



Appeal Decision

Site visit made on 15 October 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 October 2026

Appeal Ref: APP/W4705/X/26/3377574

8 Hilton Road, Shipley, West Yorkshire, BD18 2AN

- 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 Mohammed Nasir Bashir against the decision of City of Bradford Metropolitan District Council.
 - The application ref 23/00739/CLP, dated 28 February 2023, was refused by notice dated 13 April 2023.
 - 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 described as a change of use from C3(a) dwellinghouse to C3(b) care home for children.
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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 proposed use which is found to be lawful.

Preliminary Matters

2. While the appellant did not state how many children would be cared for in the property at any one time as part of the LDC application, he nonetheless states in his appeal form that the proposal is for the *'use of an existing dwellinghouse to provide residential care for one child, supported by up to two carers on shift basis, with no physical alterations'*. I have considered the LDC application based on this information, as well as the appellant's comments that there would be up to two staff in the day (0900-1700 hours) and up to two staff during the night depending on the child in need of care. It is also stated that staff would not use the property as their sole or principal residence and that car parking would be on the driveway associated with the appeal property.
3. An LDC is not a planning permission. Its purpose is to enable owners and others to ascertain whether specific operations or activities would be lawful. Therefore, for the avoidance of doubt, I make clear that the planning merits of the proposed children's home are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant an LDC was well founded with particular regard as to whether the proposal would amount to a material change of use thereby constituting development requiring planning permission.

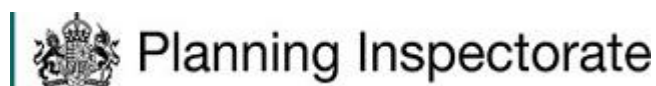
Reasons

5. There is no dispute between the parties that the property can lawfully be used as a dwellinghouse as defined by use class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO). This proposal seeks legal confirmation that use of the property as a children's home (i.e., the care of one child only) would not constitute a material change of use and hence would not be an act of development requiring planning permission.
6. The appellant has referred to the proposed use as falling within class C3(b) of the UCO. However, class C3(b) is not applicable in this case because those that are proposed to live in the property would not live together as a single household. For the purposes of class C3, single household is to be construed in accordance with section 258 of the Housing Act 2004. Such a definition would not be met as those living in the property would not be members of the same family. Instead, the proposal would fall within class C2 of the UCO which is for the *'use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3. Dwellinghouses, used as sole or main residences)'*.
7. It has been held in case law that a change of use can only be material by bringing about a definable change in the character of the main use of the land. It is not the case that just because a proposal falls within a different use class in the UCO, it automatically means that there would be a material change in the character of the main use of the land. In other words, it is necessary to examine whether a proposal would lead to some significant difference in the character of the activity from what has gone on previously as a matter of fact and degree.
8. As part of my site visit (10.00 hours), and noting that this was a snapshot in time, I was nonetheless able to experience that the character of Hilton Road was one that was quite peaceful and with only limited vehicular and pedestrian movements as one would likely expect in a residential environment like this.
9. While there would be some movements and activity associated with staff change overs in conjunction with the care of one child living at the property, as a matter of fact and degree I find that the level of comings and goings would not be materially different to the use of the existing three-bedroom dwellinghouse by a family comprising adults and children. In other words, it is my judgement that the proposal would not be materially distinguishable from the use of the property as a class C3 dwellinghouse. Consequently, I do not find that the proposal would comprise a material change of use of the land/property. Hence, on the date of the LDC application, planning permission was not required for the proposal.

Conclusion

10. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for a change of use from C3(a) dwellinghouse to a C2 care home for children is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

D Hartley, 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 28 February 2023 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 of the Town and Country Planning Act 1990 (as amended), for the following reason:

While the proposal would constitute a change from the existing C3 use of the land to a C2 use, it would not amount to a material change of use of the land. Therefore, the proposal would not have constituted an act of development requiring planning permission if it had been instigated or begun on the date of the LDC application.

Signed

D Hartley

Inspector

Date: 16 October 2026

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First Schedule

Use of the property as a C2 use for the provision of residential accommodation for one child in need of care and with up to two members of staff during the day (0900-17.00 hours) and up to two members of staff during the evening.

Second Schedule

Land at 8 Hilton Road, Shipley, BD18 2AN

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 this decision dated: 16 October 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

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Scale: Not to Scale

