
Appeal Decision

Site visit made on 16 September 2025

by **AJ Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 September 2025

Appeal Ref: APP/B5480/X/25/3366203

12 Mygrove Gardens, Rainham, Havering RM13 9QT

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mrs Nicea Domingos of Open4U Children's Home LTD against the decision of the Council of the London Borough of Havering.
- The application ref D0380.24, dated 12 September 2024, was refused by notice dated 18 November 2024.
- The application was made under section 192(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 a children's home.

Summary Decision: The appeal is dismissed.

Preliminary Matters and Main Issue

1. Reference was made on the appeal form to additional information at appeal that was not available to the Council. This was missing from the initial documentation but was provided later and the Council were able to comment on it. It comprises a Statement of Purpose for Open4U Care Home. I have taken it into account in coming to my decision.
2. The parties accept that the existing use of 12 Mygrove Gardens is a dwellinghouse under Class C3 of the Town and Country Planning (Use Classes) Order 1987 as amended (UCO). They further accept that the children's home proposed would be a residential institution within Class C2 of the UCO. There are no rights to change uses between Classes C3 and C2 of the UCO, including through permitted development rights granted through the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO).
3. Nevertheless, the appellant indicates that the change of 12 Mygrove Gardens from a dwellinghouse to a children's home would not constitute a material change of use. For development to comprise a material change of use, there would need to be some significant difference in the character of the activity proposed from the current use as a matter of fact and degree. In considering this, I have taken into account *R v. East Barnet UDC ex p. Lee* [1962] 2 QB 484, *Crawley BC v. Hickmet Ltd* [1998] 75 P&CR 500 and *North Devon DC v FSS & Southern Childcare Ltd* [2003] EWHC 157 (Admin), [2003] JPL 1191 (North Devon) that have been drawn to my attention. The North Devon case in particular makes clear that a use under Class C2 of the UCO would not necessarily be materially different from the previous Class C3 use.
4. Consequently, the main issue is whether the Council's decision to refuse the LDC was well-founded in relation to whether the change of use would be material.

Reasons

5. The children's home is intended to provide residential care for vulnerable individuals who require continuous support and with staff on site the whole time. The care to be provided comprises personal support and supervision but is non-medical. The number of residents of the property would typically be fewer than two, aged between 11-16 years old, and the appellant suggests that the property will remain residential in character.

6. The result is that this would not be a managed residential setting. The appellant acknowledges it would not be a single household. This would distinguish the proposed use as a children's home from the existing use as a dwellinghouse. Nevertheless, they suggest that the operational characteristics of the proposed use, taking account of its low occupancy, domestic scale, residential character and lack of external alterations, would mean there would be no material change of use.

7. The Statement of Purpose indicates that this would be one of a number of homes operated by Open4U Care Home and provides background information as to how the homes are run. It sets out that optimal staffing levels will be maintained in the homes in order to provide exceptional care and a supportive environment for residents. There are monitoring processes with reviews to ensure practices and policies align with their commitment to quality care. Personalised care plans are developed for residents, tailored to meet the specific needs and preferences of each resident and with a person-centred approach. These include providing assistance with daily activities, medical care, social engagement or emotional support.

8. The Statement of Purpose states that Open4U Care Home provide more than a place for residents to live; they provide a genuine sense of home for residents. They contain lounges and communal areas. They provide recreational amenities to cater to a diverse range of interests and preferences, including group activities, providing a sense of community in their homes.

9. The Statement of Purpose indicates that the residents of 12 Mygrove Gardens would be provided with significant levels of care. Occupants would predominantly be children and the relationship between them and their carers appears to differ from the relationship of occupants of most dwellinghouses. Whilst it is unclear whether carers would live in the home or the number of times they would visit during each day, it is likely that there would be regular visits that would be distinct from use of the building as a dwellinghouse. Even if only one carer would visit at a time and sufficient parking is provided on the frontage of the property, the number of movements appears likely to be greater than a single dwellinghouse.

10. The number of occupants is unlikely to differ materially than the use as a dwellinghouse. No changes are proposed to the appearance or layout of the building. Nevertheless, on the balance of probability and on the evidence now available, the effects of occupancy as a children's home providing care to residents would materially differ from those of the existing dwellinghouse.

11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a children's home is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

Formal Decision

12. The appeal is dismissed.

AJ Steen

INSPECTOR