

<u>Location:</u>	25 Milestone Road Hitchin Hertfordshire SG5 2SZ
<u>Applicant:</u>	Mr Alvn Osei-Tutu
<u>Proposal:</u>	Change of use of dwelling to registered residential children's home (C2) to accommodate 3 children with 24hr care staff (amended plans received 6 April 2025)
<u>Ref. No:</u>	25/00012/FP
<u>Officer:</u>	Melissa Tyler

Reason for Delay

COMMITTEE CYCLE

Reason for Referral to Committee

Called in by Cllr Billing - Given the level of public concern and the potential impact on the immediate neighbourhood, I believe there is a clear case of significant public interest.

1.0 Policies

National Planning Policy Framework

The following paragraphs of the NPPF are considered relevant to the determination of this application:

Paragraphs 7, 8, 10 and 11 - Achieving sustainable development

Paragraphs 39, 48, 56 and 57 - Decision-making

Paragraph 96 - Promoting healthy and safe communities

Paragraphs 109, 115-118 - Promoting sustainable transport

Supplementary Planning Document.

North Herts Parking SPD

Sustainability SPD

North Hertfordshire District Local Plan 2011-2031 Local Plan and Proposals Map

HS3 Housing Mix

HS4 Supported, Sheltered and older persons housing

D3 Protecting Living Conditions

T2 Parking

2.0 **Site History**

- 2.1 **24/01308/LDCP** Change of use of existing dwelling to children's home (under Class C3b) and conversion of garage into habitable accommodation. **REFUSED**

Reason for refusal: *The proposed use would not fall within C3(b) and is considered to represent a material change of use of the premises, which is development as defined by the Town and Country Planning Act 1990 (as amended). There is no part of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) which would apply in this case. The application for a certificate of lawful use is thereby refused by reason of the proposal being development for which planning permission is required.*

- 2.2 **24/01760/LDCP** Use of garage as a habitable room and use of existing house for the provision of care to no more than 3 young people living together as a single household (Class C3b) **GRANTED**

3.0 **Representations**

3.1 **Statutory Consultees**

- 3.2 **Herts Highways** - Hertfordshire County Council as Highway Authority has considered that the proposal is of low scale development therefore the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway consequently has no objections on highway grounds.
- 3.3 **Environmental Health (Noise)** - Further to the submission of the additional information, including the Selection Process and Lumen Home's Referral Guidance, I raise no objections to the proposals subject to a condition requiring any placements at this facility will be done in accordance with this submitted information.
- 3.4 **Crime Prevention Design Advisor – Hertfordshire Constabulary** – raised concerns over layout. However, no further representations have been received following consultation on amended plans.

3.5 **Neighbour Representations**

1 petition has been received and objections from 14 neighbouring residents.

Below is a summary of submitted objections

Concerns About Safety and Suitability:

The change to C2 use introduces a potential for vulnerable or high-risk children, possibly with complex behavioural, mental health, or criminal histories.

There is a nearby bus stop used by elderly residents and young children with no fencing or safeguarding between the stop and the property.

Residents feel anxious, particularly those who are elderly or live alone, due to perceived risks and lack of clarity over supervision protocols.

Incompatibility with the Neighbourhood

The surrounding area consists mainly of long-established families, retirees, and young children. The location is not suitable for a secure unit or children requiring intensive care and oversight.

The property is not close to amenities, services, or transport links that would support the wellbeing and rehabilitation of such children.

Noise and Environmental Impact

Removal of all garden vegetation has significantly impacted privacy and noise buffering, making the area appear institutional and clinical.

Concerns about noise from staff shift patterns and potentially distressed children affecting the peace and enjoyment of neighbours.

Lack of Safeguards and Oversight

No OFSTED registration has been confirmed; if the unit operates without regulation, it raises serious safeguarding questions.

Local residents request transparency about risk assessments and whether the unit meets local housing need.

Reference is made to the Crime Prevention Design Advisor's letter stating they cannot support the application due to potential policing issues.

For-Profit Motive & Escalation of Use

Residents believe the motivation is primarily profit-driven rather than child-focused.

The increase from housing two to three children demonstrates disregard for initial objections and the local community's well-being.

Statistical & National Context

Research indicates higher rates of criminalisation and police callouts for for-profit homes.

