



Appeal Decision

Site visit made on 2 March 2026

by **Robin Buchanan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date 21 April 2026

Appeal Ref: APP/V3120/X/24/3339418

Silver Copse, Oxford Road, Frilford Heath, Abingdon OX13 5NW

- 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.
- The appeal is made by Ms Lynda King against the decision of Vale of White Horse District Council.
- The application ref P23/V1067/LDP, dated 2 May 2023, was refused by notice dated 24 August 2023.
- The application was made under section 192(1)(a) of the Act.
- The use for which a certificate of lawful use or development is sought was described as '*use of existing single dwelling (Use Class C3) by household providing care and support to four children aged 16 to 18 - Use Class C3(b)*'.

Summary Decision: The appeal is dismissed.

Preliminary Matters

1. During the appeal, the Council granted conditional planning permission at Silver Copse for '*change of use of single dwelling (Class C3) to Ofsted Registered Children's Home (Class C2) for up to four looked after children*'.¹ I have been provided with a copy of the decision notice and officer report. Including what I saw at my site visit, there is little evidence that this lawful use come has into effect.
2. The appellant's documents refer to children as '13-18' years old and '16-18' years old. Aside from this discrepancy, as far as I am aware a person aged 18 is not a child. As is also referred to by the appellant, there is little to suggest other than that what is meant in this appeal is 'teenage children', ie between 13-17 years old.

Main Issue

3. The main issue is whether the Council's decision to refuse the application for a lawful development certificate (LDC) was well-founded.

Reasons

4. It is common ground that Silver Copse was occupied by a single (family) household as a lawful Class C3(a) dwellinghouse for the purpose of the Town and Country Planning (Use Classes) Order 1987, as amended (the UCO)². The application was made to ascertain whether the proposed use of Silver Copse, as a household providing care and support to four children in a Class C3(b) dwellinghouse, would have been lawful if begun at the time of the application (the relevant date).
5. For the appeal to succeed, the onus is on the appellant to demonstrate, on the balance of probabilities, that the proposed use was in Class C3(b), in which case

¹ P25/V0128/FUL

² The UCO sets out that for the purposes of Class C3(a) 'single household' is to be construed in accordance with section 258 of the Housing Act 2004 and essentially means occupation by related members of the same family

this change of use within Class C3 did not require planning permission by virtue of section 55(2)(f) of the Act. On this same basis, that there would otherwise have been no material change of use of Silver Copse, so no development that required planning permission under sections 55(1) and 57(1) of the Act.

Use Class

6. Class C3(b) is use as a dwellinghouse (whether or not as a sole or main residence) by not more than six residents living together as a single household where care is provided for residents. For the proposed use to have fallen within Class C3(b), all of these parameters need to be met.
7. The appellant owned Silver Copse on the relevant date, at which time this house was her home. In essence, one or two primary adult childcare professionals would occupy Silver Copse with up to four vulnerable teenage children from difficult or troubled backgrounds, who may also have special needs. These resident carers would look after and support these resident cared for children, such as by cooking meals for everyone eaten together as well as their personal care. An objective of the appellant is to build long-term, enduring relationships between these adults and the children so they can thrive in a stable, protective homelike living environment for reasons of their well-being and emotional security.
8. On this basis, there would be no more than six residents. Each would have their own bedroom and a shower or bathroom with toilet and all share a communal lounge, kitchen, dining space and the back garden. There is little to counter that this would have provided normal cooking, eating, sleeping and amenity facilities for day-to-day private domestic existence, distinctly characteristic of a dwellinghouse in these regards³.
9. While children alone cannot form a single household⁴, there is little to suggest that Class C3(b) excludes occupation by children per se. So, as would otherwise be the case here, the residents of a Class C3(b) dwellinghouse do not all have to be adults. Nor do they have to constitute a family or be related to each other, although some could be, such as siblings or husband and wife carers.
10. The resident carers would be employed to live and work in this capacity at Silver Copse and the cared for children could come from family homes or other accommodation elsewhere. However, there is no apparent reason why the resident carers and children could not occupy Silver Copse as their principle private residence, with no other permanent address for the duration of their presence.
11. There is also little to suggest other than that the resident carers would be responsible for the children and day-to-day decisions, essentially in much the same way as parents (or foster parents) run a family home and the lives of their (the) children in a proper functioning single household⁵, including food shopping and washing clothes for instance.
12. The resident carers would have days off for holiday or respite and would likely change from time to time, such as if they left this employment. But there is little evidence that short, periodic absence of otherwise primary resident carers would fundamentally alter underlying continuity of their occupation of Silver Copse as their

