


Report to be read in conjunction with the Decision Notice.

Signed:	Officer:	MC	Date:	31/10/2025	Manager:	LH	Date:	31/10/25
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Application Ref:	3/2025/0804			 Ribble Valley Borough Council www.ribblevalley.gov.uk
Date Inspected:	30/10/2025	Site Notice:	N/A	
Officer:	MC			
DELEGATED ITEM FILE REPORT:				REFUSAL

Development Description:	Certificate of lawfulness for the proposed use of a (Use Class C3a) dwelling house to a children's home (Use Class C3b)
Site Address/Location:	36 Moor Field, Whalley, BB7 9SA

CONSULTATIONS:	Parish/Town Council
N/A	

CONSULTATIONS:	Highways/Water Authority/Other Bodies
N/A	

CONSULTATIONS:	Additional Representations.
As this is not a planning application it was not necessary or appropriate to issue any neighbour notifications, nonetheless a number of third party objections have been received. The objections / concerns relate to the suitability of the property/ plot / location for the proposed use.	

RELEVANT LEGISLATION AND SITE PLANNING HISTORY:
<p>Town and Country Planning Act 1990</p> <p>The Town and Country Planning (Use Classes) Order 1987 (as amended)</p> <p>Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)</p>
<p>Relevant Planning History:</p> <p>No relevant planning history.</p>

ASSESSMENT OF PROPOSED DEVELOPMENT:
<p>Site Description and Surrounding Area:</p> <p>The application relates to detached bungalow located within the settlement boundary of Whalley.</p>
<p>Proposed Development for which consent is sought:</p> <p>A certificate of lawfulness seeks to establish the use of the building as a children's home (C3(b) use).</p>

Observations/Consideration of Matters Raised/Conclusion:

The Town and Country Planning (Use Classes) Order 1987 (as amended) identifies a range of uses of buildings/land and allows the change of specific uses within individual classes.

It is important to establish whether there is a material change of use of the site from a single household to a single-occupancy children's residential home.

The application form states that the existing use of the building falls within use class C3 as residential dwelling and no material change of use would occur.

The main issue to consider when determining a Certificate of Lawfulness is whether the proposal would involve a material change of use from the existing C3 dwelling, taking into account relevant case law and legislation.

Firstly Section 55(1) of the Town and Country Planning Act 1990 defines the meanings of the term "development" and which includes the making of any material change in the use of any building. Section 55(2)(f) states that in the case of buildings which are used for a purpose of any class specified by the Secretary of State, the use of the building for any purpose within the same class shall not be taken for the purposes of the Town and Country Planning Act 1990 as amounting to development. Section 57(1) of The Act provides that planning permission is required for the carrying out of any development of land and Section 336(1) defines "land" as including a building. Section 192 of The Act (as amended) makes provision for an application to be made to the local planning authority to ascertain whether any proposed use of a building would be lawful, and which is the purpose of this application for a Certificate of Lawfulness for a proposed use.

Use Class C3 (Dwellinghouses, used as sole or main residences) of the Town and Country Planning (Use Classes) Order 1976 (as amended) is as follows:

Use as a dwellinghouse as a sole or main residence by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

The application site comprises an existing residential unit for a single household with 2 no. bedrooms, a lounge, dining room, shower room, separate w/c, kitchen, garage and entrance hall/porch. As such, the building is considered to fall within the scope of Use Class C3.

Use Class C2 (Residential Institutions) of The Town and Country Planning (Use Classes) Order 1987 (as amended) is as follows:

Use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3. Dwellinghouses, used as sole or main residences).

Use as a hospital or nursing home.

Use as a residential school, college or training centre

Case law has established that if children living in a home have carers who work on a rota (shift basis) and the dwelling is not their permanent residence, then the use of the children's home cannot be considered to fall within Use Class C3b and it must be regarded as C2.

In the case of North Devon District Council v First Secretary of State, a company leased a house to be used for the residential care of 2 children. The children were cared for on a rota basis by non-residential staff. The company sought a lawful use certificate on the basis that the new use fell within class C3(b). Mr Justice Collins held that the children could not form a household, as they were not capable of looking after themselves. He stated that living together as a household requires that a proper functioning household exists, and so the

children and carers must reside in the premises. Therefore, the house was within class C2. The North Devon judgement also confirms that children and carers must reside in the premises and a children's home run on shift patterns could not be considered to fall within Class C3.

The proposed use would be run on a shift pattern, with two members of staff on site at all times, working shifts of 7:30am – 10pm and 10pm through the night (sleep in shift), as well as 9pm – 9am for the 'waking night shift'. As such, the use would fall within Use Class C2 and the proposal would result in a change of use from Class C3 to C2.

