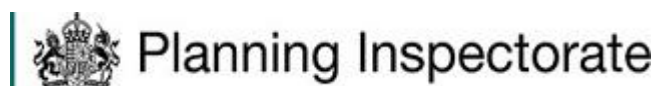
7. The proposed use would provide a home for three children between the ages of 7 and 17. There would be two staff members present at all times. Staff would not reside in the property but would work on a two days on, four days off shift pattern, staying in the property during their working days.
8. The Council's case focuses on the effect of the proposal on highway safety, determining that it would have a negative effect and therefore result in a material change of use. However, the test of whether a material change of use would occur is whether there would be a significant difference in the character of the activities, from what has gone on previously. Whether or not activities involved in the proposed use would be harmful is not a consideration in terms of determining whether the use would be lawful.
9. The existing property is a five bedroom dwelling and therefore it is reasonable to conclude that it could accommodate a large family comprising two adults and three or four children. This would be similar to the proposed use in terms of the number of people using the property, ie two staff and three resident children. If it was in occupation by a large family then it is reasonable to conclude that there could be at least two cars associated with the use of the property, and potentially more once the children are old enough to drive.
10. The appellant confirms that the property has three off-road parking spaces. Although there is no drawing before me identifying where these spaces are, during my site visit I observed space for approximately three cars to the rear of the property, accessed off the A59.
11. Given that the resident children of the appeal property are unlikely to have cars of their own, it is reasonable to conclude that there would be a maximum of two cars, belonging to staff, at the property for the majority of the time. During shift handovers, this could increase to possibly four cars as there would be four staff at the property, albeit for a limited time until the handover is complete. There would also be occasions when the registered manager would attend the property and other visitors, such as social workers. However, the number of vehicular comings and goings would not be significantly different to those of a large family, taking into account cars belonging to the family and those of visitors to the property.
12. I acknowledge that the off-road parking provision does not allow vehicles to turn around and therefore does not allow both access and egress in a forward gear, which potentially has harmful effects on highway safety and the free flow of traffic on the A59. Moreover, on occasions when there are more than three cars present, on-street parking in the locality would be required. However, all of this would be no different to the current situation if the property was occupied by a large family. Accordingly, on the evidence before me, there would not be a significant difference in the character of the activities between the proposed use and the existing use.
13. Overall, on the evidence before me, it has been sufficiently demonstrated that on the balance of probabilities, the proposed change of use to a children's care home for up to three children (C2 Use) would not result in a material change of use of the property. As such, it would not amount to development and therefore planning permission would not be required.

Conclusion

14. For the reasons given above, I conclude, on the evidence available, that the Council's refusal to grant a certificate of lawful use or development is not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

A Walker

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 17 November 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the 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:

The change of use of the property, from use as a dwellinghouse falling within use class C3 of Schedule 1 to the Town and Country Planning (Use Classes) Order 1987, to the proposed use, which would fall within use class C2, would not be a material change of use that requires planning permission. The proposed use and a C3 use would not give rise to a material change in the nature, level and frequency of activities taking place, and so there would be no significant difference in the character of the use taking place as a matter of fact and degree.

Signed

A Walker

Inspector

Date: 2 February 2026

Reference: APP/P2365/X/25/3360618

First Schedule

Children's Care Home for up to 3no. children (C2 Use).

Second Schedule

Land at 57 Southport Road, Ormskirk, Lancashire L39 1LN

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

Plan

This is the plan referred to in the Lawful Development Certificate dated: 2 February 2026

by A Walker

Land at: 57 Southport Road, Ormskirk, Lancashire L39 1LN

Reference: APP/P2365/X/25/3360618

Scale: Not to Scale