³ *Gravesham BC v SSE & O'Brien* [1983] JPL 306

⁴ *North Devon District Council v First Secretary of State & Southern Childcare Ltd* [2004] EWHC 157 (Admin) JPL 1191

⁵ *North Devon District Council v First Secretary of State & Southern Childcare Ltd* [2004] EWHC 157 (Admin) JPL 1191

home. Moreover, despite not at that instant their home, other adult care staff would on occasions temporarily live in Silver Copse and perform the same role. Albeit different adults, new primary resident carer employees would occupy Silver Copse in the same way. Cared for children would leave Silver Copse, such as once they became adults or no longer needed to live here, and places be taken up by other children in need of care. But there is little to counter that this passage of children would be anything other than intrinsic to the nature of the proposed use, including that new cared for children would also live in Silver Copse as their home.

13. Consequently, although formed by different residents at each instance, there is no apparent reason why resident adult carers could not live together with each other and cared for children and dwell in Silver Copse as a single household in the manner outlined above, including over many years. It would be a distinctly different arrangement to daily, weekly or monthly care staff rotation and routine 'live-in' or 'sleepover' shift working where staff return to live in their own home elsewhere, or to children attending a care facility for treatment or therapy. While some of these circumstances would not be like a normal domestic home, there is little evidence that family occupation, permanent residents and sole or main residence (by any or all residents or Silver Copse as a whole) are requirements of a Class C3(b) dwellinghouse or those who live in one.
14. While the scope of a Class C3(b) dwellinghouse can therefore be distinguished from a Class C3(a) dwellinghouse in these regards, it can also potentially be set apart from a Class C2 residential institution, even though the appellant has also referred to the proposed use, for Ofsted regulations, as a specialist therapeutic residential children's home. Class C2 includes use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwellinghouses)). Nevertheless, a prevailing sense of communal living in a smaller scale supported living setting by using a house could remain within Class C3(b) as opposed to Class C2.
15. However, there is little detail about the specific nature and extent of care or personal care intended at Silver Copse and if it would include medical care. Nor about frequency of care and how delivery would be apportioned between the resident carers or visiting care professionals or take place elsewhere. It is also not clear what role the additional 'regular daily member of staff' working at Silver Copse 8am to 6pm would have.
16. While the Planning Practice Guidance indicates that a LDC application needs to describe precisely what is being applied for, Article 2 of the UCO sets out that for the purposes of the UCO, so including Class C3(b), care means personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder. Care and personal care are not defined in the UCO and there is no stipulation here (or in Class C3(b)) about how or by what means and in what setting such care is to be delivered, nor are children in need of care excluded. But there is little evidence that children in this case would be in need of care/personal care for any of these reasons. Article 2 further distinguishes that in Class C2, care also includes the personal care of children and medical care and treatment.
17. Consequently, there is little to counter that Class C3(b) dwellinghouse use does not relate to the personal care of children or to the medical care and treatment of

children⁶. That being so, use of residential accommodation for such purposes falls within Class C2 residential institution use and the proposed use would have been outside of Class C3(b) for this reason alone.

18. The appellant has not therefore, on the balance of probabilities, demonstrated that the proposed use met all of the parameters of Class C3(b) dwellinghouse use. It would instead fall in Class C2 residential institution use. Accordingly, there would not have been a change within the same Class C3 dwellinghouse use, so the provisions of section 55(2)(f) of the Act did not apply. The proposed use would not have been lawful for this reason and an LDC in these terms cannot be granted.

Material Change of Use

19. Notwithstanding the above, a Class C2 use does not necessarily result in a material change of use from Class C3(a)⁷. If the character of a use does not change in a significant way, having regard to relevant on or off-site considerations, it will not invoke development that requires planning permission. This is largely a matter of fact and degree and not simply about intensification of some or all of a use⁸. The proposed use should be compared with the lawful existing use⁹.
20. On the plans before me, Silver Copse had a conventional internal layout with substantial floor area, including five bedrooms, a lounge, a home office and a combined kitchen and dining space. This detached house has an extensive back garden with plenty of parking space on this substantial plot, which is located in a secluded row of houses in the countryside. It was occupied by the appellant, her partner and two elderly relatives, one with visiting care professionals, as (in the absence of evidence to the contrary) a single household.
21. It could have been occupied by a larger family, including one or two adults who could have worked in the home office; or this space be used as a sixth bedroom, so likely up to four or as many as five children. Alternatively, fewer children and instead dependant relative(s) or an unrelated live-in au pair, nanny or carer. Either way, it is reasonable to suggest up to five or six residents but potentially as many as seven or eight.
22. This could have generated notable normal day-to-day internal and external domestic use and activity, with associated general noise or disturbance. Vehicle movements to and from Silver Copse could include travel to work, taking children to school or the doctor (and/or dependant relative(s)) and shopping, recreational or leisure purposes as well as domestic deliveries. Additionally, by visiting relatives, friends of the family or professionals such as an elderly persons carer or for child care or for additional home schooling.
23. As proposed, there could therefore likely be the same or possibly fewer residents overall in Silver Copse. The cared for children would likely have similar individual domestic needs, with little to suggest notably more deliveries and the resident carers would not have to travel to and from work. However, in a single household of mainly related family members, such as could be lawfully established at Silver Copse, I would reasonably anticipate a significant degree of mutual shared use and activity, including comings and goings. Additionally, while possible, it is less likely

