

DELEGATED REPORT

Report by Helen Pressley	Date of report: 02/03/2026	Ref: 72852/LDCP
Registration: 13/02/2026	LDFC: 16/03/2026	Expiry Date: 10/04/2026
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 27	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Lawful development certificate for proposed change of use from dwelling (Class C3) to residential care (Class C2) for up to 3 no. children aged 8-18 years old with 24/7 supervision

Location: 2 Rhodes Drive, Bury, BL9 8NH

Description

Lawful development certificate for proposed change of use from dwelling (Class C3) to residential care (Class C2) for up to 3 no. children aged 8-18 years old with 24/7 supervision.

The existing property is a semi-detached 5no. bedroom property.

Relevant Planning History

64601 - Erection of replacement detached garage; Replacement 1.8 metre high boundary fence/gates; External alterations to include render to external elevations and replacement windows - Refused 17/10/2019

65560 - Erection of replacement detached garage, a basement store room to garage below; Replacement 1.8m and 1.5m high boundary wall and fence arrangements with 1 no. electric sliding gate, and 1 no. electric sliding pedestrian gate. - Approve with Conditions 21/09/2020

Publicity

None - Lawful Development Certificate

27 objections received in relation to:

- There are a number of CCTV cameras on the existing property.
- Companies house registered name is Willow Brook Care Group Services Ltd, not Willow Brook Care Group.
- The applicant is using the name of a pre-existing, unrelated legal entity.
- Documentation appears to state that company is operational when it is not.
- Ofsted have no record of this company.
- Is the applicant qualified to run a care home?
- Applicant lives in property and intends to stay living at property.
- Applicant should be looked into before permission is given to run a home with vulnerable children.
- No garden space for the property.
- Several cars associated with the property park on the street.
- Several late night meetings taking place at the property.
- Quiet residential street with lots of young families and children, elderly residents and 2 primary schools.
- Do not agree that young people struggling with social, emotional and mental health needs should be places in residential areas.

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- Don't feel it's appropriate for substance abuse users to be placed in a family residential environment where there are already vulnerable children utilising the limited outdoor space available.
- As I understand, it would be a children's care home for 8-18 year olds with a range of social and mental health problems.
- This idea of having an age range of 8 to 18 is very questionable because the younger children can become quite vulnerable in the presence of a problematic teenager.
- Sixteen to eighteen year olds are young men, not children, who could potentially disrupt the daily lives of the local residents and attract other undesirable young people.
- Difficult to keep tabs on who's who as residents and staff would likely change regularly.
- Having had exposure to children who have had early life trauma I understand that their potential behaviour may not be directly their fault but there have been many recorded events where despite this fact their resulting behaviour can seriously impact others.
- Concern in relation to number of shift patterns, rotating staff teams, support visits, external agency involvement, operational servicing, agency workers.
- Perhaps a less heavily populated area with more space would be a better option
- Concerns over lack of parking.
- Increased noise, lighting, and activity levels associated with a care facility could affect the privacy and general amenity of nearby homes.
- Big increase of 24/7 activity and traffic at varying times of night and day.
- No meaningful consultation has been undertaken with residents of Rhodes Drive or Brookdene Drive.
- Building work during adaptations that presumably will be necessary in order for the house to comply with regulations placed upon this type of business.
- Significant increase in visitors to the property.
- Money making exercise by the owners.
- Loss or property value.
- Some drivers take the corner the house is on too fast.
- Proposal has caused anxiety among local families.
- Property is not a purpose built care home.
- Granting consent would risk creating an undesirable precedent, encouraging the incremental introduction of institutional or quasi-commercial uses into an area intended and planned for family occupation.
- Has any consideration been given to the size of property and design of the dwelling, is it suitable for this purpose? Will there be additional planning permission for extensions in the future?
- There are already similar residential or supported living properties in the immediate vicinity, adding another risks an over concentration that undermines the balance of a stable, family oriented community.
- Request that this letter is placed before the Planning Committee and that we are notified of any Committee Date.
- If anything happens to my children or property I will hold Bury Council accountable and will be taking legal action.
- Conflicts with Local Plan Policies LP-H6, LP-BE8, LP-TR6.

Statutory/Non-Statutory Consultations

None - Lawful Development Certificate

Pre-start Conditions - N/A

Development Plan and Policies

Issues and Analysis

Section 192 of the Town and Country Planning Act 1990 (as amended) allows an applicant to apply for a determination in law by the Local Planning Authority, that the matter applied for is not development requiring planning permission. In all such cases, the onus of proof is on the applicant and the factual information submitted in support of the application by the applicant forms the basis of the decision, in law, taken by the Local Planning Authority.

The premises is an extended semi-detached dwelling on a residential street so the likely use of the property has constantly been residential C3 uses. The property has been extended to the rear with a dormer, and to the front with a single storey canopy and porch. There is no planning history in relation to these additions which appear to have taken place after 2020. The boundary wall to the front of the property has not been built in accordance with the approved plans for application 65560 and includes an unauthorised vehicular access from Rhodes Drive.

