



vb

Appeal Decision

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 May 2026

Appeal Ref: APP/M3455/X/25/3371203

9 Guy Street, Bucknall, Stoke-on-Trent ST2 9BB

- 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 Mr Colclough against the decision of Stoke-on-Trent City Council.
 - The application ref 71922/CLP, dated 4 March 2025, was refused by notice dated 4 July 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 residential (Use Class C3) as a children's care home for 2 children.
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is found to be lawful.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant a certificate of lawful use or development was well-founded. In this case that turns on whether the proposed use is a material change of use from the lawful use as a single dwellinghouse falling within Class C3.

Reasons

3. The appeal property is a modest three bedroom mid-terraced dwellinghouse situated on Guy Street within a predominantly residential part of Bucknall. At ground floor level the property has a lounge/diner and kitchen and at first floor level there are three bedrooms and a bathroom. There is also a modest rear garden area which could be used for residential amenity purposes. There are no proposed alterations to the property other than one of the bedrooms being changed to a staff office.
4. The proposed use is as a medium to long term home for up to two children aged between seven and seventeen years who are in the care system and need a stable home environment. The appellant's evidence is that the property would run as close to possible as a family-style environment with professional staff offering care, support and accommodation. Staffing levels are expected to be up to two full time staff at any one time during the day and one or two during the night. It is my understanding that the staff would not permanently reside at the property, but rather they would operate in shifts of a maximum of 14 hours and additional staff would only be present on site for shift changeovers. The property would not be the main residence of the carers.
5. I have considered case law relating to cases such as this and a similar scenario to this case was considered in the case of *North Devon District Council v FSS &*

Southern Childcare Ltd [2003] EWHC 157 (Admin); [2003] JPL 1191 which determined that children cannot form a household and that if their carers do not live permanently at the property, the use would fall within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO). This is defined as use for the provision of residential accommodation and care, other than within a Class C3 use.

6. Case law¹ also confirms that *North Devon* does not lay down a principle that those who may need care can never constitute a household. It is necessary to focus first on those in occupation and ask whether they form a single household as a matter of fact and degree. It would be counter to the language of Class C3 to conclude that where care is needed, C3 only applies to where the carer-givers are resident. In this case, since the children cannot themselves be said to form a household, as established by *North Devon*, the proposed use would fall within C2 (residential institutions) of the UCO. I understand that the overall objective is to provide a homely environment close to a traditional home but having taken account of the evidence presented and relevant case law, that does not persuade me that the proposed use would fall within Use Class C3.
7. There is no permitted change from C3 to C2 under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) and the proposed use cannot therefore be permitted development. However, a change of use to a different use class only requires planning permission if it is material in planning terms. To establish whether or not there would be a material difference a comparison between the existing and proposed uses must be carefully considered.
8. The existing house could accommodate a family with two adults and three children and therefore the proposed use for up to two children or young people and their carers would not be materially different from the authorised use as a single three bedroom family dwellinghouse. The carers may sometimes stay awake during the night period but in my judgement that would not in itself be material in planning terms. Indeed, it may well be the case that carers do not stay awake during the night.
9. There would be some vehicle movements associated with carers coming to and going from the site on a daily basis in accordance with their shift patterns and there would be additional journeys linked to taking children and young people to school or college and taking them to other activities or appointments. The number of these movements is unlikely to be significantly more than the number that would be undertaken by a family and certainly not enough to result in a level of intensification in the use of the site that gives rise to concerns from a planning point of view. There is insufficient evidence before me to show that the use would be likely to result in greater levels of noise and disturbance than the existing authorised residential use.
10. It is my understanding that the appellant will be required to comply with a range of regulations and rules governing the operation of the accommodation for children and young people in care, including their supervision. Should these regulations be adhered to and the appellants meet the necessary staffing and management requirements, I do not find there to be any reason why the use proposed would

¹ R (oao Crawley BC) v FSS & the Evesleigh Group [2004] EWHC 160 (Admin)

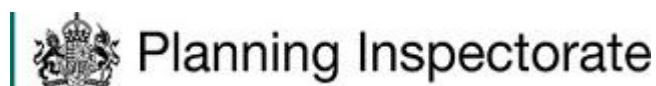
have planning impacts that would result in it being considered to be a material change of use.

Conclusion

11. For the reasons given above I conclude, on the evidence now available and on the specific facts of this case, that the Council's refusal to grant a certificate of lawful use or development in respect of residential (Use Class C3) as a children's care home for 2 children was 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 A Phillips

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 4 March 2025 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(1) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use, whilst falling within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), would not represent a material change from the authorised use of the site as a Class C3 dwellinghouse.

Signed

A A Phillips

INSPECTOR

Date: 8 May 2026

Reference: APP/M3455/X/25/3371203

First Schedule

Residential (Use Class C3) as a children's care home for 2 children.

Second Schedule

Land at 9 Guy Street, Stoke on Trent, ST2 9BB

IMPORTANT NOTES – SEE OVER

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 /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 8 May 2026

by A A Phillips

Land at: 9 Guy Street, Stoke on Trent, ST2 9BB

Reference: APP/M3455/X/25/3371203

Scale: Not to Scale