National trends show children placed far from home are at increased risk of exploitation and losing support networks.

4.0 Planning Considerations

4.1 Site and Surroundings

- 4.1.1 No. 25 is a two-storey semi-detached dwelling situated on the east side of Milestone Road and within a predominately residential area of Hitchin. The application property features an existing single storey side and front extension. The site also benefits from 2 off-street car parking spaces.

- 4.1.2 The property currently features three bedrooms and one bathroom at first floor, with general living space on the ground floor and a self-contained 2-bedroom annex with one bathroom and living areas on the ground floor.

4.2 **Proposal**

- 4.2.1 Planning permission is sought for the change of use of existing residential dwelling (C3) to registered Children's Home (C2)
- 4.2.2 The proposed children's care home would operate as such:

- Up to 3 residents of mixed sex living at the property at any time.
- 24-hour care would be provided – there would be a maximum of 2 full-time carers based at the property at any one time working on a 12-hr shift pattern
- Shift patterns – Handovers would likely be around 8am and 8pm daily
- Parking for 2 cars are required – space for 4 cars on the driveway

As a result of the proposed change of use, no external alterations are proposed

During the consideration of the application the Applicant submitted further clarification on the Selection Process, Noise Management and Referral Guidance (These can be found on the website).

4.3 **Key Issues**

- 4.3.1 In considering a change of use from dwelling house (Use Class C3) to residential institution (Use Class C2) to accommodate up to 3 children in a small children's home, the relevant planning considerations are:

- Principle of development – definition of use class and material change of use;
- Impact upon local amenity and character of the area – including noise and safe environment; and
- Parking provision.

Principle of Development

- 4.3.2 The application site is in a residential area within the settlement boundary of Hitchin as defined in Policy SP2 of the adopted Local Plan.
- 4.3.3 The proposal seeks to change the existing use of the residential dwelling to a children's care home, for three children, at No. 25 Milestone Road. A Lawful development certificate was issued to confirm the use of the property for the care of children under C3(b) – this was under the condition that the carers live there and the dwellinghouse was their main residence, as in a foster care situation. This application differs because the carers would be working in shift patterns and therefore not part of the household as defined by C3 uses.
- 4.3.4 There is a bus stop outside the property (Route 81) which goes around West Mill and into Hitchin town centre. As such, it is considered that the site is in a location that could be accessed by members of staff via sustainable transport and could be used by the occupiers of the care home if required.

- 4.3.5 In regard to amenities, the property is within a residential area which is approximately 800 metres from the local shops on Redhill Road and close proximately to primary and second schools. The property would also have access to public open spaces with play areas.
- 4.3.6 During the course of the application, concerns were raised in relation to the need for such a use and the lack of provision/space at the dwelling for the use. Regarding need, there are no policies at local or at national level that restricts the number of care homes that can or should be provided within a certain area. In terms of the lack of provision/space for the proposed use, it is considered that the number of individuals at the property would not increase above what could be achieved with the existing use as a residential dwelling and separate legislation would ensure that the needs of the occupants are/can met (for example, OFSTED and Child Services).

Use Class C2 – Residential Institutions

- 4.3.7 A change of use from Use Class C3 to Use Class C2 requires planning permission and is considered on a case-by-case basis depending on the nature of the use, intensity and impact.
- 4.3.8 Given the proposal is that the ‘staff’ are not permanent residents of 25 Milestone Road the use would fall within Use Class C2. The Use Classes Order (as amended) defines C2 as residential institutions. The full description is use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).
Use as a hospital or nursing home.
Use as a boarding school, residential college or residential training centre.
“care” for Use Class C2 is defined as *‘personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment’*. This is within Article 2 of the Use Class Order 1987.

Case Law – C3/C2

- 4.3.9 Established case law forms the basis of determining this application. Relevant to this application is whether a dwellinghouse used to provide residential care for children falls within Class C2 or C3(b). Relevant case law has determined that children cannot be regarded as constituting a household by themselves. The question arises as to whether carers who do not live on the premises but who, between them, provide 24-hour care can be regarded as living together as part of the household. The courts have held that the concept of living together as a household means that a proper functioning household must exist and thus, for the use to fall within Class C3(b), the children and carers must reside in the premises. Otherwise, the use falls within Class C2. Therefore, it is considered that the proposed use in this case falls within Use Class C2.

