



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 27 November 2025

Appeal Ref: APP/L5240/X/24/3341387

5 Cuthbert Road, Croyden CR0 3RB

- 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 Mr Ali Walji against the decision of the Council of the London Borough of Croydon.
 - The application ref 24/00362/LP, dated 1 February 2024, was refused by notice dated 16 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 use of existing dwellinghouse as a children's home.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed use which is found to be lawful.

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. 5 Cuthbert Road is an end-terraced four-bedroom three-storey dwelling. The dwelling falls within Use Class C3(a) 'Dwellinghouses' as defined in The Town and Country Planning (Use Classes) Order 1987 (as amended). The proposed use of the dwelling, a children's home, falls within Use Class C2 because, principally, carers would not be resident in the home but would work shift patterns. If they were resident then the use would be a Class C3(b) use and planning permission is not required for a change of use from Class C3(a) to Class C3(b). Planning permission is required for a change of use from Class C3 to Class C2 but only if the change of use would be a material change of use.
5. The main issue is whether the proposed change of use of the dwelling to use as a children's home would be a material change of use.
6. Reference has been made to several successful appeal decisions and to several planning permissions granted by the Council for the same change of use, where the main issue was whether the proposed change of use of the dwelling to use as a children's home would be a material change of use. However, whether or not there

would be a material change of use is a matter of fact and degree in each individual case. This important principle will be followed in this case.

7. The proposed children's home would be for two children (aged 7 to 16) and a team of two support staff; the total number of children and carer's would not exceed five. The support staff would work on a 24-hour shift basis from 1000 hours to 1000 hours the following day. Handover between staff would be between 1000 and 1030 hours and it is not anticipated that staff would need to visit the property before 0800 hours or after 2100 hours. The children and staff would live together as a household. The children would come from a variety of backgrounds and may have experienced mental health challenges, trauma and/or abuse of various kinds. It would be important, therefore, for their lives at the children's home to be as normal and safe as possible.

8. The children would attend school and their comings and goings from the dwelling, including for social and recreational purposes, would be no different to any two children family situation. The comings and goings of staff would also not be dissimilar to those that are associated with a family situation where both parents come and go for work and other purposes. There may be additional comings and goings by care professionals other than normal staff but such comings and goings could be associated with any single family occupation of the dwelling.

9. The appeal property does not have any off-street parking. In the vicinity parking is available for permit holders or by paying at a machine. Parking availability for staff and visitors is no different, in this regard, than it is if the dwelling is occupied by a family. There would be no changes to the external appearance of the property. The proposed use of the dwelling as a children's home would not, as a matter of planning judgement, cause any greater level of disturbance or effect on amenity than would be generated by a C3 use. The character of the children's home use would not be materially different to the character of a C3 use.

10. The Appellant has described, with adequate precision, what is proposed. The proposed change of use of the dwelling to use as a children's home would not, as a matter of fact and degree, be a material change of use. Planning permission is not required, in this case, for the proposed change of use.

Conclusion

11. For the reasons given above, and on all evidence now available, the Council's refusal to grant an LDC for use of existing dwellinghouse as a children's home at 5 Cuthbert Road, Croyden was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(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 1 February 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed change of use would not be a material change of use and planning permission is not therefore required.

Signed

John Braithwaite

Inspector

Date: 27 November 2025

Reference: APP/L5240/X/24/3341387

First Schedule

Use of existing dwellinghouse as a children's home

Second Schedule

Land at 5 Cuthbert Road, Croyden CR0 3RB

NOTES

This certificate is issued solely for the purpose of Section 191 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 was 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 27 November 2025

by John Braithwaite

Land at: 5 Cuthbert Road, Croyden CR0 3RB

Reference: APP/L5240/X/24/3341387

Scale: Not to Scale

