



Appeal Decision

Site visit made on 11 February 2026

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 March 2026

Appeal Ref: APP/Y1138/X/24/3339600

Chilton Gate, Cadeleigh, Tiverton EX16 8RS

- 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 Nick Helsing of Press Properties Ltd against the decision of Mid Devon District Council.
 - The application ref 23/01665/CLU, dated 1 November 2023, was refused by notice dated 31 January 2024.
 - 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 described as "The use of the whole red line area for in excess of 10 years before it's closure in April 2021 was by Blue Cross Centre as an animal rehoming centre as described in the statement accompanying this application. This falls within use class Class E (c) iii." (*sic*)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description from the application form as I am obliged to do. The Council reworded this to read "the existing use of land and buildings as an animal rehoming centre (Use Class E c iii) for a period in excess of 10 years."
3. The Council's representations refer to a planning application that was pending consideration when their statement was written. At the site visit, a planning application that had been approved was mentioned. Given that it is not appropriate to enter into discussions about these matters at a site visit, I did not invite any further comment upon this there and then. This appeal must be determined on the basis of what existed at the date of the application and not the day of my site visit. Whether or not the referenced planning application has affected the lawfulness of the site since is not material to this appeal.

Main Issue

4. The main issue is whether the Council's decision to refuse the grant of an LDC was well founded.
5. The use of the premises for the Blue Cross animal charity ceased around April 2021, over 2 years prior to the submission of the application, having operated since 1985. The Council has however confirmed that they did not refuse the application on the basis of there not being an active use at the time of the application. The dispute relates to whether or not that use could be considered to fall within Class E of schedule 2, Part A of the Town and Country Planning (Use

Classes) Order 1987, as amended (UCO). The onus of proof is upon the appellant to demonstrate their case on the balance of probabilities.

Reasons

6. The appeal relates to a substantial site which incorporates buildings and land which had been used by the charity and it is agreed that this can be described as an animal rehoming centre. There is a grouping of buildings within the site which includes a 2 storey traditional building close to the junction of the 2 roads that adjoin the land which have been utilised as offices, training and meeting rooms. That building is close to a short terrace of dwellings alongside a short layby at the back of the A3072 but which are outside of the appeal site.
7. Although the site at the time of my visit was subject to some construction works and included temporary fencing along the boundary, the main entrance appears to have been from the side road leading northwards where there remains a gateway. The gateway leads towards a central building which had been the service centre 'hub' including reception, offices, veterinary clinical rooms as well as staff facilities. Surrounding that are other single-storey buildings which were used as cattery and puppy units, a large dog-kennels, also with a laundry and then a cat isolations unit. Close to the cat isolation unit is a building that had been used for general storage. Beyond these buildings stretching into the nearby countryside is a large dog exercise area.
8. The red-line defining the application site covers all of the activities that were being undertaken when the site was occupied by the animal charity. In the absence of a legislative definition, I have been referred to the well established authority for considering the concept of "planning unit" which is *Burdle & Williams v SSE & New Forest DC [1972] 1 WLR 1207*. Taking this into account it appears agreed that the land defined by the red-line was the unit of occupation by the charity and that all of the activities related to their occupation were functionally linked within that area.
9. The matters of dispute therefore distil down to what could be considered as the primary use of that planning unit and what amongst the activities may be incidental elements to the primary use. It is also feasible although not necessarily confronted or suggested by the main parties, that the single planning unit could include more than one primary use in a mixed-use not falling within a specific use-class.
10. The animal welfare operation has clearly been fundamental to the use of the site. There is little first-hand evidence about how the site had operated on a day to day basis. The appellant has submitted some general information including the Blue Cross annual report and accounts for 2022. That is a largely strategic overview of the national organisation at that point in its overall history. It provides no specific information about this site. There are no accounts of how the site operated from people who worked there.
11. Factually there were facilities to house the dogs and cats as well as rooms where vets would care for them, space for dogs to be exercised, areas where administrative duties could be undertaken as well as areas for staff. I note from the planning history set out by the Council, that a field shelter had also been approved for ponies and donkeys although I have no information about whether that was actually implemented. It would be consistent with the general activities described in the annual report which refers to rehoming services including dogs, cats, small animals and horses but also refers to other services.

12. Class E of the UCO relates to commercial, business and service uses. The appellant has referred to a government explanatory memorandum that was published when regulations came into effect to amend the UCO which, amongst other things, resulted in the new Class E. This memorandum explains that the new class is broad and allows movement between the various uses that Class E has brought together. The main elements of Class E that the parties are referring to are (c) and (e). Sub-paragraph (c) states that use would be “for the provision of the following kinds of services principally to visiting members of the public—(i) financial services, (ii) professional services (other than health or medical services), or (iii) any other services which it is appropriate to provide in a commercial, business or service locality.” Sub-paragraph (e) states “for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner.”
13. Based on the facts as presented, what I saw and also a logical understanding of what is described at face value, the site appears to have been a refuge and rehoming centre for a large number of animals that were accommodated on the site. Much of the space is dedicated to that accommodation which dominates the site along with the care of those animals. From what is presented as well as the facts on the ground, accommodating animals and seeking new owners would logically have been the core business. Other activities do seem likely to have revolved around that core business.
14. Some assistance and services provided by the centre may have involved visiting members of the public. My common sense understanding of that is however that it would generally be related to people visiting with a purpose of hopefully adopting animals, along with follow up re-visits. There may have been some ancillary level activities too, using the systems and expertise of the vets and facilities on the site. That could have been as a place where the general public could bring their pets for medical or maybe behavioural assessment. There is however no evidence presented about the scale of that being a significant or a primary element of the overall use or that overall the use of the site provided services “principally” to visiting members of the public.
15. Other cases have been referred to including a change of use of a canine hydrotherapy centre (APP/X3540/W/23/3318024). That use was very different from the appeal case and the inspector considered that it did fall within Class E. It was clearly primarily involving dogs being brought to the site by their owners and therefore a service to visiting members of the public. It was also considered to be a service appropriate to provide in a commercial business or service locality. Another appeal case (APP/F3545/X/23/33343230) also sought a LDC for Class E purposes. There may be some overlaps with the activities in that case and the present appeal. That inspector making fact and degree judgements based on evidence in the public inquiry, considered that animal health and medical services would generally be considered as veterinary services. They fell within Class E(e) as they were “principally” for visiting members of the public. In the present case, I am not disputing that such use could fall within that class in those circumstances. However, based upon what the appellant has demonstrated in this case, such use was probably ancillary to the primary use of the site as a refuge and rehoming centre for a large number of animals.

Conclusion

16. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the use "as an animal rehoming centre" as described in the statement accompanying the application falling within use Class E (c) iii, was well founded and the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Andy Harwood

INSPECTOR