



Appeal Decision

Site visit made on 4 December 2023

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 15 December 2023

Appeal Ref: APP/J0540/X/22/3311216

14 Rectory Lane, Glington, Peterborough PE6 7LR

- 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 A Stevens of Kisimul School Holdings Limited against the decision of Peterborough City Council.
 - The application Ref 22/01074/CLE, dated 25 July 2022, was refused by notice dated 24 October 2022.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is described on the decision notice as "Use of dwelling by no more than six residents living together as a single household where care is provided (Class C3(b))."
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant a certificate of lawful use or development was well-founded. In this case that turns on whether the proposed use is a material change of use from the lawful use as a single dwellinghouse falling within Class C3.

Reasons

3. The appeal site is a large detached six-bedroom property situated in Glington, which is a large village located close to the built up area of Peterborough. The submitted plans show two floors of accommodation with office and storage, dining room, lounge, kitchen, utility, WC, plant room and spare lounge at ground floor with five en-suite bedrooms, another bedroom and separate en-suite bathroom at first floor. However, at my site visit I observed that the arrangements at ground floor are somewhat different to those shown on the plans. The dining room is used as a second lounge, the kitchen is a large kitchen with dining area and the spare lounge is a second office. There is car parking to the south and east of the main building and a substantial garden area with patio and grassed areas to the side and rear.
4. The details submitted state that the premises is occupied by up to six adult residents with autism, living together as a household, where care is provided by a team of non-resident carers. It is my understanding that the non-resident carers provide care support and that residents take responsibility for cooking,

cleaning and other household tasks. I have taken account of the appellant's submissions regarding how the property operates and how residents relate to one another, including the pattern of occupancy and care provided. I have also taken account of the third party representations received.

5. A C3(b) dwellinghouse is defined as six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems. Care may be defined as personal care for people in need of 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.
6. At my site visit I noted that the property manager was on site with approximately five care workers plus the Area Manager and Head of Property. I appreciate that not all of those present would normally be on site on a day-to-day basis but it is evident that there is a significant element of management and care being provided by a team of non-resident staff and carers.
7. The Council's reason for refusing the LDC relates to their concerns that there is insufficient evidence that residents are capable of living as a functioning household where care is provided and therefore does not accord with Use Class C3(b). I have considered the evidence before me in detail and case law relating to proposals such as this and a similar scenario to this case was considered in *North Devon District Council v FSS & Southern Childcare Ltd* [2003] EWHC 157 (Admin); [2003] JPL 1191 which determined that carers who do not reside in a property, but who provide care, cannot be regarded as living together and as a consequence cannot be regarded as a single household as defined in Use Class C3 (b). Therefore, the use would fall within Class C2. This is defined as use for the provision of residential accommodation and care, other than within a Class C3 use.
8. However, each case should be determined on its own merits and in the light of the specific circumstance surrounding the use in question. To determine whether a change of use would be material in planning terms I require clear and unambiguous evidence. In this case the appellant has submitted some detailed evidence of how the property operates.
9. It is clear to me that there is a significant element of care for residents and the property does not appear to me to operate as a dwellinghouse for a number of reasons. Firstly, there is a relatively high degree of security and limited access to parts of the property, and it does not appear to me that residents can come and go as they please, as a consequence of their particular care needs.
10. In addition, there are parts of the property which have additional security such as the medical cupboard which is situated next to the Manager's office and the area adjacent to the kitchen/dining room where the utility, WC, plant room and staff office are situated. I can understand the need to keep parts of the building off limits for health and safety purposes but that would not normally be the case in a functioning C3 dwellinghouse being occupied as a single household but is more akin to a residential institution.
11. Furthermore, there are two offices on the ground floor, comprising a manager's office near the main entrance and another fully fitted out staff office suggesting a number of staff are present, providing for the care of residents. I would not

normally expect to find two staff offices in a C3 dwellinghouse but would expect such provision in a residential institution.

12. At my site visit I noted the number of residents requiring one-to-one care at the same time and consequent requirements for car parking. I understand that C3(b) can include a household where care is provided for residents, but the description of the use and my observations indicate that the residents do not live together as a single household, but instead individuals receive regular care from non-residents on a day-to-day basis and that care provision involves careful and constant management from the property manager, other staff and a team of care-workers. This does not represent a C3(b) use but rather is C2 residential institution.
13. Taking into account the body of evidence as a whole it is my judgement that on balance the appeal property operates as a C2 residential institution rather than as a C3(b) dwellinghouse where care is provided for residents. Consequently, I find that the Council's decision to refuse to grant a certificate was well-founded.
14. This decision does not reflect any concerns whatsoever about how the appellant runs the site, but is a decision based on the use alone. Nor does the decision prejudice the appellant's option to submit a planning application for a material change of use should they so wish.

Conclusion

15. 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 use of the property as a care home for up to 4 young people and 1 support staff (Use Class C3(b)) was well-founded and that the appeal should fail. I will exercise the powers transferred to me under section 195(3) of the 1990 Act as amended.

A A Phillips

INSPECTOR