



Appeal Decision

Hearing held on 22 October 2025

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06th November 2025

Appeal Ref: APP/B5480/X/25/3368481

37 Wennington Road, RAINHAM, RM13 9TH

- 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 (LDC).
- The appeal is made by Mr Ahmad Syad against the decision of the Council of the London Borough of Havering.
- The application ref D0153.25, dated 31 March 2025, was refused by notice dated 23 May 2025.
- 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 is sought is a supported living dwelling for 3 residents living together as a single household receiving care (Use Class C3b).

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use describing the proposed use which is found to be lawful.

Preliminary Matters

2. Section 192 of the Town and Country Planning Act 1990 (the 1990 Act) provides for the grant of a lawful development certificate (LDC) for a proposed use that would have been lawful had it been instituted at the time of the application. The onus is on the appellant to make that case on the balance of probabilities.
3. As part of the appeal, the appellant submitted additional and clarifying information which was not before the Council when it considered and determined the LDC application. The Encyclopaedia of Planning Law and Practice sets out that appeals under section 195 of the 1990 Act as amended 'are invariably treated as de novo appeals...the parties and interested persons may submit additional evidence to the Secretary of State which was not before the authority at the time of its decision'¹. Consequently, I have had regard to the additional evidence in my determination of the appeal. Given that the Council has had the opportunity to respond, I am satisfied that their interests are not prejudiced by this approach.
4. The proposed development is detailed in the plans and statements that accompanied the appellant's application for an LDC. Having regard to the details provided, the evidence given at the Hearing, and the nature of the s192 LDC application, it was agreed that no site visit was deemed necessary. I have determined the case on the evidence before me.
5. There is no dispute between the main parties that the existing 2-storey mid-terrace dwelling benefits from a lawful Class C3(a) (single person or single household) use.

¹ P195.03

Main Issues

6. The main issue is whether or not there is sufficient precise and unambiguous evidence to demonstrate on the balance of probability that the use of the dwelling, when occupied by 3 residents, they would live together as a single household where care is provided in a manner to fall within Class C3(b) of the Town and Country (Use Classes) Order 1987 (as amended) such that planning permission would not be required by virtue of s55(2)(f) of the 1990 Act.

Reasons

7. The dwelling would accommodate three residents. The initial evidence provided to the Council showed some discrepancy on the potential ages of occupiers with conflicting references to 16-65, 18-65 and 65+. Post-decision correspondence with the Council also suggested occupancy could extend to people between the ages of 16-65.
8. This is significant insofar as the case of *North Devon*² established that, in the context of Class C3(b), children needed to be looked after and could not, on their own, be regarded in the true sense as a household without the presence of a live-in carer. However, at the hearing the appellant clarified that the inclusion of minors was in error and that no occupiers under the age of 18 would be accommodated at the site. As such, children in residence or any necessity for live-in carers would not apply to prevent occupiers from being considered as constituting a 'household' for those reasons.
9. The proposed layout plan³ includes individual bedrooms but, aside from a room identified primarily for staff use, the remainder of the facilities – bathroom, living room, kitchen/dining room would all be shared amenities. As a small unit of accommodation, residing in the property would likely require (if not nearly impose) a significant degree of integration and cohesive participation between residents reliant on those communal facilities. That scale and arrangement is, to my mind, more likely to result in occupancy regarded as a single household.
10. Furthermore, to support the claim of 'household' living, the appellant highlighted that the care provider was experienced in selecting compatible occupiers who would be able to reside together and cooperate in preparing meals, eating together, cleaning, watching TV together, or able to partake in other activities typical of residential households. This was said to be conducive to maximising the lengths of stays to limit any 'churn' of occupiers and minimise the movement of individuals which could otherwise be destabilizing for them. I heard that prospective residents would be provided with an opportunity to visit the property with a view to agreement prior to moving in. Such measures would seem sensible approaches in seeking to ensure the compatibility of residents and in the interests of operating as a stable household with shared activity and responsibilities.
11. The plans show a room annotated as a 'staff room'. This would be a typical feature of an institutional use. It implies a degree of staffing segregation or more active management of the occupiers than usually found in a household scenario. However, at the Hearing, the appellant clarified that although this would be furnished to facilitate staff while at the premises – for waking night stays,

² *North Devon DC v FSS & Southern Childcare Ltd* [2003] EWHC 157 (Admin); [2003] JPL 1191

³ VD0134 002

paperwork, or similar activities associated with care support, it would also be freely open to use by the occupiers for home activities, hobbies and the like, such that it would not necessarily be uncharacteristic of a study or home office. On that evidence, I am satisfied that that aspect of the development would be unlikely, in itself, to result in a material change in the overall character of the site's use.

