



Appeal Decision

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 21 OCTOBER 2025

Appeal Ref: APP/K0235/X/23/3334631

6 Curran Chase, Shortstown, Bedford, MK42 0GY

- 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 Miss Hayley Murphy against the decision of Bedford Borough Council.
 - The application ref 23/00767/LDE, dated 11 April 2023, was refused by notice dated 7 July 2023.
 - 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 occupation of the dwelling by up to 6 young adults living together as a single household and receiving care/support, Class C3(b) of the Town and Country Planning Act (Use Classes) Order 1987 as amended.
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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 issue the LDC for the use of the property as a Class C3(b) dwellinghouse was well-founded.
3. It is for the appellant to show on balance that the property is being used as a Class C3(b) dwellinghouse, and not a Class 2 residential institution as held by the Council.
4. The appellant states that the current use began on 1 September 2019 in the application but then states the property was purchased 3 December 2020, although this discrepancy in the dates is not material to the relevant issues in this appeal.

Reasons

5. The Town and Country Planning (Use Classes) Order 1987 as amended ("the Use Classes Order") defines:
 - residential institutions under Class C2 as including use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwellinghouses);
 - use as a dwellinghouse under Class C3(a) by a single person or by people to be regarded as forming a single household.
 - use as a dwellinghouse under Class C3(b) as not more than six residents living together as a single household where care is provided for residents; and

- use under Class C4 as use of dwellinghouse by not more than six residents as a “house in multiple occupation” (i.e. not living together as a single household.)
6. A change within the same use class is not development requiring permission, and a change from use C4 to C3 is permitted development.¹
 7. The appellant describes the property as being occupied by a group of young adults between the ages of 16 and 18 who are living together as a single household and are supported to live in the accommodation by staff, including through the night. However, the staff do not live at the property as their primary residence and work 24-hour shifts with sleeping time at the property between 11pm and 8am as part of the rotas.
 8. 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.
 9. The appellant referred to the Hossack case in support of their argument that young people can form a household under Class 3(b). However, the case report does not set out the age of the residents in that case although the charity running the properties did support “young homeless people” as well as other groups of individuals needing support.
 10. A child is defined as a person below the age of 18, so on the appellant’s evidence, as some of the residents were aged 16 and 17 on the date of the LDC application, they were children at that time. Notwithstanding that one of the residents was 18 years old, and therefore not a child, there is nothing before me to suggest that this resident had any kind of responsibility in terms of the care or support of the others, and rather he was also receiving that support from the staff members himself.
 11. Whilst it is self-evident that older teenage children without additional needs will generally require less care than younger children, they are nevertheless children and the case law is clear that the planning use of the property can only fall within Class C2 unless a care-giver is also a resident of the house. As this is not the case here the appeal does not succeed.

Other matters

12. Only development as defined under section 55 of the TCPA requires planning permission i.e. “the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.” The LDC application was for use of the property under Use Class C3(b), and as such the appeal is dismissed as set out above. However, when considering whether there has been a material change of use requiring permission (whether express planning permission or permitted development), it is necessary to consider the existing lawful use and whether the proposed use is in fact materially different in that there would be some significant difference to the character of the activities from what has gone on previously as a matter of fact and degree. It does not always follow that a change between use

¹ Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) Order 2015 as amended.

classes will lead to a material change of use. There is insufficient information before me in this case to make that judgement although I note that a previous appeal in relation to use of the property for a children's home for residents aged 12 to 16 years was dismissed. In any event the lawful use sought in the appeal was as Class C3(b) and any other issues regarding the materiality of the change are not part of this determination.

13. The property has been registered as an HMO, and is now regulated by Ofsted as Supported Living Accommodation. These regulatory regimes are separate to the planning system, and as such have only limited overlap in terms of the factors to be considered when determining the planning use taking place at the appeal property.

Conclusion

14. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for occupation of the dwelling by up to 6 young adults living together as a single household and receiving care/support, Class C3(b) is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Zoë Franks

INSPECTOR