

Officer Report

Case Reference: PL/2026/0402
Location: 62 ARMITAGE CLOSE, MIDDLETON, MANCHESTER, M24 4PA
Proposal: Certificate of lawfulness for a proposed change of use from dwellinghouse (use class C3a) to a residential care home for up to two children (use class C2)
Recommendation: Approve
Officer: Luke Rigby

SITE

The application site consists of a two-storey semi-detached residential dwelling located to the north of Armitage Close in Middleton. The existing dwelling is constructed of facing brick with a pitched roof.

PROPOSAL

Application for Certificate of Proposed Lawful Development for change of use from (C3(a) Dwellinghouse) to a children's care home (C2) to care for a maximum of 2No. children with a maximum of 3No. carers undertaking a shift pattern. A maximum of 2No. members of staff would be on site at any given time (inclusive of the home manager).

No external alterations are proposed to the dwelling.

RELEVANT PLANNING HISTORY

None relevant.

RELEVANT PLANNING POLICIES

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

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

PUBLICITY

Site Notice: N/A

Press Notice: N/A

Neighbour notification letters: In accordance with the Council's adopted Statement of Community Involvement, no publicity was issued for this application.

SUMMARY OF THIRD-PARTY REPRESENTATIONS

None received.

SUMMARY OF CONSULTATION RESPONSES

None received.

ASSESSMENT

S.55 of the Town and Country Planning Act 1990 (the 1990 Act) 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 proposed to change use 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.

In examining the physical characteristics of the site, being one half of a semi-detached pair of dwelling, within a predominantly residential area, and displaying typical domestic architectural qualities, and in the absence of any planning history to suggest otherwise, Officers are content to consider the existing lawful use of the site as a residential dwellinghouse falling within Class C3(a) of the Use Class Order.

The application submission indicates that the building would be used as the residence for up to 2 children receiving care by 3 carers who would work on a shift basis. The application submission asserts that the building would be run and operate like a regular dwellinghouse and the experience of the occupiers would be akin to that of a regular household, rather than that of a care home or other residential

institution and that despite the change to Use Class C2, no material change of use would occur.

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).

In the North Devon case, the property was being used as a home for two children and two non-resident staff were on duty at all times with a shift system operated by 6 to 7 carers to maintain the requisite cover. The application was based on the premise that the children by themselves would constitute a single household with the use falling within Class C3(b).

Crucially, the judge set out that a household needed more than just children, as 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 full-time 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 Court therefore held that the concept of living together as a household means that a proper functioning household must exist and thus, for the use to fall within Class C3(b), the children and carers must reside in the premises. Otherwise, the use falls within Class C2.

As such, in light of above and having regard to the supplied supporting statement, it is common ground that the proposed use falls within Use Class C2, which would comprise a change of use within the context of the 1987 Act given it would comprise a change between Classes C2 and C3, 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 applicant considers the use of the property to be unlikely to be perceptibly different to that of a normal dwellinghouse, where the use remains residential and would be reflective of a traditional household, with traffic movements being akin to a 'normal dwellinghouse'. Two members of staff would be at the premises between 09:00 – 17:00 (comprising one staff member and the manager of the home), and another shift from 17:00 – 09:00 the next day, with two members of staff at the premises on any given day.

The existing dwelling is a 4No. bedroom dwelling in an area of predominantly similar sized dwellings, and therefore the occupation by 2No. children and 2No. members of staff would not differ significantly than if the dwelling remained in use as a C3 dwellinghouse; there is sufficient vehicular parking available to the front elevation of the dwelling, and the application submission indicates that it is not predicted that all members of staff would rely on private car use.

Having regard to the above, it is clear that the intensity of the use of the building as a C2 institution would not be distinguishable from the use of a normal dwelling, and together with the proposed numbers of children and staff, and the characteristics of the use described, it is considered the use of the building as set out within the supporting documentation would be unlikely to be discernibly different than if used for an ordinary C3(a) purpose, and would not comprise a material change of use of the dwelling.

PROCEDURAL STATEMENT

Article 35 Declaration

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. No significant problems have arisen during the consideration of this application, and the application has been determined in a timely manner, in accordance with the policies with the Development Plan.

Human Rights and Public Sector Equality Duty

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report. In particular, Article 6 (1), of the European Convention on Human Rights in relation civil rights and a fair hearing; Article 8 of the ECHR in relation to the right to respect for private and family life and Article 1 Protocol 1 of the ECHR in relation to the protection of property have all been taken into account.

In addition, the Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics namely: age, disability, gender reassignment, pregnancy and maternity, race, religion, or beliefs and sex and sexual orientation. It places the Local Planning Authority under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. Officers have taken this into account in the assessment of the application. In particular due regard has been afforded to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers are satisfied that the application material and Officers' assessment has taken into account these issues.

The application has been considered in accordance with the Rochdale Equity, Diversity and Inclusion policy – Embracing All Voices (2024-2026), which seeks to promote a culture of equity, diversity and inclusion that benefit the community as a whole.

Recommendation: Approve

Approval Reason(s) (1)

- 1 The proposed use of the building as a residential care home for up to two children and two carers as set out in the supporting documentation would not comprise a material change of use of the building and would therefore not involve the development of the land as set out under Section 55 of the Town and Country Planning Act 1990. The use of the building as described would therefore not require planning permission and is lawful.

Informatives (1)

- 1 For the avoidance of doubt, this decision relates to the following plans/documents:-
 - Application Form
 - DWG No. BMAD/0426/ARM/PL3 (Proposed Floor Plans)
 - DWG No. BMAD/0426/ARM/PL4 (Proposed Elevations)
 - DWG No. PP-14896308v1 (Location Plan)
 - Planning Statement (dated 30th June, 2026)