⁶ *North Devon District Council v First Secretary of State & Southern Childcare Ltd* [2004] EWHC 157 (Admin) JPL 1191

⁷ *North Devon District Council v First Secretary of State & Southern Childcare Ltd* [2004] EWHC 157 (Admin) JPL 1191

⁸ *Hertfordshire County Council v SSCLG and Metal and Waste Recycling Limited* [2013] EWCA Civ 1473

⁹ *Waltham Forest LBC v SSETR & Tully* [2002] EWCA Civ 330

that children or resident dependant relatives in a large family would each have significant or enduring care needs at the same time, rather more likely occasional or fluctuate over time.

24. Consequently, in the absence of objective evidence to the contrary (and that the appellant's explanation of care is not sufficiently precise or unambiguous), up to four vulnerable, unrelated cared for children living in Silver Copse would likely all have individual, innate on-going bespoke care needs, including visits by the daily member of staff and other day care professionals or require travel to and from care facilities elsewhere. In addition, potentially four sets of visiting parents/guardians and possibly siblings as well as some private, independent use and activity at Silver Copse or elsewhere by two unrelated resident carers. While the resident carers and cared for children would change from time to time, there is little to suggest other than that this broadly uniform underlying pattern of core use and activity would be sustained as something distinctly different to a family dwellinghouse.
25. Silver Copse would retain much of essentially the same domestic living space, with little to suggest the presence of therapy or treatment rooms for instance. But each resident carer bedroom would barely be larger than a single bed, with little provision for clothes storage and other possessions or dressing nor elsewhere in Silver Copse. It would also evidently be these same bedrooms shared by temporary live-in carers when necessary. In addition, two staff offices, a second lounge used as a staff breakout area and a large utility room (that could be further fitted out as another kitchen) suggest a mainly staff wing at one end of the ground floor and a mainly staff hub (co-located with one office and a toilet) in part of the first floor. There is no apparent reason why some of these staff areas could not also be used by the regular daily member of staff or by other visiting professionals.
26. This means there would be very limited provision for resident carer private or personal space (even if it were for an au pair, nanny or carer in a family setting) with a significant extent and proportion of staff facilities (compared to a family home office or study). In addition, on the face of it, large parts of Silver Copse would also be unavailable for communal use by the cared for children. These circumstances would be unusual in a domestic property, not distinctly characteristic of a dwellinghouse and more indicative of an institutional setting.
27. As proposed, I accept that Silver Copse would not be in a totally or fundamentally dissimilar use. Nonetheless, these identifiable local amenity and environment differences in the definable character of Silver Copse would be sufficient, as a matter of fact and degree, to result in a material change of use, beyond the apparent scope of flexibility intended by Class C3(b) under the umbrella of Class C3 dwellinghouse use.
28. The appellant has therefore not demonstrated, on the balance of probabilities, that the proposed use of Silver Copse would not be a material change of use and not development that would require planning permission under sections 55(1) and 57(1) of the Act. The proposed use would not have been lawful for this reason and an LDC in these terms cannot be granted.

Other Matters

29. I have had regard to interested party objections to the proposed use, though planning merits are not relevant to my decision for an LDC. Nor is whether, if a

certificate was granted for lawful C3(b) use, Silver Copse would be used as such (it would be a matter for the Council in the first instance).

Conclusion

30. For the reasons given above, and on the evidence now available, I am satisfied that the Council's decision to refuse to grant a lawful development certificate for '*use of existing single dwelling (Use Class C3) by household providing care and support to four children aged 16 to 18 - Use Class C3(b)*' was well-founded. Accordingly, the appeal fails and I will exercise the powers transferred to me under section 195(3) of the Act.

Formal Decision

31. The appeal is dismissed.

Robin Buchanan
INSPECTOR