



Appeal Decision

Site visit made on 22 September 2026

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 8 October 2026

Appeal Ref: APP/D4635/X/25/3370570
94 Codsall Road, Wolverhampton WV6 9QP

- The appeal is made by Support and Sustain Care Limited under section 195 of the Town and Country Planning Act 1990 against a refusal by the City of Wolverhampton Council to grant a lawful development certificate.
- The application Ref: 24/00126/CPL, dated 30 January 2024, was refused by notice dated 22 March 2024.
- The application was made under section 192(1)(a).
- The development for which the certificate is sought is described on the application form as "Proposed use as a children's care home (Use Class C2) providing accommodation and care for up to 4no. children (aged between 2 and 18 years) with a maximum of 4no. carers and 2no. admin support staff (including manager) on site at any one time, with the exception of short periods at the carers' shift changeovers."

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use relating to the proposed use, which I consider would be lawful if instituted at the time of the application.

Reasons for the decision

2. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The assessment is based on the lawfulness of the proposed use at the time of the application. The planning merits of the proposed use are not relevant to the appeal and there is no planning application before me.
3. The Council refused the application for the following reasons: -
 - "1. On the basis of the information submitted, the proposal would result in greater levels of activity, noise and disturbance at this site which would go beyond a residential C3a use class (dwelling house) and would instead reflect the operation of a residential institution providing care to young persons who would occupy the property under use Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), which would be materially different in character and use to that in use as a single household (use class C3a).

2. The applicant's supporting evidence falls short of demonstrating that, on the balance of probabilities, the proposed use would not constitute a material change of use, and consequently the burden of proof which rests with them has not been discharged. As such, the proposal is not considered to be lawful under the provisions of Section 192 of the Town and Country Planning Act 1990 (as amended)."
4. The authorised use of 94 Codsall Road is as a dwellinghouse within Class C3, which is as follows: -
- "Use as a dwellinghouse (whether or not as a sole or main residence) by—
- (a) a single person or by people to be regarded as forming a single household;
- (b) not more than six residents living together as a single household where care is provided for residents; or
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4)."
5. The proposed use would not fall within Class C3, because the children would not live together as a household and because, as a result of the definition in Article 2 of the Order, the term "care" when used in Class C3 does not include the care of children. The proposed use falls within Class C2 as a "Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses))".
6. However, the Order is not interpreted so as to mean that a change between one use class and another is necessarily development requiring planning permission. The key issue is whether the change would amount to a 'material change of use'. This term is not defined in planning law; it is a question to be determined in each case as a matter of fact and degree, and in this appeal requires a comparison to be made between the authorised Class C3 use of the house and its proposed use as described in the application. For a material change of use to occur, there must be a significant difference between the character of the authorised activities and the proposed activities that would result in a discernable land use impact in planning terms.
7. 94 Codsall Road is a substantial five-bedroom detached house with a large rear garden and parking space on the forecourt for up to seven cars. The house is accessed directly from Codsall Road, which is a bus route. The road is wide and there are no parking restrictions on this part of the road. There are shops and services and a primary school within walking distance. As a Class C3 dwelling the house could be expected to be occupied by a large household who would be likely to have their own vehicles and to undertake the usual range of domestic activities, with regular comings and goings by members of the household and their visitors and by delivery drivers.
8. It is proposed that the house will be used to accommodate four children between the ages of 2 and 18. Up to four non-resident carers will be on site at all times, working a 24-hour shift rota. One or two support staff, including the manager, will attend as required from time to time. There will be no structural changes to the house. One of the rooms in the house will be used as an office associated with the management of the home.

9. The number of persons occupying the house at any time in the proposed use may be similar to what it would be if the house continued in Class C3 use. The number of vehicles likely to be kept continuously at the house at any time could be less, because the children would not be drivers. There would be the regular comings and goings of carers and others and their vehicles but it is unlikely that this could have a significantly more discernable impact on residential amenities or parking conditions compared to the movements that could occur if the house continued in Class C3 use. Domestic activities taking place in and around the proposed use are unlikely to be significantly different to what could occur in Class C3 use. The use of the property would moreover be supervised and would also be subject to regulatory inspection.
10. It is normally acceptable within Class C2 for a children's home to contain office and other facilities for staff use; the proposed use will be no different. Planning permission is also not normally required to work from a Class C3 house, provided that the use remains incidental to its use as a house; working from home is now common practice.
11. In the circumstances I have described, I do not consider that as a matter of fact and degree a material change of use would take place. The Council's decision to refuse the application for a certificate of lawful use is therefore not well founded, because development requiring planning permission would not occur. Accordingly, the appeal has been allowed and an appropriate certificate has been granted.

D.A.Hainsworth

INSPECTOR