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## Appeal Decision

**by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 November 2025

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**Appeal Ref: APP/Y0435/X/24/3338392**

**190 Hainault Avenue, Giffard Park, Milton Keynes MK14 5HT**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr D Riches against the decision of Milton Keynes Council.
  - The application ref 23/02814/CLUP, dated 12 December 2023, was refused by notice dated 6 February 2024.
  - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
  - The use for which an LDC is sought is use of the building for groups of people (not more than six persons) living together as a single household where no care is provided to residents.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Determination of the appeal requires an assessment of documentary evidence. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.
3. An application for costs has been made by the Appellant against the Council. This application is the subject of a separate Decision.

### Reasons

4. 190 Hainault Avenue is a three storey detached dwelling. The dwelling falls within Use Class C3 'Dwellinghouses' as defined in The Town and Country Planning (Use Classes) Order 1987 (as amended). Class C3 is use as a dwellinghouse (whether or not as a sole or main residence) by – (a) a single person or by people to be regarded as forming a single household, (b) not more than six residents living together as a single household where care is provided to residents; or (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).
5. Section 55(1) of the 1990 Act defines “development”, which includes the making of any material change in the use of any buildings or other land. Section 55(2) sets out operations or uses of land that shall not be taken to involve development of land; these include (f) in the case of buildings...which are used for a purpose of any class...the use of the buildings...for any other purpose of the same class. The effect of section 55(2) is that the change of use of a building to a use within the same use class does not constitute development which would otherwise, under the provisions of section 57(1), require planning permission.

6. The existing use of the dwelling is a Class C3(a) use and the use for which an LDC is sought is a Class C3(c) use. Under the provisions of Section 55(2) of the 1990 Act the change of use from Class C3(a) to Class C3(c) would not involve development and would thus be lawful. The Appellant therefore maintains that there is no reason for an LDC not to be granted. Change of use from Class C3 to Class C4 'Houses in multiple occupation' would also not ordinarily constitute development but a Direction is in place, made under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015, which restricts that permitted development.

7. The Council refused to grant an LDC because, in their view, insufficient information had been provided to indicate that the proposed use would fall under Class C3(c) rather than Class C4. The Appellant maintains that this need not be demonstrated for an LDC to be granted and that the Council has the right to take enforcement action, even if an LDC is granted, if a future use of the appeal property was found not to be a Class C3(c) use.

8. The Government has published Planning Practice Guidance (PPG) which includes a section on lawful development certificates. In this section at paragraph 5, and it is not necessary to set out the whole paragraph, it is stated that an application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates; without sufficient or precise information, a local planning authority may be justified in refusing a certificate; this does not preclude another application being submitted later on, if more information can be produced.

9. The main issue is whether sufficient or precise information has been provided to demonstrate that the proposed use of the appeal dwelling would be a Class C3(c) use.

10. The only information that accompanied the application, other than a location plan and a brief statement which did not include any information about the proposed use, was a drawing that shows plans and elevations of the existing and proposed dwelling. The existing drawings illustrate a three bedroom house with a kitchen, conservatory, lounge, shower room, toilet and office at ground floor level, a bedroom with en-suite and a bathroom at first floor level, and two bedrooms at second floor level. The proposed drawings illustrate exactly the same configuration of rooms. With regard to existing and proposed elevations, the only change would be the introduction of brick panels, instead of glazed panels, either side of patio doors in the south-west elevation of the conservatory.

11. The PPG requires "...an application to describe precisely what is being applied for (not simply the use class)...". The Appellant failed to fulfil this requirement and has not provided any additional substantive evidence in this appeal. It is not known which rooms would be bedrooms, certainly the conservatory could not be because it would retain glazed side elevations and the lounge would retain a garage door in its south-east elevation, and it is not known what facilities would be provided in the kitchen. It is also not known what matters would be considered, and what would or would not be introduced into the dwelling, to ensure that it would not fall within Class C4. Preventing the need for future enforcement action is a reasonable consideration at any stage.

12. The Appellant has not provided sufficient or precise information to demonstrate that the proposed use of the appeal dwelling would be a Class C3(c) use.

13. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for 'use of the building for groups of people (not more than six persons) living together as a single household where no care is provided to

residents' at 190 Hainault Avenue, Giffard Park, Milton Keynes was well-founded and the appeal fails. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

***John Braithwaite***

Inspector