Impact upon local amenity and character of the area

- 4.3.10 While considering the application occupiers of neighbouring properties raised several concerns over the proposed development and its impact on their residential amenity. No physical development is taking place, the assessment on the impact upon neighbouring amenity relates to the proposed use.
- 4.3.11 Objections have been received from occupiers of neighbouring properties raising concerns relating to general noise and disturbance impacts particularly from 'comings and goings' to and from the property. In the proposal, the number of bedrooms at the property would remain unaltered and it is therefore considered that the number of permanent occupants at the property is unlikely to increase. On this basis I conclude that there will not be a significantly detrimental impact on the neighbouring properties amenities from general activity from and from the property.
- 4.3.12 Furthermore, the applicant has confirmed that no more than 3 children would be permanent residents of the property at any given time. The application included the staff rota which details when staff will be arriving and leaving the property. The shift patterns have been stated by the applicant as follows:
- "A maximum of 2 full-time carers based on the property at any one time working generally on a 12-hour shift basis. Handovers would likely be around 8am and 8pm daily and take a few to 15mins with a maximum of half an hour".*
- 4.3.13 It is considered that this shift pattern would not result in any significantly detrimental noise and disturbance impacts on neighbouring properties amenities as these would coincide with typical movements for the working day and school and would not be significantly difference from the normal patterns of movement from and to a typical family home.
- 4.3.14 Following further information from EH Noise Officer the following information on Noise Management Measures were received -

Noise Management Measures:

- *A structured daily routine will be in place to promote stability and reduce instances of distress or disruption.*
- *Trained staff will be on-site 24/7 to provide appropriate care, de-escalation techniques, and behaviour management strategies to maintain a calm and controlled environment.*
- *Outdoor activities and recreational time will be supervised and scheduled to ensure minimal noise impact, particularly during early mornings and late evenings.*
- *Any concerns from neighbours will be addressed promptly through an open communication channel with management.*
- *A quiet space is available where children can self-regulate in a calming environment instead of engaging in loud or disruptive behaviour.*
- *Staff will be trained in de-escalation techniques to manage emotional outbursts calmly and effectively.*

- *A positive behaviour support plan will be in place, rewarding calm and cooperative behaviour.*

4.3.15 On balance, it is considered that the general noise and disturbance impacts would not be significantly different from that at a family dwelling and therefore refusal of planning permission is not justified for this reason.

4.3.16 Concerns have also been raised during the consideration of this application in relation to anti-social/criminal behaviour. Herts Police in their original consultation response raised several concerns, and particularly the layout of the garage conversion. There was an error on part of the applicant where the wrong existing plans were submitted. The conversion of the garage had already been implemented and the outside door which caused concerns is no longer there. Therefore, those objections have been overcome with the submission of amended plans. Whilst crime and the fear of crime are material planning considerations, the applicant has submitted a selection criteria statement which states that the occupants of the property will follow the below criteria:

Selection Criteria:

- *The home will accommodate children with mild physical disabilities and low to moderate mental health needs, such as ADHD or anxiety.*
- *It will not cater to children requiring forensic or intensive care, those with severe behavioural challenges, or those with a history of high-risk behaviours that could lead to excessive noise or disturbance.*
- *Each child's placement will be subject to a thorough assessment process, ensuring that their needs align with the home's capacity to provide a stable and supportive environment.*
- *Children with extreme behavioural difficulties, persistent aggression, or complex mental health conditions requiring intensive therapy or secure accommodation will not be placed.*
- *Priority will be given to children who are ready for a stable home setting and who can thrive in a community-based care environment.*
- *Each child will undergo a thorough pre-placement assessment to determine their suitability for the home.*
- *Professionals (e.g., social workers, psychologists, and care managers) will assess behavioural history, emotional needs, and compatibility with other residents.*
- *Children who require high levels of crisis intervention, intensive supervision, or specialist forensic care will not be considered*

4.3.17 Therefore it is considered that the proposal is unlikely to result in any additional anti-social/criminal behaviour than what could be generated by the existing residential dwelling. Furthermore, the children's care home is proposed to have 24 hr care with the children not being left unsupervised for any period, unlike a family home where children of this age group may be left at home unaccompanied some of the time. In coming to a recommendation of approval, it is noted that the Council's Environmental Health department have raised no objections to the application subject to conditions.

