

DELEGATED REPORT

Report by Charlotte Orrell	Date of report: 12/05/2026	Ref: 73157/LDCP
Registration: 29/04/2026	LDFC:	Expiry Date: 24/06/2026
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area:	Adv Type: N/A
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: NREQ

Proposal: Lawful development certificate for proposed change of use from dwellinghouse (Use Class C3) to small children's home (Use Class C2) for one child aged 7-18 with care provided by non-resident staff on 24 hour rota

Location: 149 Wood Street, Bury, BL8 2QX

Description

Lawful development certificate for proposed change of use from dwellinghouse (Use Class C3) to small children's home (Use Class C2) for one child aged 7-18 with care provided by non-resident staff on 24 hour rota.

Relevant Planning History

None

Publicity

None

Statutory/Non-Statutory Consultations

None

Pre-start Conditions - Not relevant

Development Plan and Policies

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within the adopted Bury Unitary Development Plan (UDP), together with other relevant material planning considerations.

The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP and PfE Policies will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

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.

149 Wood Street is a terraced dwelling on a residential street which has no relevant planning history and so the likely use of the property has constantly been residential C3 uses.

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 dwelling has 2 bedrooms with one of the bedrooms being 8sqm, and so suitable for only one occupant, as the Nationally Described Space Standard for double occupancy is 10.5sqm. The largest bedroom is approximately 15.3sqm which is above this standard and so is suitable for double occupancy. It is therefore considered that the property currently could be inhabited by up to 3 residents comfortably.

Alongside this application, the supporting information indicates that a maximum of 2 children would be cared for at the home. Staff would operate on a shift pattern with a maximum of 2 members of staff being at the property at any one time, and occasionally a Manager present.

This means at any one time, 4 people could be present. Despite this, it is not uncommon for residential dwellings to have visitors, and the Manager for the home being present occasionally alongside the 2 members of staff and child would not represent an intensification beyond that of a residential household.

This therefore means that an increase in activity with one child, and generally only two staff with the occasional manager, is unlikely to intensify the activity at this household.

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

Recommendation: LAWFUL

Conditions and Reasons:

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

<u>Case Officer</u> CO 12.05.2026	<u>Date</u>	<u>Sign off Officer</u> DM 21.05.2026	<u>Date</u>
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