12. In terms of care provision, the appellant accepted at the Hearing that a Care Quality Commission submission document by Haven Solutionz Ltd – the proposed care partner for occupiers of no37, was a generic document covering all activities undertaken by that company. Submitted as part of the LDC application, it did not contain details specific to the appeal address.
13. In the light of information contained therein, the Council's apprehensions relating to care provision at the site – potentially including a wide range of service users without detail of either the severity of conditions or their specific care needs, were not without basis. At the event, the appellant explained that the use of the dwelling would be to facilitate independent living for people with minor to moderate learning difficulties, mental health, or autistic disorder conditions, for example.
14. The appellant explained that some difficulty arose in providing exact detail of prospective residents' conditions because they could only be nominated once confirmation of a lawful C3(b) use was in place. Once secured, suitable candidate profiles would be selected and assessed by the registered carer, with nominations for 'candidate' profiles appropriate to the type of property and household function being drawn from the Council's housing or community health organisation lists.
15. Because there are no confirmed occupiers, the appellant could only highlight anticipated care regimes. I heard that a typical scenario would likely be two rotating daytime staff for all three residents with the possibility of a single 'waking-night' shift. Care could be provided 24 hours a day or through intermittent visits depending on occupiers' needs. Carers would not live-in as part of the household.
16. The appellant confirmed that staff presence was likely to be, as a maximum, no greater than one-to-one such that residents and their care workers would rarely exceed 6 in total. Visits by social workers, for example, might increase the number of non-residents present at the site at any particular time, but those instances were described as likely to be infrequent. Shift rotation is anticipated to be no more than 3 change-overs per day.
17. The generic supporting document confirms that the care partner offers only domiciliary or supported living services. The appellant's evidence clarifies that the level of care would be tantamount to facilitation rather than fully dependent care. This might include assisted cooking, cleaning, shopping and similar activities. It could also extend to ensuring that residents took medication at the correct times or facilitating personal care.
18. The document indicates that staff are not required to be medically trained or hold nursing qualifications. Only Care Certificates or 'Health and Social Care' qualifications are explicitly referenced by the care provider. In conjunction with evidence at the Hearing, that care would not extend to accommodate people considered to have severe conditions or requiring continuous nursing. Accordingly, to my mind, the nature and scale of care described to encourage and support independent living for the 3 residents would be unlikely result in a material change to the character of the established domestic dwellinghouse use.

19. Taking all of the above matters together, I find that the proposed use of the property would probably fall within a use characteristic of Class C3(b) such that, given the existing lawful C3(a) use, planning permission would not be required if that use had been installed on the date of the LDC application.

Other Matters

20. I note the frustrations expressed by the appellant in the relation to the degree of engagement by the Council prior to issuing its decision on the LDC application; however, this is not a matter for the appeal.

Conclusion

21. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use for 3 residents living together as a single household receiving care is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

R Hitchcock

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

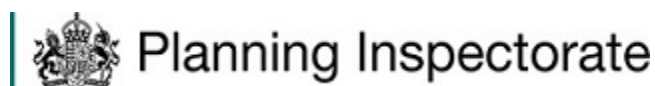
Ahmed Syad	Appellant
Gopi Patel	Agent
Jay Miah	for the Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Habib Neshat	Council of the London Borough of Havering
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Documents Submitted at the Hearing

Application form, plans and Certificate of Lawfulness ref D0329.25 issued by the Council of the London Borough of Havering in relation to 6 Stanley Road, South Rainham.



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 31 March 2025 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The evidence provided by the appellant demonstrates that the proposed use would probably fall within Class C3(b) of the Town and Country (Use Classes) Order 1987 (as amended). Accordingly, pursuant to s55(2)(f) of the Town and Country Planning Act 1990 (as amended) – specifying that a use for a purpose of any class specified in an order made by the Secretary of State under that section, the use of the building or other land, subject to the provisions of the order, for any other purpose of the same class shall not be taken for the purposes of the Act to involve the development of the land, planning permission would not have been required for the installation of the proposed use.

Signed

R Hitchcock

Inspector

Date: 06th November 2025

Reference: APP/B5480/X/25/3368481

First Schedule

A supported living dwelling for 3 residents living together as a single household receiving care (Use Class C3b)

Second Schedule

Land at 37 Wennington Road, RAINHAM, RM13 9TH

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use is only conclusively presumed where there has been no material change, before the use is instituted, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 06th November 2025

by R Hitchcock

Land at: 37 Wennington Road, RAINHAM, RM13 9TH

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Scale: Not to Scale