Notwithstanding the above, in the case of North Devon District Council v First Secretary of State, it was also established that whilst a change of use had occurred, the change was not considered to amount to a material change of use and planning permission was not required. As such, it is necessary to consider whether a material change of use would occur as a result of the proposed scheme.

Appearance and layout

The supporting information identifies that there are no proposed external or internal changes proposed at the property. As such, the proposed use would not result in an appearance that differs from other residential dwellings within the street in C3 use and would not impact on the character of the surrounding area. In addition, there are no changes to the layout proposed which would increase the number maximum occupancy of the dwelling.

Occupancy, staffing model/rota and vehicular movements

Paragraph 3.2 of the Planning Statement indicates that the applicant provides residential care and health services for children aged 8 – 18. The dwelling would be occupied by one looked after child with two members of staff on duty at all times.

The submitted Management Plan (Management Plan Elswick - Moorfield – Toto) states that there will be a maximum of 2no. members of staff present during the day which will work a 7:30am-10pm shift and at 10pm one of these members of staff would finish their shift at the property and the remaining member of staff will carry out a 'sleep-in' shift. Another member of staff would arrive at the property at 9pm who would carry out their 'waking night' shift from 9pm-9am, meaning that there would be a maximum of 2no. members of staff present at the property overnight. One of the bedrooms within the property would be a staff bedroom.

Paragraph 3.4 of the Planning Statement also states that there would be management staff that visit the property during typical office hours and the Management Plan indicates that there would be medical professionals who may visit the home from time to time as some children would have severe physical disabilities.

It is unclear from the supporting information how many shifts any member of staff would work in a week. However, the staff rota means that there would be at least 1 no. new member of staff visiting the property per evening, taking over from the day shift. This is considered to result in a material difference from a C3a Dwelling as there would be a sense of familiarity with the same individuals coming and going, whilst the proposed care results in different carers coming and going, throughout the week. This would be exacerbated with visits from other professionals. The proposed change of use to C2 for a children's home cannot be seen to constitute a single family therefore the proposal is a material change of use. In addition, the siting of the dwelling, within a small cul-de-sac would make the comings and goings of visitors more apparent given the close proximity to neighbouring properties and the low levels of traffic currently using the residential street, emphasising the material change of use.

With regards to vehicular movements, the supporting information indicates that the staff changeover would be in the evenings, where one of the two members of day staff would finish their shift at 22:00, one would stay for the 'sleep-in' shift and another member of staff would arrive at 9pm to start the 'waking night' shift. This would mean there would be at least 2 no. vehicle movements in the evening with up to 3 no. members

of staff and 3 no. vehicles present at one time during the changeover between 9 – 10pm. This pattern of movement at night-time would make the comings and goings of staff more apparent, emphasising the material change of use.

The supporting information indicates that there are 3 no. parking spaces at the property with 1 no. parking space within the existing garage as indicated on the submitted drawings.

It is noted that the internal dimensions of the garage parking space is approximately 5.05m x 3.9m and the minimum internal size of a garage for it to be counted as a parking space would be 6m x 3m. As such, the garage cannot be counted as a parking space, meaning there would be 2 off street parking spaces.

Where there are staffing changeovers or visitors from professionals, there would likely be at least one vehicle having to park on the street, in a cul-de-sac with limited space for off-street parking. This reliance on on-street parking would make the comings and goings of staff / visitors more apparent, emphasising the material change of use.

In conclusion, the existing property has a lawful use as a residential dwelling within Class C3a of the Use Classes Order. It is considered that the nature of the proposed use would fall within Class C2 rather than C3(b) and would be materially different from the existing lawful use due to the nature of its occupation and care provision to be provided including pattern and frequency of visits to the property which is in a cul-de-sac location with low traffic levels where movements of staff / visitors would be more apparent.

The change of use to a residential children's home, would require an application for planning permission.

RECOMMENDATION:	That the Certificate of Lawfulness be refused for the following reason(s):
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01:	The proposed use as described in the application would not fall within Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The proposal by virtue of the nature of the use as a children's home involves a change of use from the existing lawful use which is Class C3 to Class C2. Having regard to the nature of occupation and care provision, visits to the property and the property's cul-de-sac location, the proposed development would amount to a material change of use requiring planning permission. Accordingly, a certificate of lawfulness is hereby refused having regard to Section 192 of the Town and Country Planning Act 1990 and an application for planning permission is required.
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