Depending on the circumstances of each case, a children's home will fall into either a C2 or C3 use classification. A material change of use from class C3 to C2 amounts to development requiring planning permission. There is therefore a potential requirement for planning permission to use a dwelling house as a children's home.

The starting point is to first establish whether a material change of use would occur and this centres around whether or not the children are in themselves capable of living together as a single household.

Class C3 (b) of the Town and Country Planning (Use Classes) Order as amended refers to "use as a dwelling house by not more than six residents living together as a single household, (including a household where care is provided for residents)." If a children's home was being run on this basis, with children being looked after by a permanent occupant of the dwelling, there would be no requirement for planning permission. However, the matter is less clear when the care is based on shift patterns.

In the North Devon District Council [2003] case Justice Collins made the point 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 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 North Devon judgement confirms that it is unrealistic to expect children to look after themselves in a single household. It also clarified that carers who provided 24 hour care but were not resident could not be regarded as living together in a household. The concept of living together as a household means that a proper functioning household must exist and children and carer must reside in the premises. In such circumstances, the use cannot therefore be considered to fall within Class C3 (b).

A children's home run on shift patterns could not be considered to fall within Class C3 (a), because clearly, this is not occupation of a dwelling house by a single person or people living together as a family.

Equally, C3(c) distinguishes groups of people living together as a single household, which could for example include people with lodgers, or student accommodation for up to six individuals. Children's homes based on shift patterns would not be considered to fall into these criteria either.

Following an assessment of case law and an Inspectors decision of 2010 at Stockport, use of premises as a children's home will generally be held to fall within Class C2 of the Order (Residential institutions).

Despite this however, the change of use from C3 to C2 may not amount to a material change of use and so may still not amount to development which requires planning permission so it is possible to conclude that no material change of use has occurred if there is no material difference in activity to that which may be anticipated in the case of a conventional residential use.

In this instance the existing property has 5 bedrooms. The indicative proposed floor plans

show the existing lounge utilised as a staff office/bedroom, 3no. children's bedrooms at first floor and a spare bedroom and games room within the loft. It is unclear why an additional or spare bedroom is required within the loft if the proposal is for 3no. children, or who would occupy this additional bedroom. This does not appear to have been expanded on within the supporting documentation.

Alongside this application, the supporting Management Plan indicates that a maximum of 3 children would be cared for at the home. Staff would operate on a shift pattern with a registered manager on site between 09:00 and 17:00 and Residential Care Workers working 10:00 to 14:30 the following day and shift handovers taking place at 14:00.

The Management Plan states that "under typical circumstances, two Residential Care workers will be on duty at any one time" but also states that "staffing levels are increased in response to the number of children accommodated and their individual needs." As such it is unclear from the information submitted how many staff would be at the site at one time should the needs of the child/ren be greater or when typical circumstances cannot be adhered to because of these needs.

This therefore could mean that there could be an increase in activity at the property and so a material change of use would occur.

It is therefore considered that a material change of use may occur and A Certificate of Lawfulness should not be granted in the terms specified as the proposed may be considered development.

Response to Representations

Many of the objections received reference a Planning Application, or Planning Permission. For clarity the proposal is a Lawful Development Certificate. There is no planning application currently with the local authority at this site. Lawful Development Certificates would not be determined at Planning Committee.

Residents were not notified of the proposals as the application is a lawful development certificate and so is determined by planning law, fact and any other relevant judicial authority not the comments of neighbours.

Each site must be looked at on its own merits and any issues at another site cannot be taken into account when determining this application.

The company running the care home being privately run is not relevant when assessing the lawfulness of the application. The owner of this company, or the name of this company is not relevant when assessing the lawfulness of the proposed use. The experience of the company opening the care home is not a relevant consideration when determining the lawfulness of the proposal.

The care home is not unregulated, it will be regulated by Ofsted as all care homes of this kind are required to be.

Impact on house prices are not a planning consideration so cannot be considered as part of this application.

The property having two schools, elderly residents or families nearby would not affect the lawfulness of the proposal.

The proposed use cannot be assumed to cause any more crime or anti social behaviour than any other family that could move into the property and a fear of crime would not cause the proposal to constitute a material change of use.

Each application must be looked at on its own merits so any issues with other care homes

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would not be considered as part of this application.

Existing anti social behaviour issues in the area do not affect the lawfulness of this proposal.

There is no limit to the number of properties like the proposed care home in certain areas.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposal, described in the First Schedule, is considered to constitute development within the meaning of Section 55 of the Town & Country Planning Act 1990 (as amended) and is **not** deemed to be 'Permitted Development' having regard to the Town and Country Planning (General Permitted Development) Order 1995. The proposed development **will** therefore require the submission of a formal planning application.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP 02/03/2026			