



Appeal Decision

Site visit made on 12 January 2026

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2026

Appeal Ref: APP/M2372/X/25/3366723

42 Fore Street, Lower Darwen, Blackburn BB3 0QD

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Unified Welfare Ltd against the decision of Blackburn with Darwen Borough Council.
 - The application ref 10/25/0213, dated 10 March 2025, was refused by notice dated 16 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 an LDC is sought is use of a C3a dwelling for a children's home for a maximum of two children with two carers sleeping overnight working on a rota basis.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed use which is found to be lawful.

Preliminary Matters

2. An application for costs has been made by the Appellant against the Council. This application is the subject of a separate Decision.

Reasons

3. 42 Fore Street is a detached bungalow. The dwelling falls within Use Class C3(a) 'Dwellinghouses' as defined in The Town and Country Planning (Use Classes) Order 1987 (as amended). The proposed use of the dwelling, a children's home, falls within Use Class C2 because, principally, carers would not be resident in the home but would work shift patterns. Planning permission is required for a change of use from Class C3 to Class C2 but only if the change of use would be a material change of use.
4. The main issue is whether the proposed use of the dwelling as a children's home would result in a material change in the character of the use of the property.
5. Reference has been made by both main parties to many successful and unsuccessful appeal decisions. However, whether or not there would be a material change of use is a matter of fact and degree in each individual case. This important principle will be followed in this case.
6. The proposed children's home would be for two children (aged 8 to 17) and at all times there would be two staff workers present, with a manager on site during normal office hours. Staff workers would alternate every two days and change-over would be at about 1000 hours. There are four car parking spaces on site for staff and visitor parking. The children and staff would live together as a household. The children would have individual needs and capabilities and some would have emotional and

behavioural disorders or mild learning disabilities. The building would require no alterations to accommodate the change of use and there would be no changes to the external appearance of the property.

7. The children would attend school and their comings and goings from the dwelling, including for social and recreational purposes, would be no different to any two children family situation. The comings and goings of staff would also not be dissimilar to those that are associated with a family situation where both parents come and go for work and other purposes. If a child is home schooled this would be no different than that which might occur in a normal family situation. There may be additional comings and goings by care professionals other than normal staff but such comings and goings could be associated with any single family occupation of the dwelling.

8. The proposed use of the dwelling as a children's home would not, as a matter of planning judgement, cause any greater level of disturbance or effect on local amenity than would be generated by a C3 use. The character of the children's home use would not be materially different to the character of a C3 use. The proposed change of use, in this regard, would not be a material change in use of the property.

9. The Council maintains that the materiality of the proposed change of use must take into account off-site impacts. They have referred to Local Plan policies, policy DM39 in particular, and to their Residential Supported Accommodation – Planning Advisory Note (PAN) of December 2020. LP policy DM39 considers 'The Effect of Development on Public Services'. As concluded above, on the basis of its local effects, the proposed change of use does not constitute 'development' as defined in Section 55(1) of the Act. This conclusion brings into doubt the relevance of the policy.

10. The relevance factor notwithstanding, LP policy DM39, and the PAN, seek to protect publicly provided support services. The Council's submissions on this matter are generalised and they have not provided any evidence to indicate that the proposed use, in itself, would place a strain on welfare services or undermine publicly provided support services. Furthermore, the Council is meeting housing targets so the proposed use of the dwelling would not undermine the provision of housing in the Borough.

11. The Appellant has described, with adequate precision, what is proposed. The proposed change of use of the dwelling to use as a children's home would not, as a matter of fact and degree, be a material change of use. Planning permission is not required, in this case, for the proposed change of use.

12. For the reasons given above, and on all evidence now available, the Council's refusal to grant an LDC for 'use of a C3a dwelling for a children's home for a maximum of two children with two carers sleeping overnight working on a rota basis' at 42 Fore Street, Lower Darwen, Blackburn was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(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 10 March 2025 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed change of use would not be a material change of use and planning permission is not required.

Signed

John Braithwaite

Inspector

Date: 04 February 2026

Reference: APP/M2372/X/25/3366723

First Schedule

Use of a C3a dwelling for a children's home for a maximum of two children with two carers sleeping overnight working on a rota basis

Second Schedule

Land at 42 Fore Street, Blackburn BB3 0QD

IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was 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 described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 04 February 2026

by John Braithwaite BSc(Arch) BA(Hons) RIBA MRTPI

Land at 42 Fore Street, Blackburn BB3 0QD

Reference: APP/M2372/X/25/3366723

Scale: Not to Scale

