



Appeal Decision

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2026

Appeal Ref: APP/U5930/X/25/3362035

86 Clacton Road, Walthamstow E17 8AR

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Whitehead against London Borough of Waltham Forest.
 - The application ref 250034 is dated 16 December 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 the proposed change of use from Class C3(a), single family dwelling to Class C3(b) single household (children's home) of no more than 5 children from ages 13-17 under the supervision of experienced adult carers.
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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 proposed use which is found to be lawful.

Main Issue

2. The main issue is whether the use described by the appellant falls within Class C3(b) of Part C, Schedule 1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO) and, therefore, whether or not the proposal amounts to a change of use that is materially different from the existing use of the site.

Reasons

3. The use for which the LDC is sought is a use falling within Class C3(b), which is a use as a dwellinghouse by not more than six residents living together as a single household where care is provided for residents. Although in the application form the appellant states that the proposal does not consist of a change of use, there would indeed be a change in the use of the property if the use falling within C3(a) were to cease and the use falling within C3(b) were to commence. However, as these uses fall within the same class (Class C3) the change from one use to the other would not be material and would not, therefore, amount to development as defined under section 55(1) of The Town and Country Planning Act 1990 as amended.
4. The appeal site is a three storey mid-terraced house in a primarily residential part of Walthamstow. The appellant has stated that the proposal is to use the property as a residential home for up to five children aged 13–17 who are unable to live at home. The accommodation would comprise of a living room, dining room, bathroom and kitchen on the ground floor with two en-suite bedrooms at first floor and an additional two en-suite bedrooms on the loft floor. There is a small private outdoor amenity space to the rear. The children would live together as a single

- household, supported by trained adult carers providing supervision, guidance and support on a shift basis. The property would not be the main residence of carers.
5. The home would operate in a family-style setting, with shared living spaces, meals prepared and eaten together, and children participating in normal household activities. At any one time, no more than six people (including one carer) would be present. A dedicated room would be provided for carers, who would not be permanent residents but would ensure 24-hour supervision.
 6. I have considered case law relating to cases such as this and a similar scenario to this case was considered in the case of *North Devon District Council v FSS & Southern Childcare Ltd* [2003] EWHC 157 (Admin); [2003] JPL 1191 which determined that children cannot form a household and that if their carers do not live permanently at the property, the use would fall within Class C2 of the UCO. This is defined as use for the provision of residential accommodation and care, other than within a Class C3 use.
 7. Case law¹ also confirms that *North Devon* does not lay down a principle that those who may need care can never constitute a household. It is necessary to focus first on those in occupation and ask whether they form a single household as a matter of fact and degree. It would be counter to the language of Class C3 to conclude that where care is needed, C3 only applies to where the carer-givers are resident. In this case, since the children cannot themselves be said to form a household, as established by *North Devon*, the proposed use would fall within C2 (residential institutions) of the UCO. I understand that the overall objective is to provide a homely environment close to a traditional home but having taken account of the evidence presented and relevant case law, that does not persuade me that the proposed use would fall within Use Class C3.
 8. There is no permitted change from C3 to C2 under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) and the proposed use cannot therefore be permitted development. However, a change of use to a different use class only requires planning permission if it is material in planning terms. To establish whether or not there would be a material difference a comparison between the existing and proposed uses must be carefully considered.
 9. The existing house could accommodate a large family and therefore the proposed use for up to two five children or young people and their carers would not be materially different from the authorised use as a single three storey family dwellinghouse. Carers would work on a shift basis alternative between 2 or 3 other shift workers and therefore no more than six people would occupy the property at the same time. As with a family dwelling, a single kitchen would be used as a place to prepare and consume meals, and the living room would be a communal space where residents would relax and interact. All other facilities would be shared by residents who would be cared for by trained carers while carrying out other household tasks such as cooking, cleaning and laundry.
 10. There would be no material alterations to the property and its physical appearance would not change in any way. There would be some vehicle movements associated with carers coming to and going from the site on a daily basis in accordance with their shift patterns and there would be additional journeys linked

¹ R (oao Crawley BC) v FSS & the Evesleigh Group [2004] EWHC 160 (Admin)

to taking children and young people to school or college and taking them to other activities or appointments. The number of these movements is unlikely to be significantly more than the number that would be undertaken by a family and certainly not enough to result in a level of intensification in the use of the site that gives rise to concerns from a planning point of view. There is insufficient evidence before me to show that the use would be likely to result in greater levels of noise and disturbance than the existing authorised residential use.

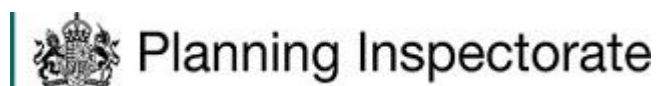
11. It is my understanding that the appellant will be required to comply with a range of regulations and rules governing the operation of the accommodation for children and young people in care, including their supervision. Should these regulations be adhered to and the appellants meet the necessary staffing and management requirements, I do not find there to be any reason why the use proposed would have planning impacts that would result in it being considered to be a material change of use.

Conclusion

12. For the reasons given above I conclude, on the evidence now available and on the specific facts of this case, that the use in respect of use as a single household (children's home) of no more than 5 children from ages 13-17 under the supervision of experienced adult carers was lawful at the time the application was made. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

A A Phillips

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 16 December 2024 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, would have been lawful within the meaning of section 192(1) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use, whilst falling within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), would not represent a material change from the authorised use of the site as a Class C3(a) dwellinghouse.

Signed

A A Phillips

INSPECTOR

Date: 14 May 2026

Reference: APP/U5930/X/25/3362035

First Schedule

Single household (children's home) of no more than 5 children from ages 13-17 under the supervision of experienced adult carers.

Second Schedule

86 Clacton Road, Walthamstow E17 8AR

IMPORTANT NOTES – SEE OVER

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 /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 1990 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: 14 May 2026

by A A Phillips

Land at: 86 Clacton Road, Walthamstow E17 8AR

Reference: APP/U5930/X/25/3362035

Scale: Not to Scale

