

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

25/00394/CPL

CASE OFFICER

Rosalind Gralton

DETERMINATION DATE 06.06.2025 **EXT OF TIME** 21/08/2025

Address: 418 Bury Road Rochdale OL11 5EU

Proposal: Certificate of lawfulness for proposed use of a dwellinghouse (C3A) as a care home (C2) for maximum of three children with four carers working on a rota basis

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

APPROVE

CHECKED AND SIGNED OFF BY: TH **DATE:** 20/08/2025

SITE

The site relates to a new build property at 418 Bury Road, an end of terrace property benefitting from a single storey rear extension, rear dormer extension and detached garage.

PROPOSAL

The application seeks a Certificate of Lawful Development for the use of the dwellinghouse as supported living accommodation (Use Class C2) for 3 children receiving full-time care from up to 4 carers.

RELEVANT PLANNING POLICY

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

- (1) If any person wishes to ascertain whether—
 - (a) any proposed use of buildings or other land; or
 - (b) any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.
- (2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
- (3) A certificate under this section shall—
 - (a) specify the land to which it relates;
 - (b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
 - (c) give the reasons for determining the use or operations to be lawful; and
 - (d) specify the date of the application for the certificate.
- (4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness

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

NATIONAL GUIDANCE

National Planning Practice Guidance (NPPG)

Burden of Proof

The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and

unambiguous to justify the grant of a certificate on the balance of probability (PPG Paragraph: 006 Reference ID: 17c-006-20140306)

RELEVANT SITE HISTORY

N/A

CONSULTATION RESPONSES

Not applicable.

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 building proposed to change use in addition to the use class which the proposed use would fall in to. Where the existing and proposed use do not fall within the same use class, it is necessary to subsequently 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 is 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.

On the balance of available evidence, the LPA is content to consider the existing lawful use of the site as a C3(a) dwellinghouse.

The applicant's planning statement states they believe the application is suitable to be considered under a certificate of proposed lawfulness as the proposal does not result in a material change in planning terms, even where a change to class C2 is proposed. The applicant states the proposed C2 use will be consistent with a family dwelling, and thereby not materially different in character or intensity.

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."

Established case law provided for by the *North Devon District Council v First Secretary of State [2004]* judgement in respect of a house used to care for children is applicable to the circumstances of this appeal. In that, the Court said that 2 children aged between 10 and 17, supported by non-resident carers, could not constitute a household for the purposes of Class C3(b).

The applicant is in agreement at point 1.1 of their planning statement that the proposed use falls within use Class C2. The council agree with this, in accordance with the North Devon case whereby children solely cannot form a single household. As such, the proposed use, based on the care of the children as stated, would comprise a change of use of the building from Class C3 to C2. The applicant's case has set out their position, whereby they consider the proposed use to be lawful on the basis that the change of use would not be material and therefore would not fall within the meaning of development under S.55(b) of the Town and Country Planning Act 1990.

On this basis, the applicant must provide clear and substantive information in order to provide a valid assessment of whether the proposed activities at the property result in a material change of use.

The applicants amended supporting statement claims the building would be used as the residence for up to 3 children aged 8-17, living together as a single household with care provided. The planning statement claims the children will be living together as a single household and receiving care by six carers working on rota, with two carers present during the day and two during the night. The home will be registered as an 'Emotional and Behavioural Difficulties' Home, providing supported accommodation in a shared or group setting, and providing a long term home for the children.

The supporting statement specifies no more than two carers shall be on site, with a maximum of five people in the property at any time (three children, two carers). During the day between 9am-5pm a Registered Manager will be visiting the site for approximately one hour. It is stated the home will be registered with OFSTED, and therefore the home must be run as closely as possible to a typical family household. Ofsted would visit the property once a year, monthly visits from local social services, and all other professional/clinical appointments are to be held away from the home. In the instance of family visits, this is also not to be held at the home.

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

The intention is for the children to attend school and/or college, and it is not considered that this would be materially different to a typical family household.

The property would retain its existing provision of off-street parking and 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 two children 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:

- Location Plan
- Amended Planning Statement prepared by BDS dated July 2025
- Existing and Proposed Floor Plans, Elevations and Site Plans 2277/1, 2277/2, 2277/3, 2277/4

Report Author Rosalind Gralton