



Appeal Decision

Site visit made on 12 January 2026

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2026

Appeal Ref: APP/Z4310/X/25/3361847

57 Lorne Street, Liverpool L7 0JP

- 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 Ms Shavae Willoughby against the decision of Liverpool City Council.
 - The application ref 25LP/0001, dated 1 January 2025, was refused by notice dated 24 February 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 use from a dwellinghouse (Use Class C3) to a children's home (Use Class C2), to care for a maximum of 1 child aged between 8 - 17. The child would receive 2:1 care 24/7. Care staff would work 72 hours shifts with change overs taking place once in three days. A home manager may be present at the home during 'normal working hours' Monday - Friday.
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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.

Applications for costs

2. The Appellant has applied for an award of costs against Liverpool City Council. That application is considered in a separate decision.

Preliminary Matters

3. The LDC application was made following the Council's refusal to grant a certificate following a similar LDC application made under s192(1)(a) of the Town and Country Planning Act 1990 (as amended) (the Act)¹. The previous application sought a certificate for the 'Use of Dwellinghouse (Class C3) as a single child children's care home with non-resident carers (Class C2).' An appeal was subsequently made against this decision² (the 'previous appeal'). The LDC application that is the subject of the appeal before me was determined prior to the previous appeal decision being issued.
4. The appeal was subsequently allowed and a certificate granted for 'Use of Dwellinghouse (Class C3) as a single child children's care home with non-resident carers (Class C2).' The parties have had the opportunity to comment on the appeal decision.
5. The description of the proposed use was described on the application form as 'Use of Dwellinghouse (Class C3) as a single child children's care home with non-resident carers (Class C2).' However, this was subsequently changed to the description as set

¹ Council reference 24LP/3051

² Appeal ref APP/Z4310/X/25/3358286

out in the banner heading above. Despite the appellant's initial objection to the change of description, they eventually agreed to it. Accordingly, I have determined the appeal based on the description as set out on the Council's decision notice.

Main Issue

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

Reasons

7. 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.
8. 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.
9. The certificate attached to the previous appeal is for a proposed use. There is no evidence that the use has already commenced. Therefore, the lawful use of the appeal property at the time the LDC application was made was a Class C3 use. Whilst each case must be determined on its own merits, the previous appeal decision is a material consideration to which I attach substantial weight.
10. 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.
11. 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 have occurred, 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.
12. The previous Inspector found that it would be lawful to change the use of the appeal property to a single child children's care home with non-resident carers, which would be a Class C2 use. The description of the appeal proposal before me includes more detailed terms. The single child in this case would be cared for by staff working 72 hour shifts, changing over every three days. During their shifts, they would stay in the property. A home manager would also be present during normal working hours, Monday to Friday. The Statement of Purpose and Functioning that accompanied the application sets out that the child would be placed in the home for between 28-90 days.
13. Taking the lower end of this 28-90 day period of occupation of the property by a child, there could potentially be a turnover of occupation every 28 days. The existing C3 use of the property would not experience such a high turnover of occupants. Nevertheless, there would only be one occupant being replaced each time.

14. The activities associated with such a turnover would be minimal, likely to be the child leaving with personal belongings and then being replaced with a child with a similar, minimal amount of luggage. It's reasonable to conclude that the amount of belongings for a single child in such a situation would fit in the back of a car. It would not be like someone vacating a property with all of their belongings, such as furniture, electrical goods, etc, which would likely require a removal van, and then the new occupier moving into the property with a similar amount of belongings. From the view of an outside observer, such minimal activity involved in the changeover of child occupants would not result in a significant difference in the character of the activities associated with the existing use, even if it consistently occurred every 28 days.
15. With regard to staff shift patterns, there would be a turnover of staff every three days. This could involve up to four cars present at the property during this changeover period; one car per member of staff. However, this would only be for a brief moment in time whilst the changeover completes. I do not find that this would result in a significant change in the activities that would amount to a material change in the use of the property.
16. The ratio of two staff per the one child suggests that the child may potentially have complex needs, both emotional and behavioural. This may involve the need for social workers, clinicians/therapists and emergency services to visit the property. However, given that it is only one child, I do not consider that such visitors would be so frequent that their comings and goings would significantly change the activities associated with the existing use. It is reasonable to conclude that occupants of a C3 use would have various visitors, planned or otherwise, such as family/friends or deliveries. Also, occupants of a C3 property may also require regular visits from social workers, clinicians/therapists and indeed emergency services. Therefore, I do not consider that such visitors and the comings and goings they generate for a single occupant would result in a significant change to the activities associated with the C3 use.
17. Overall, on the evidence before me, it has been sufficiently demonstrated that on the balance of probabilities, the proposed change of use of the appeal property from a C3 use to a C2 use as described in the banner heading would not result in a material change of use. As such, it would not amount to development and therefore planning permission would not be required.

Other Matters

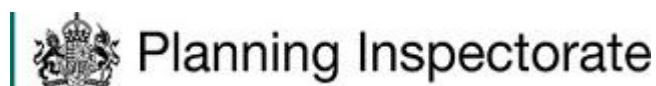
18. I have had regard to the numerous appeal decisions presented to me in support of both parties' cases. However, these decisions only highlight that each case must be determined on its own merits on a fact and degree basis on the circumstances presented.

Conclusion

19. 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 1 January 2025 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: 3 February 2026

Reference: APP/Z4310/X/25/3361847

First Schedule

Change use from a dwellinghouse (Use Class C3) to a children's home (Use Class C2), to care for a maximum of 1 child aged between 8 - 17. The child would receive 2:1 care 24/7. Care staff would work 72 hours shifts with change overs taking place once in three days. A home manager may be present at the home during 'normal working hours' Monday - Friday.

Second Schedule

57 Lorne Street, Liverpool L7 0JP

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: 3 February 2026

by A Walker

Land at: 57 Lorne Street, Liverpool L7 0JP

Reference: APP/Z4310/X/25/3361847

Scale: Not to Scale

