



Appeal Decision

Site visit made on 30 September 2025

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2025

Appeal Ref: APP/C4615/C/24/3352209

Land at 1 Maslin Drive, Bilston, Dudley, West Midlands, WV14 9AF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by TS Healthcare Limited against an enforcement notice issued by Dudley Metropolitan Borough Council.
 - The notice was issued on 20 August 2024.
 - The breach of planning control as alleged in the notice is: without planning permission and within the last 10 years, the change of use of the Property from use as a residential dwelling (use class C3) to use as a children's care home (use class C2).
 - The requirement of the notice is to: cease the use of the property as a children's care home (use class C2).
 - The period for compliance with the requirement is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by the insertion of the word "material" before the word "change" in paragraph 3.
2. Subject to this correction, the appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matters

3. The enforcement notice refers to a "change of use". However, the allegation should have stated "material change of use", as this is the act of development as defined by statute. I can correct the notice to include the word "material" as it would not give rise to injustice to the parties.

The ground (b) appeal

4. An appeal on ground (b) is that the matters comprising the alleged breach of planning control have not occurred. The question is approached as a matter of fact, and the onus lies with the appellant to make their case on the balance of probabilities.
5. The appeal property is a two storey, semi-detached house with gardens to the front, side and rear, and it is located on a cul-de-sac in a residential area. There is no dispute that the lawful use of the property is as a dwellinghouse within class C3 of the Town and Country (Use Classes) Order 1987 as amended.
6. The appellant's case on ground (b) is that the property has not been used as a children's care home within use class C2, as alleged in the notice, but as supported

accommodation within use class C3, and that a material change of use has not, therefore, occurred.

7. Class C3(b) covers up to six people living together as a single household and receiving care. However, it was held in *North Devon DC v FSS & Southern Childcare Ltd [2003] JPL 1191* that the definition of 'care' in Article 2 of the Use Classes Order restricts the personal care of children to class C2 only. Children cannot form a household without the presence of a care-giver and so a children's care home cannot fall within class C3 unless a care-giver is resident.
8. The property accommodates children/young adults with carers who do not reside there as their primary residence, working on a rota basis and providing full-time care. The resident children and the carers do not live together as single household within use class C3.
9. Therefore, on the basis of the evidence before me, I find that the use of the property to accommodate children in care, with carers who are not resident at the property, is a use that falls within use class C2. This includes use for the provision of residential accommodation and care to people in need of care, (other than a use within class C3 (dwelling houses)). The matter alleged in the notice occurred as a matter of fact.
10. The appeal on ground (b) therefore fails.

The ground (c) appeal

11. On ground (c), the onus is on the appellant to demonstrate on the balance of probability that the matters stated in the enforcement notice do not constitute a breach of planning control.
12. The change of use from a class C3 dwellinghouse to use class C2 may not amount to a material change of use requiring planning permission where there is no material difference in activity to that which may be expected in the normal residential use of a house.
13. The appellant says that only a single individual resided in the property at the time of preparing their appeal, as indicated by the placement contract. However, the relevant date is the date that the notice was issued. The evidence indicates that in April 2024 there were three children residing in the property, with support workers on site working in shifts and other visiting support staff. The needs of the residents appear to be complex and they receive care 24 hours a day until such time as they can move on to supported or independent living. There is therefore a transient pattern of occupancy associated with the use.
14. There are several neighbouring dwellings within proximity, including 3 Maslin Drive and 61 and 63 Paul Street which adjoin the appeal site. The complaints and objections from third parties attest to noise and disturbance from residents of the property and from visitors, including staff, and there have been visits from the police, including one occasion when the emergency services had to attend the site because an occupier had climbed onto the garage roof. Noise, disturbance and anti-social behaviour seem on occasion to have occurred late at night when neighbouring residents can reasonably expect peace and quiet in what seemed to me to be a quiet residential area.

15. It appears that there has been an increase in activity with staff in particular arriving and leaving the property at different times of the day including at night, increased parking problems on the road and obstructed access to nearby properties and more vehicular comings and goings than that associated with a family dwelling, where more consistent and modest patterns of movement would be expected.
16. Notwithstanding that a family dwelling can also be capable of generating levels of activity including noise, the use appears to have generated greater levels of activity and noise disturbance to the neighbours than would be expected with a typical family household. There is a significant difference in the character and use of the property from what has gone on previously as a matter of fact of degree.
17. For the above reasons I conclude that the change of use of the property amounts to a material change of use. Since planning permission has not been granted for it, there has been a breach of planning control.
18. Accordingly, the appeal on ground (c) fails.

Conclusion

19. For the reasons given, I conclude that the appeal does not succeed, and I shall uphold the enforcement notice with a correction.

M Ollerenshaw

INSPECTOR