4.3.18 It is considered that the proposal would not result in significant impacts upon surrounding residential amenity that would warrant refusal of planning permission and on this basis the proposal accords with the general policy aims of Local Plan Policy D3.

Parking provision

4.3.19 Herts Highways have made the following comments:

Vehicle Access: *The property benefits from an existing access off Milestone Road which is an unclassified road and provides local services into the road hierarchy. Para 9.18 and 9.18 of the submitted Design and Access Statement (DAS) has confirmed that no alterations to existing access and parking are proposed.*

Traffic Generation: *Given the proposal, this has been considered not to significantly alter the traffic generation of vehicles to the development.*

Highway Safety: *Vehicle to vehicle inter-visibility and pedestrian visibility is unaffected by the proposal. The present level of visibility from the existing access is acceptable and appropriate for the level of use it will receive and complies with sight stopping distances found in Manual for Streets [Visibility splays at junctions 7.7 and visibility along the street edge 7.8.3]*

Accessibility: *The site lies within easy reach of the village bus route and centre and within commuting distance by an infrequent bus service to other towns and the local railway station at Hitchin.*

4.3.20 As a result of the proposed development, the number of bedrooms (3 - 4) would not increase at the property. The proposed use would see three bedrooms for the children and one room for staff. The Parking SPD states that Use Class C2 – Residential institutions Institutions/homes with care staff on premises at all times (excluding nursing homes, hospitals, residential schools, colleges or training centres) 1 space per 5 residents' bed spaces plus 1 space per 2 staff (non-resident).

4.3.21 There are no specific parking standards for children's care homes in the Local Plan or Parking SPD. Based on the above. It is considered that given the existing dwelling is required to have a minimum of 2 off-street car parking spaces and the small number of people residing at the property are unlikely to have the use of a vehicle given the age of the residents (under 18), the proposal is not considered to result in an unacceptable impact on highway safety or the wider highway network. A condition would be imposed on any planning permission granted to ensure that three off-street car parking spaces are provided in perpetuity. On balance, the proposal is therefore considered to be acceptable in relation to Policies D1 and T2 adopted Local Plan as well as the Parking SPD.

4.4 Conclusion

4.4.1 The principle of development is acceptable. No external alterations are proposed. On balance, it is considered that the proposed change of use would not be significantly detrimental to the amenities of neighbouring residents. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal would comply with the relevant policies in the adopted Local Plan and the NPPF. It is therefore recommended that the application be granted subject to conditions as recommended below.

4.5 **Alternative Options**

None applicable

4.6 **Pre-Commencement Conditions**

I can confirm that the applicant agrees with the pre-commencement conditions that are proposed

4.7 **Climate Change**

None – no physical changes are proposed as part of the application

5.0 **Legal Implications**

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 **Recommendation**

- 6.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. The use hereby permitted shall be for a children's home only and shall not be used for any other purpose falling within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) without the prior written consent of the Local Planning Authority.

Reason: To control the future use of the site and to assess any potential future impacts of alternative C2 uses.

4. The premises shall be used for a residential childrens' care home for a maximum of three (3) children under the age of 18 at any one time and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 2020 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To restrict the use and Number of occupiers to safeguard the local amenities of neighbouring properties

5. There shall be no more than two (2) members of staff present on the premises at any one time, excluding emergency circumstances.

Reason: In the interest of residential amenity and to limit potential noise and parking impacts.

6. Prior to the occupation of the children's care home hereby permitted, a minimum of three off-street car parking spaces shall be provided for staff members and shall thereafter be kept available solely for the parking of motor vehicles.

Reason: To ensure the provision of satisfactory car parking facilities clear of the public highway to meet the needs of the development.

7. The development hereby permitted shall be carried out in full accordance with the details, requirements, and mitigation measures set out in the supporting documents submitted with the application, including, Selection Process and Lumen Home's Referral Guidance unless otherwise agreed in writing by the Local Planning Authority. Any deviation from these documents must first be approved in writing by the Local Planning Authority.

Reason: To ensure the development is carried out as assessed and approved and to secure compliance with submitted details.

Proactive Statement:

Planning permission has been granted for this proposal. The Council acted proactively with the applicant which led to amendments to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.