Our Ref: JB/102032

Date: 22 April 2026

Planning Services
Kirklees Metropolitan Council
PO Box 1720
Huddersfield
HD1 9EL

Dear Sir/Madam,

ASPRIS CHILDREN'S SERVICES LTD
15 ROBIN ROYD LANE, MIRFIELD WF14 0LQ
APPLICATION FOR CERTIFICATE OF LAWFUL PROPOSED USE
PLANNING PORTAL REFERENCE: PP-14873802

Introduction & Background

On behalf of our client, Aspris Children's Services Ltd, we are pleased to submit an application seeking a lawful development certificate for the proposed use of 15 Robin Royd Lane, Mirfield as a dwellinghouse (Class C3).

The application site has been in use since 2020 as a small children's home but until then had been occupied as a family house. It is now intended that the use of the site reverts to a family dwelling and a lawful development certificate is being sought to confirm that this would be lawful.

As you will know, this application is not one that allows for a judgment on the planning merits. Rather, it is solely a legal determination as to whether planning permission is required for the proposed use based on relevant legislative provisions.

Assessment of Application

As noted above, until 2020 the application site had always been in use as a dwellinghouse (Class C3).

In December 2019 a lawful development certificate (LPA Ref: 2019/CL/93587/E) was issued confirming that the proposed use of the application site as a '*home for 2 young persons in receipt of care'* was lawful and, therefore, did not require planning permission. A copy of the certificate and associated officer report are enclosed with this letter.

It will be clear from the enclosed documents that the lawful development certificate was issued on the basis that the then proposed use as a small care home did not involve a material change of use from the lawful use as a dwellinghouse (Class C3). This is confirmed by the enclosed documents, which state that:

> *'…it is considered that on the balance of probability that the proposed use of the house as a residential home for two children and/or young people with two carers on site at all times within the land edged red does not amount to a material change of use as defined by Section 55 of the Act.'*

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The current application seeks a certificate of lawful proposed use confirming that planning permission is not required to revert to a family dwelling – i.e. the use of the property until 2020.

No internal or external works to the property are proposed and it is already laid out as a single self-contained residential unit with all the rooms that one would expect as part of a dwellinghouse.

As referred to above, the Council previously determined that there was no material change of use involved in changing the use of the former dwelling to a small care home for two young persons. On this basis, the only logical conclusion that can be reached is that there will also be no material change of use involved in reinstating the previous dwellinghouse use.

If it was not material to move in the first place from the dwellinghouse use to the small care home then, by definition, it also cannot be material to revert to a dwellinghouse – i.e. the Council cannot decide that moving from use A to B is not material but then reverting to use A from B is material.

Overall, it will be clear that planning permission is not required here, as no material change of use will result in reverting to a family dwelling from the small care home use. Any other conclusion would not only be illogical but would also be inconsistent with the Council's stated position in dealing with the previous application.

Application Submission

The application comprises the following documents and drawings, in addition to this covering letter:

- Completed application form
- Location & Site Plan
- Existing & Proposed Floor Plans

The application fee of £305 has been paid today via the Planning Portal.

Conclusion

In light of the content of this letter and its enclosures, we trust that the Council will be able to issue a lawful development certificate for the proposed use of 15 Robin Royd Lane, Mirfield as a dwellinghouse (Class C3).

In the meantime, we look forward to receiving confirmation of registration of the application.

Yours faithfully

Redacted

JULIAN BOLITHO
Partner

Encs:

1. Certificate of Lawfulness of Proposed Use 2019/CL/93587/E
2. Officer Report Ref: 2019/CL/93587/E

KIRKLEES COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 2015: ARTICLE 39

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Application Number: 2019/CL/93587/E

To: Simon Richardson,
Planning and Law Ltd
The Old Office Grange Farm
Grange Road
Singleton
Poulton le Fylde
FY6 8LP

For: Sandcastle Care Ltd

FIRST SCHEDULE CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OF DWELLING AS A HOME FOR 2 YOUNG PERSONS IN RECEIPT OF CARE AS REQUIRED WITH NO MORE THAN 2 CARERS RESIDENT OVERNIGHT

