



Appeal Decision

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 21st November 2023

Appeal Ref: APP/Y5420/X/22/3307296

80 Avondale Road, Tottenham, Haringey, London N15 3SH

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Rab Selvaratnam (New Roots CIC) against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2022/1940, dated 16 June 2022, was refused by notice dated 28 July 2022.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended (the Act).
 - The use for which a certificate of lawful use or development is sought is Class C3(b) of the Town and Country Planning (Use Classes) Order 1987 as amended (UCO).
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the which is considered to be lawful.

Procedural Matter

2. Due to the particular nature of the appeal, which turns on the lawfulness of what is proposed rather than its merits, I have sufficient evidence within the appeal papers to determine it without the need to conduct a site visit.

Main Issue

3. The main issue in the appeal is whether or not the Council's decision to refuse the LDC was well-founded.

Reasons

4. Development as defined in the Act¹ includes the making of any material change of use of land. The UCO provides that where land is used for a purpose within a specified class, the use of that land for any other purpose within the same class is not to be taken to involve development.
5. The proposal is to change the use of the terraced house from use as a dwellinghouse by a single person/household (Class C3(a) of the UCO) to use as a dwellinghouse by not more than 6 residents living together as a single household where care is provided for residents (Class C3(b) of the UCO). As the use would be for a purpose within the same class, there would be no material change of use of the land constituting development. Accordingly, the

¹ Section 55

proposal in these circumstances would be lawful without planning permission being necessary under the Act.

6. It is not disputed by the Council that the supported housing project would provide care as defined by the UCO², if implemented. However, it is the implementation which the Council doubts because it considers that layout and facilities at the property would stymie what is proposed and stop the residents living together as a single household under the scheme – in effect, a house of multiple occupation (HMO) prohibited by an enforcement notice in force.
7. I do not share the Council's concerns. The residents would live as a single household by reason of the group dynamics engineered by, and integral, to the scheme³. The shared household activities, duties, meetings, workshops and training that would take place within the communal spaces of the property would not resemble the character of an HMO where individuals do not have the same connections as created by the supported living scheme. Having carefully considered the floor plans sent in with the appeal, I am satisfied that there is sufficient communal space to implement the group actions proposed⁴ including a sufficiently sized internal lounge and kitchen, and a lounge/dining/meeting area in an outbuilding with separate WC. The fact that these latter facilities are a short distance away in an outbuilding does not predicate against their use by a single household, and indeed having a dedicated shared dining area therein provides space required in the kitchen for the cooking workshops described.

Conclusion

8. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of Class C3(b) use was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Andrew Walker

INSPECTOR

² "...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..."

³ Described in detail on page 11 of the Appellant's Appeal Statement.

⁴ Including a visiting Support Manager/trainer.

Lawful Development Certificate

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

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

IT IS HEREBY CERTIFIED that on 16 June 2022 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The change of use would not be material and accordingly would not constitute development for the purposes of Section 55 of the Town and Country Planning Act 1990 as amended.

Signed

Andrew Walker

Inspector

Date: 21st November 2023

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First Schedule

Class C3(b) of the Town and Country Planning (Use Classes) Order 1987 as amended.

Second Schedule

Land at 80 Avondale Road, Tottenham, Haringey, London N15 3SH

NOTES

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

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified 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 which were relevant to the decision about lawfulness.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 21st November 2023

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Scale: Do not scale

