



Appeal Decision

Site visit made on 8 September 2025

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2025

Appeal Ref: APP/Q4625/X/24/3352797

110 Stonor Park Road, Olton, Solihull B91 1EQ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Shahid Khan of AppleKids Care Group against the decision of Solihull Metropolitan Borough Council.
- The application ref PL/2024/01790/CLOPUD, dated 9 September 2024, was refused by notice dated 26 September 2024.
- The application was made under section 192(1)(a) of the Act.
- The use for which a certificate of lawful use or development is sought is proposed use of a (3a) dwelling as a children's home for up to two children, with a manager and two carers who will sleep overnight, working on a rota basis (C2).

Decision

1. The appeal is dismissed.

Background and Main Issue

2. The parties agree that the proposal for a “children’s home for up to two children, with a manager and two carers who will sleep overnight, working on a rota basis” at the appeal site would consist of a change of use from a C3(a) use to a C2 use.
3. A change to a new use only requires planning permission to authorise if it is material in planning terms. On this basis, the main issue of this appeal is whether the proposed use is a material change from the lawful use as a single dwellinghouse falling within Use Class C3(a).

Reasons

4. An application under section 192(1) of the Act seeks to establish whether any use or operations proposed to be carried out in, on, over, or under land would be lawful. In a LDC application, the onus is on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful.
5. The appellant argues that there would be no material difference in planning terms between the proposed use and the current use as a dwelling. A range of evidence has been submitted by the appellant on the proposed change of use including information relating to OFSTED, fire regulations, the appeal property, staff rota patterns, purpose of the home, education, risk assessments, statutory duty of local authorities, planning assessment, comings and goings, the presence of staff, fear of crime and a management plan.
6. The appellant explains that there would be up to two children living at the property, with only two carers at any one time, being present 24 hours a day. Facilities such as the bathroom/wc, kitchen and living rooms would be shared and the living room

would be communal. A manager would be present on weekdays between the hours of 0900 and 1700, and there would be visits from other people such as social service workers, family members etc, that would take place approximately on monthly periods. The driveway has space for four vehicles although there are public transport options available. Schedule 1 and 2 in the appellants planning statement details current and proposed weekly movements to and from the property including movements relating to travelling to work, school run, shopping/social/recreational outings, visitors, home manager/daily carer and the care workers. The data in schedules 1 and 2 indicates that the total number of movements currently from the property would not be significantly different from the proposed movements.

7. In *Waltham Forest*¹ the Court held that it is necessary to compare the proposed use with the actual existing use, and not with some notional use that might be lawful. An LDC appeal is concerned solely with whether, on the facts, the change from the existing to the proposed use would be material; no account should be taken of the extent to which the existing use could alter without the need for permission.
8. The appellant only describes the current use as a family dwelling. There is no compelling evidence before me which details how many occupants currently reside in the property, which provides doubt in the accuracy of the current movements described in schedule 1. The number of occupants will have an effect on the character of the use in terms of general activities, which can include matters such as noise levels, from both inside the property and outside the property (i.e. garden areas). Without knowing the current number of occupants of the property, it is not possible to consider whether the proposed change of use is directly comparable in terms of character, and therefore whether it amounts to a material change, or not, to the character of the existing use.
9. I have had regard to all the evidence submitted by the appellant, including the various appeal decisions. Whilst these appeal decisions mostly relate to the change of use of dwellinghouses to children's homes, there is insufficient evidence before me to indicate whether these cases are directly comparable to the proposal subject of this appeal, particularly with regards to existing use. Nevertheless, I have determined this appeal on its own merits.
10. On the balance of probability and from the evidence before me, I am not satisfied that the proposed use is not a material change from the lawful use as a single dwellinghouse falling within Use Class C3(a).

Conclusion

11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a children's home for up to two children, with a manager and two carers who will sleep overnight, working on a rota basis is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

Chris Baxter

INSPECTOR

¹ Waltham Forest LBC v SSETR & Tully [2002] EWCA Civ 330