SECOND SCHEDULE 15, ROBIN ROYD LANE, MIRFIELD, WF14 0LQ

KIRKLEES COUNCIL HEREBY CERTIFY THAT ON 01-NOV-2019 THE USE DESCRIBED IN THE FIRST SCHEDULE THERETO IN RESPECT OF THE LAND SPECIFIED IN THE SECOND SCHEDULE HERETO AND EDGED RED ON THE PLANS ATTACHED TO THIS CERTIFICATE WOULD BE LAWFUL WITHIN THE MEANING OF SECTION 192 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED), FOR THE FOLLOWING REASONS:

On the balance of probability the occupation of 15 Robin Royd Lane, Mirfield, WF14 0LQ by up to a maximum of two children with two carers on 24 hour shift basis including sleeping in overnight would not constitute a material change in the use of this building and as such is not considered to amount to development as defined within Section 55 of the Town and Country Planning Act 1990 (as amended) and would therefore be lawful pursuant to section 192 of the Act.

Plans and specifications:-

Plan Type	Reference	Web ID	Date Received
Application form	-	778110	01/11/2019
Location Plan	-	778111	01/11/2019
Floor plan - existing		778107	01/11/2019
Floor plan - proposed	-	778109	01/11/2019
supporting statement	311019	783787	01/11/2019
Additional statement	-	783780	09/12/2019

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

If the application has been publicised by notice(s) in the vicinity of the site. It is respectfully requested that the notice(s) now be removed and responsibly disposed of to avoid harm to the appearance of the area

NOTES:

(1) This certificate is issued solely for the purpose of section 192 of the Town and Country Planning Act 1990 (as amended).

(2) It certifies that the use specified in the First Schedule taking place on the land described in the Second Schedule would be lawful on the specified date and, thus, was not liable to enforcement action under Section 172 of the 1990 Act on that date.

(3) This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.

(4) The effect of the certificate is also qualified by the proviso in Section 192 (4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

(5) If the applicant is aggrieved by the decision of the Local Planning Authority to issue a certificate of lawfulness of development, for any part development applied for (including any modification or substitution of the description of the use), s/he may appeal to the Secretary of State in accordance with Sections 195 and 196 of the Town and Country Planning Act 1990 (as amended).
Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at https://www.gov.uk/planning-inspectorate. Further information on the Planning Appeal process can be found online at the Planning Inspectorates website https://www.gov.uk/government/organisations/planning-inspectorate.

An important part of improving our service is to review your feedback on the way that we have dealt with your planning application(s). Please take a couple of minutes to email your comments to dc.admin@kirklees.gov.uk so that we can work on continually improving our customer service. Thank you.

Dated: 23-Dec-2019

Signed: 

Karl Battersby
Strategic Director Economy and Infrastructure

Address to which all communications should be sent:-

Planning
Investment & Regeneration Service
PO Box B93
Civic Centre 3
Huddersfield
HD1 2JR

KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) Section 191/192

DELEGATED DECISION FOR APPLICATION FOR CERTIFICATE OF LAWFUL DEVELOPMENT

Reference no.: 2019/CL/93587/E

Site: 15, Robin Royd Lane, Mirfield, WF14 0LQ

Description: Certificate of Lawfulness for proposed use of dwelling as a home for 2 young persons in receipt of care as required with no more than 2 carers resident overnight

Case Officer**:** Jennifer Booth

Decision Reference: PROPOSED USE GRANT

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Kevin Walton

AUTHORISED OFFICER

Date 23-Dec-2019

APPLICATION FOR CERTIFICATE OF LAWFUL **USE**
(Proposed)

APPLICANT: Sandcastle Care Ltd

SITE: 15 Robin Royd Lane, Mirfield, WF14 0LQ

APPLICATION: 2019/93587

1. Application

1.1 The applicant seeks to prove that using 15 Robin Royd Lane to provide living accommodation for 2 children with 2 carers does not constitute a material change of use and would therefore result in a lawful use.

2. Lawful Use Certificates

2.1 Section 192(1) (a) of the Town and Country Planning Act 1990 ("the Act") permits any person who wishes to ascertain whether any proposed use of buildings or other land is lawful to make an application to the Local Planning Authority.

2.1 Section 192(2) of the Act provides that uses are lawful if the Local Planning Authority is provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application.

