
Appeal Decision

Site Visit made on 9 December 2025

by **J Whitfield BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th December 2025

Appeal Ref: APP/Z5060/X/24/3349767

23 Albany Road, Barking and Dagenham, Chadwell Heath RM6 6BS

- 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 Elizabeth Joseph, Eastwood Support & Care Ltd against the decision of the Council of the London Borough of Barking & Dagenham (the LPA).
 - The application ref 24/00620/CLUP, dated 13 May 2024, was refused by notice dated 12 July 2024.
 - 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 or development is sought is change of use from residential C3(A) to use class C3B.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the LPA's decision to refuse the LDC application was well-founded.

Reasons

3. S191(2) of the Act states that uses are lawful at any time if: (a) 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, (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
4. The LDC application seeks to confirm that the proposed change of use of the property from a C3(a) dwellinghouse i.e. one used by a single person or people to be regarded as forming a single household to a C3(b) dwellinghouse i.e. one used by not more than six residents living together a single household where care is provided for residents, is lawful within the meaning of S191(2) of the Act, on the basis that it does not involve development.
5. S55(1) of the Act defines development as, including, the making of any material change in the use of any buildings or land. The concept of a material change of use is not defined in statute or statutory instrument. The courts have established that the approach is that, for a material change of use to occur, there must be some significant difference in the character of the activities from what has gone on previous as a matter of fact and degree.
6. It is apparent that the appeal property is a two-storey, terraced property located in an area of residential character. There is, however, little evidence before me

regarding the existing use of the premises. It is not said whether the property is occupied and, if so, the number of occupants or the nature of that occupancy.

7. In terms of the proposed use, it is indicated that the appellant company offers vulnerable adults with learning disabilities and/or associated mental health diagnosis the opportunity to live independently within a supported environment. The submitted 'Statement of Purpose' indicates that it would have five approved places/overnight beds for adults aged between 18 and 65. Presumably, that means it would house up to five people. The appellant's Appeal Statement states that the application was for five people living together. However, the appellant's email to the LPA in May 2024 with further supporting information states that it is intended to have four permanent residents.
8. Moreover, the evidence does not say how many people would occupy the property at any one time. Furthermore, it is not said how long persons would occupy the property - whether it would be short term or long term. To that end, it is difficult to compare the characteristics of the occupation from the existing use to the proposed use.
9. In addition, the appellant's Final Comments states that carers visit the premises for the assistance of residents as and when required but do not reside on the premises or stay for no useful purpose. However, again that contradicts the appellant's email to the LPA in May 2024 in which they state that there will be two staff on duty during the day, and one during the night on a waking watch.
10. In addition, the appellant states that residents will not have cars and carers will use public transport. However, there is insufficient evidence before me regarding the proposed comings and goings associated with residents or carers. Therefore, coupled with an absence of evidence regarding the existing use, I cannot establish whether there is any significant difference in the character of such activities between the two uses.
11. In essence, the evidence before me is largely general information about the appellant company's operating practices. There is little regarding the specific, proposed use of the premises. Where such evidence is provided, it is contradictory and vague. An LDC must be worded with precision, the description needs to be more than simply a title or label, and it is not a vehicle to pose a general enquiry as to what might be lawful. It must relate to a specific proposed use. Ultimately, I find the appellant's evidence regarding the proposed use is insufficiently precise or unambiguous to establish, on the balance of probabilities, that the proposed change of use would not amount to a material change of use and thus development for the purposes of S55(1) of the Act.

Conclusion

12. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the change of use from residential C3(A) to use class C3(B) is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

J Whitfield

INSPECTOR