



Appeal Decision

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2025

Appeal Ref: APP/B5480/X/24/3339187

33 Gubbins Lane, Havering, Romford RM3 0QA

- 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 Ms Namja Hersi against the decision of the Council of the London Borough of Havering.
 - The application ref E0009.23, dated 3 March 2023, was refused by notice dated 3 November 2023.
 - The application was made under section 191(1)(a) of the Act.
 - The use for which a certificate of lawful use or development is sought is the existing use of the property falling within Class C3(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO).
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Decision

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

Preliminary Matters

2. An LDC is not an application for planning permission. Its purpose is to enable the appellant and others to ascertain whether specific operations or activities would be lawful. The burden of proof is upon the appellant. The test of the evidence is one of balance of probability. The appeal concerns only the lawfulness of the matter for which the LDC is sought, not its planning merits. The decision is based on the facts of the case and on relevant planning law and judicial authority.
3. An application under S191(1)(a) of the Act seeks to establish whether any existing use of buildings or other land are lawful. S191(2)(a) confirms that a use is lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason) and they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
4. S191(4) of the Act sets out that if, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect.

Main Issue

5. The main issue is whether the Council's decision to refuse the application was well founded. This turns on whether the appellant can show, on the balance of probability, that the use of the appeal property falls within Class C3(b), relating to up to six people living together as a single household and receiving care, and does not therefore involve development or require planning permission.

Reasons

6. There is no dispute that the existing lawful use of this two storey semi-detached property is a single dwelling house which falls under Use Class C3 (a) as defined by the UCO. The property has one off-street parking space.
7. The appellant claims that a change to Class C3(b) is permitted by virtue of s55(2)(f) of the Act, as it would involve a change within the same class of the UCO. However, the Council contend that the claimed use falls within Class C2 of the UCO. This class relates to residential institutions and entails the use of a property for the provision of residential accommodation and care to people in need of care (other than a use within Class C3 (dwellinghouses)).
8. For the use of the property to fall within Class C3(b), it must be a dwellinghouse; there must be no more than six residents; those residents must live there as their sole or main residence; they must live together as a single household; and care is provided for the residents. Class C3(b) envisages an element of care that can be provided by staff. Whether the occupants of the appeal property form a single household is a matter of judgement.
9. The property is a dwellinghouse and no more than six residents (currently there are five) can occupy the property given that there are only six bedrooms. One of the previous bedrooms is now used as an office. The residents live there as their sole or main residence. Although at least one member of support staff is always present, split across two shifts, the appeal property is not their sole or main residence. The residents are aged between 18 and 24 years old; they are of mixed gender and have moved out of a care institution (Class C2) to the appeal property as a transitional step prior to living entirely independently. The objective of the use is to provide support so that residents develop independent living skills.
10. The planning definition of care¹ is set out in Article 2 of UCO. There is a distinction between 'care' and 'support'. I will use the term 'support' when appropriate, as that is how the evidence has been put to me insofar as the individuals concerned, but as the same distinction does not exist within planning or the UCO, my findings will be with regards to the planning definition of care.
11. There is no prescriptive definition of what a 'household' means, though in this case, the residents have a common need for accommodation, support and the location of accommodation within the community. None of the residents are or would be children. They are adults and do not require personal care or medical care, and none are physically disabled. The key areas of support outlined by the appellant involve care being given in a planning sense, but none of the areas of support involve staff providing direct personal or medical care. As such, the claimed use does not fit within Class C2.
12. According to the appellant, residents share a kitchen, living room, dining room, utility room, the garden, the two shower rooms and a bathroom. The living room is of a modest size, but it, along with the dining room and kitchen are effectively one large multi-functional room. This allows the residents to use the space at the same time or in a range of numbers.
13. The kitchen is large enough to enable meals for all the residents to be made or for

¹ personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment

different meals made either at the same time or different times. Further, the dining room is large enough for a dining table and six chairs. Thus, the residents could share at least one meal a day. While the sofa in the lounge could not seat six residents at the same time, it could accommodate four to five of them, and the dining room chairs could be used by any remaining residents, bearing in mind the proximity of the dining room to the lounge. Hence, the residents could socialise together as a household.

14. There is either a bathroom or shower room on each floor within the appeal property that provides the residents with good access to those shared facilities.
15. The bedrooms are residents' private spaces. Given the number of people living together, having locks on the bedrooms is not unusual. Nor does it mean that the residents are not living as a single household, given my findings about the communal facilities that they all share.
16. For the reasons explained, I consider that the occupants were living together as a single household when the LDC was submitted. Therefore, I conclude that the use as applied for is within Class C3(b) and not Class C2 as the Council suggest. As the use would be for a purpose within the same class, there would be no material change of use of the land constituting 'development'. As such, the proposal is lawful without planning permission being necessary under the Act.

Other Matters

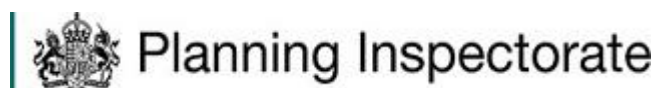
17. On and off-site effects are irrelevant to the consideration of whether the appeal property is a Class C3(b). Furthermore, although the main parties refer to the Council's decisions in respect of 8 Lytton Road and 604 South End Road, I have determined this appeal based on its individual merit based on the submitted evidence even though the residents living at the appeal property have been rehoused from those two properties following their closure.

Conclusion

18. 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 the existing use of the property falling within Class C3(b) of the UCO 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 Act.

Andrew McGlone

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 3 March 2023 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, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use falls within Class C3(b) of The Town and Country Planning (Use Classes) Order 1987 (as amended).

Signed

Andrew McGlone

Inspector

Date: 2 December 2025

Reference: APP/B5480/X/24/3339187

First Schedule

C3(b) - occupation by up to six people living together as a single household and receiving care.

Second Schedule

Land at 33 Gubbins Lane, Havering, Romford, RM3 0QA

IMPORTANT NOTES

This certificate is issued solely for the purpose of s191 of the Act. It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the Act, on that date. This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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: 2 December 2025

by Andrew McGlone

Land at: 33 Gubbins Lane, Havering, Romford RM3 0QA

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Scale: Not to Scale

33 Gubbins Lane, Romford, RM3 0QA