3. The Relevant Test

3.1 The burden of proof lies firmly with the Applicant and the relevant test for whether the use can be deemed lawful is the "balance of probability".

3.1 The Applicant's evidence does not need to be corroborated by "independent" evidence. If the Local Planning Authority have no evidence of their own, or from others, to contradict or otherwise make the Applicant's version of events less than probable, there is no good reason to refuse the Application, provided the Applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability

4. Limitations

4.1 A LDC must contain precise details of what use, operations, or failure to comply with a condition are found to be lawful, why and when. These details will not be legally equivalent to a planning condition or limitation. They will be a point of reference specifying what was lawful at a particular date, against which any subsequent change may be assessed. If the use subsequently intensifies or changes in some way to the point where a "material" change of use takes place, a Local

Planning Authority may then take enforcement action against the subsequent breach of planning control.

5. Relevant Information

5.1 The dwelling is a detached storey and half dwelling with dormers which is located on Robin Royd Lane. There is a drive to the front and the property has gardens to the rear and side. There is a conservatory to the rear. The layout of the property includes an entrance hall, a lounge, kitchen/diner, bedroom with separate bathroom on the ground floor and with a further three bedrooms and bathroom at first floor.

6. Evidence submitted in support of the Application

6.1 The agent has submitted a completed application form, a site located plan, an existing floor plan, proposed floor plan and a supporting statement with additional questions section which outlines how the property will operate.

6.2 At the request of the officer, the agent has supplied further information in terms of

- The age range and average length of stay for the children – this is indicative in terms of materially as short stays and frequent turnover could be construed as altering the character.
- The number of staff at any one time and the likely shift patterns – complex shift patterns and high numbers of staff could also alter the character.
- Details of the existing parking arrangements – for example a site with tandem parking is more awkward when the first car needs to leave and manoeuvring of vehicles could represent a change of character. A proposed parking plan could demonstrate the arrangements.
- Would there be lockable bedroom doors and office, specialist fire or security alarms, buzzers on the doors – this can also result in a more institutional arrangement.
- Other professional visitors to the site such as therapists, medical professionals, social workers, tutors visiting the site – the number and frequency for visitors also speaks to the character.
- Any internal or external changes to the property – the alteration of the appearance and layout (wall removals etc) may also indicate a change in the character.

Whilst if only a few of these alterations were to occur it could still potentially be considered not to be a material change, cumulatively these changes could represent a material change and as such more evidence was considered to be necessary in terms of the operations proposed.

7. Evidence submitted against the Application

None

8. Site Visit

None

9. Assessment of the Evidence

15 Robin Royd Lane is a 4 bedroom detached house with a drive, gardens and conservatory. Sandcastle Care Limited are seeking confirmation that they can use the house as a small specialist children's home without needing to apply for a change of use planning application.

North Devon District Council [2003] states 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. Moreover, even if 24-hour care was being provided based on a shift pattern, it held that the carers must have also been living full time on the premises for it to be capable of being considered a household for the purpose of this use class (C3).

The use of 15 Robin Royd Lane for the care of up to 2 "looked after" children with two carers at any given time working on a shift basis would not fall within class C3 as the carers would not live permanently within the premises and as such cannot be considered to be living as a single household.

It is noted that the mission statement on the Sandcastle Care website sets out the intention to provide a "high quality, highly nurturing and life changing residential childcare in small homely environments".

That being said, based on the information available, the care of children in these circumstances can more accurately be considered to fall within C2.

Therefore consideration needs to be given as to whether the C2 use, operated in the manner proposed within the supporting statement, would constitute a material change of use, given that Section 55 of the Act establishes that the making of a material change of use of a building represents development.

The recognised starting point in considering whether a material change has occurred would be to initially consider the planning unit (Burdle v SoS [1972]). The existing planning unit is a detached dwelling.

Materiality in the context of the meaning of development is dependent upon whether there is a change in the character of the property (Guildford Rural DC v Penny [1959]). A change of use from a dwelling to a care/children's home would not always be considered to change the type of use. In this instance,

the intention to operate the house as a home for 2 carers and 2 children is intended to emulate a family household as closely as possible.

The materiality of a change in use being judged in the broad context of the likely planning consequences of that change, and not just by comparing the different activities (if any) that will take place at the location itself.

