

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

24/01140/CPL

CASE OFFICER

Bob Melling

DETERMINATION DATE 13.01.2025 **EXT OF TIME** N/A

Address: 108 Green Lane, Middleton, M24 2WF

Proposal: Application for Certificate of Lawfulness for the proposed use of a dwelling (C3a) as a children's home for a maximum of one child with carers working on a rota basis (C2).

PUBLICITY	Weekly list expired?	N/A	Site notice expired?	N/A
	Neighbour letters expired?	N/A	Press Notice expired?	N/A

DELEGATION	Significant departure from local plan?	N/A	Contrary to national policy?	N/A
	Applicant a Council Member or officer?	N/A	Contrary to previous decision?	N/A
	Major with 10 or more objections and recommending approval?	N/A	Called in or Planning Panel objection?	N/A

COMMENTS	Planning Panel comments received?	N/A
	Neighbour comments received?	N/A

EIA	Screening opinion completed and saved to Onbase?	N/A
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CONDITIONS	Pre-commencement conditions proposed?	N/A
	Pre-commencement conditions agreed (or notification period expired)?	N/A

RECOMMENDATION	GRANT
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CHECKED AND SIGNED OFF BY:

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DATE: 23/12/2024

SITE

This application relates to no. 108 Green Lane, a two-storey, mid-terrace dwelling located in Middleton. The dwelling has three bedrooms, a moderate rear garden and no off-street parking. Green Lane is a residential street characterised by rows of interwar terraced housing.

PROPOSAL

The application seeks a certificate of lawfulness for the proposed change of use of a dwelling (Class C3a) to a children's home for a single child with a manager and two carers who would sleep overnight working on a rota basis (Class C2).

No external alterations are proposed.

RELEVANT PLANNING POLICY

The Town and Country Planning Act (1990) - S.192

The Town and Country (Use Classes) Order (1987) (as amended)

National Guidance

National Planning Practice Guidance (NPPG)

RELEVANT SITE HISTORY

N/A

CONSULTATION RESPONSES

N/A

REPRESENTATIONS

In accordance with the Council's Code of Publicity for Planning Applications, this application has not been publicised.

ANALYSIS

S.55 of the Town and Country Planning Act 1990 sets out:

Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land

In respect of changes of use, Article 3(1) of the Town and Country Planning (Use Classes) Order 1987 sets out "Where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or that other land for any other purpose of the same class shall not be taken to involve development of the land."

In assessing this application, it is necessary to understand the existing lawful use of the unit and the use class of the proposed use. Where the existing and proposed use do not fall within the same use class, it is necessary to consider whether the

proposed use would have a materially different impact on the environment and local amenities.

For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The decision will be based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law or judicial authority to the circumstances of the case.

Paragraph 006 of the NPPG (Reference ID: 17c-006-20140306) states that 'in the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.'

The proposals indicate that the building will be used as the residence for one child with a maximum of two carers at any one time. There would also be a registered manager, although they would not work at the property full time and would only visit on an ad-hoc basis. The applicant asserts that the property would be run as a household, and that the experience of the occupiers would be akin to that of a household, rather than that of a care home, and considers the proposed use to fall under Class C2.

Use Class C2 defines this use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)); use as a hospital or nursing home; or use as a residential school, college or training centre. Care is defined in Article 2 of the UCO as meaning:

"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, and in class C2 also includes the personal care of children and medical care and treatment."

It is widely accepted that the case of *North Devon District Council v The First Secretary of State* [2003] Judgement is the primary case law for such applications. In their judgement, Lord Justice Collins states that children "need to be looked after. They cannot run a house. They cannot be expected to deal with all the matters that go to running a home...children are regarded as needing fulltime care from an adult, someone to look after them, someone to run their lives for them and someone to make sure that the household operates as it should."

The North Devon judgement confirms that children are incapable of forming a 'household' for the purpose of Use Class C3. It also clarified that carers who provided 24-hour care but were not residents could not be regarded as forming part of a household. The concept of living together as a household means that a proper functioning household must exist and that both children and carer(s) must reside in the premises. In such circumstances, the use cannot therefore be considered to fall within Class C3(b) and must be considered as Class C2.

In light of above and having regard to the supplied supporting statement, it is accepted that the proposed use falls within Use Class C2 (and not C3b), which would comprise a change of use within the context of The 1987 Act. However, as S.55 of The 1990 Act sets out, for a change of use to comprise development, it must be material, and in determining this application, this must be assessed.

The information submitted sets out that there would be three people at home during the day, including one child and two carers. Six carers will operate on a shift pattern of 2 days on and 4 days off. A table of weekly movements has been provided in a

supporting statement and it is not considered that the movements are materially different to the movements to and from a typical household.

Any additional visits, such as by a social worker or other professionals, would take place during normal working hours and are likely to be monthly not daily and would not lead to more activity than a single household with visiting friends and family.

The proposal is not considered to have a negative effect on the surrounding character of the area as the proposal will operate similar to a normal residential dwelling and no external alterations are proposed.

The intention is for the child to attend school and it is not considered that this would be materially different to a typical family household.

The property does not benefit from off-street parking, although it must be acknowledged that the existing dwelling, which could accommodate a family, also does not benefit from off-street parking. Given the existing situation and on the basis that on-street parking is common along Green Lane, it is considered that there would be no material difference regarding highways impact.

Conclusion

Having regard to the matters above, on balance, it is concluded that the proposed change of use from C3 to C2 is not a material change of use, meaning that the change does not constitute development, planning permission is not required, and a lawful development certificate can be granted.

RECOMMENDATION

GRANT UNCONDITIONALLY

1. The proposed use of the building for one child and two carers on a shift basis and a manager providing care would be a change of use from C3 to C2 however the change is not considered to be material, and therefore does not comprise development within the meaning set out within section 55 of the Town and Country Planning Act (1990) and would not require planning permission.

Notes for Applicant:

For the avoidance of doubt, this decision relates to the following plans and documents:

Existing Plans & Proposed Plans. Dwg no. A101
Planning Statement

Report Author Bob Melling