



Appeal Decision

by John Braithwaite BSc(Arch) BA(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2025

Appeal Ref: APP/B5480/X/24/3344183

41 St Andrews Avenue, Hornchurch, Essex RM12 5DU

- 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 Dawn Quye-Joyce against the decision of the Council of the London Borough of Havering.
 - The application ref D0023.24, dated 21 January 2024, was refused by notice dated 20 March 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 change of use from Class C3(a) to Class C3(b).
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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.

Reasons

3. 41 St Andrews Avenue is a mid-terraced two-storey 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).
4. Section 55(2) of the 1990 Act 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. The proposed change of use of the existing dwelling from Class C3(a) to Class C3(b) would not constitute development for which planning permission is required.
5. The Government has published Planning Practice Guidance which includes a section on LDCs. In this section, at paragraph 5, 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.

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

7. The appeal property has three bedrooms and bathroom at first floor level and a lounge/kitchen/dining room, living room and shower room at ground floor level. The proposed use is for the property to be occupied by three children in the age range 8-18 years, one to each bedroom. The Appellant states that "There would also be a 24 hour service run by a registered manager and a minimum of one-to-one support worker". The support workers would not be resident and the home would operate with "...waking night staff". The support workers would not be residents.

8. The High Court judgement in the case of *North Devon District Council v First Secretary of State (2003) EWHC157* concluded, in part, that support workers who are not resident cannot be considered to be living together with those cared for. The case effectively and ultimately concluded that children cannot form a household on their own and that the absence of resident carers means the use falls within Class C2 rather than Class C3(b). Though precise information has been provided it indicates that the proposed use of the appeal dwelling would not be a Class C3(b) use.

9. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for change of use from Class C3(a) to Class C3(b) at 41 St Andrews Avenue, Hornchurch 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