The question of what constitutes “material” being a matter of “fact and degree” for the local planning authority to determine in the first instance and the Secretary of State in the event of an appeal. The two key tests of materiality in a change of use are whether there would be a change in the character of the use of the premises and secondly the effects of this change upon neighbouring uses. This entails giving particular consideration to the proposed use, having regard to the activities proposed to be undertaken and whether those activities would exceed what might reasonably be undertaken at a dwellinghouse.

One would expect a dwellinghouse to have occupants there on a permanent basis and it would not be unusual for children to make up part of a family home. The use proposed here would also include two occupants under the age of 18 and this would form their permanent address for an unspecified length of time.

There would also be at least two carers on site at all times on a shift basis. Whilst this is not typical of a family home given the crossover of staff during a shift change, this is not considered to be out of character with visitors to and from a family home or where there is a housekeeper or cleaner.

Furthermore, all residents including staff members would share mealtimes, facilities and relax in the same areas. In addition, it cannot be said that there will be any significant intensification in the numbers of residents residing at the premises. The use of the premises will consist of 2 children and two carers living together in a similar fashion to a single household. It is understood that the activities in the home will not greatly differ from what happens in any family home. Many families have children with additional needs, whether it is special educational needs, an illness or a disability, but the dwelling in which they reside remains a family home. The degree of change in the character of the building thus would appear to be marginal.

In terms of the character of the area and the perception that as a Childrens home, there may be potential for the children to commit anti-social acts or for an increase in crime level. It is not considered to be inherent in the character of a Childrens home for there to be an adverse impact upon the local community and welfare services.

The car movements are anticipated to be what could be expected at any residential premises particularly movements in connection with the day to day running of the household inclusive of the comings and goings of the carers at the beginning and the end of their shift. No changes are proposed to the

existing parking or access arrangements which are adequate for the proposed use.

There would not be any changes to the external elevations of the existing dwelling. Internally the ground floor bedroom would be altered to form an office and a wall would be moved to allow for a corridor to be formed between the new office and the shower room. However, no other internal changes are proposed. The agent has confirmed that there would be no lockable doors include or specialist alarm systems.

In this case, a change of use from a dwelling (C3) to a residential home for two children with two carers at all times would not appear to introduce any different way in which the building would operate.

On this basis, the occupation of the dwelling by up to two children and/or young people, with two carers on in the house 24 hours a day would not constitute a material change of use of the dwelling, thus it would not operate any differently to use as a dwelling within use class C3.

The proposed change of use to a residential home for up to four children and/or young people is proposed to include the ancillary land. In terms of planning control, the proposed use of the building would be retained as residential and is it not considered unreasonable to conclude that the land shown on the plan edged red would continue to be ancillary residential land.

10. Recommendation.

Based on the above, it is considered that on the balance of probability that the proposed use of the house as a residential home for two children and/or young people with two carers on site at all times within the land edged red does not amount to a material change of use as defined by Section 55 of the Act. The change of use is not considered to substantially change the character of the building, nor does it have any “planning” effect upon the neighbourhood. It is recommended to approve the certificate and confirm the lawful use.

Specified Use

Whilst it is not considered to be materially different to a C3 use as defined by the Use Classes Order, as stated above the use as proposed is not considered to fall within a C3 Use Class.

Equally it is not considered the use as a residential home at this degree of use could comfortably fall into a clear definition of “institutional” as provided by Class C2 within the Use Classes Order. As stated above the use of the premises is not materially different to that of a typical dwellinghouse. Consequently and for the purposes of describing the use it is not considered appropriate to specify the use class.

Recommendation – Grant Certificate

Decision Authorisation - Delegated Powers

Application Number: 2019/93587

Officer Recommendation: Grant Certificate

On the balance of probability the occupation of 15 Robin Royd Lane, Mirfield, WF14 0LQ by up to a maximum of two children with two carers on 24 hour shift basis including sleeping in overnight would not constitute a material change in the use of this building and as such is not considered to amount to development as defined within Section 55 of the Town and Country Planning Act 1990 (as amended) and would therefore be lawful pursuant to section 192 of the Act.

Plans and specifications:-

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Report Dated 20/12/2019