

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 04/06/2026	Ref: 73056/LDCP
Registration: 20/04/2026	LDFC:	Expiry Date: 15/06/2026
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 use of dwellinghouse (Use Class C3) to provide residential care accommodation (Use Class C2) for 1 young person (age 8-18 years)

Location: 109 Windsor Road, Prestwich, Manchester, M25 0DF

Description

Lawful development certificate for proposed use of dwellinghouse (Use Class C3) to provide residential care accommodation (Use Class C2) for 1 young person (age 8-18 years). The application states there would be up to 3 carers. A Registered Manager would oversee the operations of the care home.

Relevant Planning History

72930 - Lawful development certificate for proposed use of dwellinghouse (Use Class C3) to provide residential care accommodation (Use Class C2) for 2 young people (aged 8-18 years) - Lawful Development 20/03/2026

Publicity

n/a

Statutory/Non-Statutory Consultations

n/a

Pre-start Conditions - Not relevant

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.

Applications for lawful development must be determined by planning law, fact and any other relevant judicial authority. In this case the planning law is the Town and Country Planning Act 1990 and the Use Classes Order 1987. The relevant judicial authority in this case is the judgement in North Devon District Council v. First Secretary of State [2003] EWHC 157 (Admin).

Use class confirmation

The first consideration of this application is whether a material change of use would take place and what the proposed use class would be.

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 a case which was subject to an appeal, (North Devon) S Ltd used a house to provide residential care for two children. The house comprised a small downstairs office, individual bedrooms, and the usual kitchen and bathroom facilities. Two non-resident staff were on duty at all times and the house was under the supervision of a team of six or seven adult carers, who attended on a rota basis. A question arose over whether the use required planning permission.

The North Devon judgement confirmed 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).

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 application for lawful development, the proposal where carers would be non-resident, in accordance with regard to judicial authority, places the proposed use in use Class C2 - Care Homes.

Material change of use

The second consideration of this application is whether or not the change of use constitutes a material change of use within the meaning of Section 55 of The Town and Country Planning Act 1990.

The applicant seeks consent for a Lawful Development Certificate as a proposed Children's Residential home.

It is for the LPA to consider the nature of the proposed use (up to three adult carers and one child) and whether this is 'materially' different to the use of the property as a typical Use Class C3 (a) dwellinghouse.

It is important to consider whether a 'material' change of use will occur in accordance with the principles established in the North Devon judgment.

The Inspector noted that the North Devon judgment provided the authority with the view that use as a care home for children, where carers were non-resident, fell within Use Class C2. He then considered whether the change of use was material. In refusing an LDC, staff numbers were cited by the Council as the sole cause for concern in this judgment. However, having looked at the numbers involved; the Inspector concluded that they were not materially different from what might be expected of a large family house. On this basis he concluded that the proposed use would not, as a use within Use Class C2, amount to a material change of use from Use Class C3 as a dwelling house. The change of use would not require planning permission and the Council's decision to refuse to grant an LDC was not well-founded.

In light of the case law detailed above, each application should be determined on its own

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merits to decide whether there is a material change of use from that of a dwelling house (Use Class C3) to that of a residential institution Use Class C2. If it is decided that a change of use had taken place, it is important to establish if this is material.

The judgement reiterated that case law had established that whether or not a material change of use had taken place was a question of fact and degree.

In this case to summarise the proposals -

- The residing of one child and three adults would not go beyond what would be expected of a standard family unit in a two storey 3 bedrooomed dwellinghouse.
- The child would have their own bedroom with provision of 2 bedrooms between the 3 carers
- The ground floor accommodation would comprise kitchen and lounge/diner which would be commensurate with family living. There would be a separate staff office.
- Shift patterns would be for a period of 48 hours which would minimise disruptions and activites to and from the site.
- The operations of the care home would be overseen by a Registered Manager.
- There is driveway parking for 2 cars and on street parking.
- The comings and goings would not be unlike that of a residential household.
- Visitors such as social workers and education professionals would be consistent with activity of a normal household.

Therefore whilst the proposal would result in a change of use from Use Class C3 to Use Class C2, it is considered that there would be no material change of use in this case for the reasons detailed above and as such planning permission is not required.

Recommendation: LAWFUL

Conditions and Reasons:

The proposal, described in the First Schedule, is not deemed not to constitute development within the meaning of Section 55 of the Town & Country Planning Act 1990 as the proposed change of use of 109 Windsor Road, Prestwich M25 0DF to a residential children's home for one child with up to three carers working on a rota basis (Class C2) and operating in full accordance with the details set out in the applicants Supporting Statement received June 2026 and Management Plan dated February 2026 would not represent a material change of use from the existing Class C3 dwellinghouse use, and would therefore be Lawful Development.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT 4/6/26		DM 05.06.2026	