



Appeal Decision

Site visit made on 27 June 2026

by **A U Ghafoor BSc (Hons) MA MRTPI ACMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 5th August 2026

Appeal Ref: APP/B5480/X/24/3354668 145 Turpin Avenue Romford RM5 2LU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act") against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Aina Bado Ogundimu on behalf of New Option Support Limited against the decision of the Council of the London Borough of Havering.
- The application Ref D0319.24, dated 11 August 2024, was refused by decision dated 25 October 2024.
- The application was made under section 192(1)(a) of the Act¹.
- The use for which a certificate of lawful use or development is sought is described in the application as follows: *"use of a (3a) dwelling as a children's home for up to three children, with a manager and three carers, two of whom will sleep overnight, working on a rota basis (C2)"*².

Decision

1. The appeal is dismissed.

Reasons

2. Is the Council's decision to refuse to grant the LDC well-founded?
3. The appellant's case is a simple one and is succinctly encapsulated by the following statement: *"...It is accepted that the proposed use falls within Use Class C2 and hence the change of use from C3 is not an automatic permitted change. However, it is nevertheless argued that there is little material difference between the current and proposed use, meaning that planning permission is not required"*³. Essentially, the Council's reason for refusal is summarised as follows. It held that Class C3(b) only covers up to six people (adults) living together as a single household and receiving care. It argues the care of children is excluded from Class C3(b). It concluded that the proposed use would fall under Class C2 and would give rise to a material change of use for which planning permission is required.
4. The agent, on behalf of the appellant, alleges the Council misunderstands the law. However, the quantum of the written representations suggests to me there is a fundamental misunderstanding between the appeal parties as to the principles applicable in these kinds of cases. For completeness, I shall set these out first and refer to relevant case law.

¹ This relates an LDC for proposed development, but it seems the property is already used for the application purpose. Technically, the application relates to an existing use.

² In the appeal form, the proposed use is described as follows: "Change of use from C3(a)residential to C3(b) covering up to six people living together as a single household and receiving care". "Certificate of Lawfulness for Change of Use from Use Class C3 (Dwellinghouse) to Use Class C2 (Residential Institution)" which matches the description given by the Council on its decision notice. I've adopted the application form because there isn't much difference.

³ See section "Ground for Application" repeated at paragraph 1.3 of the applicant's planning statement. For some reason, the local planning authority appears to have missed this fundamental argument.

5. This is a complex field which from time-to-time even intimidates practitioners. There is considerable judicial authority on the interpretation and distinction between uses falling within Class C2 and C3 to the Schedule of the Town and Country Planning (Use Classes) Order 1987 as amended (the “UCO”). In summary form, the former relates to use for the provision of accommodation and care to people. UCO article 2 explains that “care” means 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 includes the personal care of children and medical care and treatment. Class C3 relates to use as a dwellinghouse by a single person or people forming a single household, by not more than 6 residents where care is provided for residents, or by not more than 6 residents where no care is provided to the residents. The key thread running through Class C3 is the concept of “single household”⁴.
6. *Bromley and Crawley*⁵ are two cases where the Court debated the issue of whether supported living for adults came within UCO C3(b). In *Bromley*, an interested party’s judicial review failed on the basis that the presence of non-resident staff did not alter the fundamental character of the use of the property by people forming a single household. The judgment emphasised whether people form a single household is a fact sensitive analysis. In *Crawley* the property was already in use by four adults with learning difficulties and carers were present on a shift basis providing round the clock care, but they did not reside permanently at the property. The Council argued that the use resembled a residential institution falling within Class C2. The Court found that non-resident carers do not automatically disqualify a property’s Class C3(b) use. The Inspector’s conclusion that the residents lived together as a single household was supported by evidence including the layout and prior use of the property.
7. A case that predates the introduction of use Classes C3(c) and C4 is *R (Hossack) v Kettering BC and English Churches Housing Group* [2002] EWCA Civ.886. It is nevertheless relevant. The Court of Appeal held that the concept of a single household is a matter of fact and degree, not dependent on pre-existing relationships. A common need for support and resettlement can be sufficient to constitute a single household. The small number of residents and shared facilities supported the C3(b) classification in that case and that it is unnecessary to establish deeper personal relationships to form a household.
8. In *North Devon*⁶ the Court considered the question as to whether a semi-detached 3-bedroom dwellinghouse in a residential area fell within UCO Class C2 or C3. The characteristic of uses contained in Class C2, which set them apart from dwellinghouses, are that the residents and staff do not form a single household and confirms my observation elsewhere that a key element in the use of a dwelling-house for non-family purposes is the concept of a single household. The Court also confirmed the interpretation of UCO article 2 definition of the word ‘care’. It was held that children cannot form a household or live together as one without a resident caregiver, and a children’s care home cannot fall within Class C3 unless a caregiver is resident, but it does not automatically follow that a C2 use would necessarily be materially different to a C3 use.
9. Although the use was found to fall within Class C2, the Court did not impugn the Inspector’s finding that the change from Class C3 was not a material one. In practice,

⁴ In the context of the UCO, “single household” is to be construed in accordance with section 258 of the Housing Act 2004 as amended. Under s258(2) of the same Act, persons are to be regarded as not forming a single household unless (a) they are all members of the same family or (b) their circumstances are described in Regulations 3 and 4 of the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 which is of no direct relevance in this case.

⁵ *R. v Bromley LBC Ex p. Sinclair* [1991] 3 P.L.R. 60 and *Crawley BC vs SSETR* [2004] EWHC 160 (Admin).

⁶ *North Devon v FSS and Southern Childcare Ltd* [2003] EWHC 157 (Admin).

and on those particular facts, the use for up to two children, with round-the-clock care provided by up to two non-resident staff at those premises, and only at those premises, was in the circumstances a lawful use. *North Devon* is legal authority for the two-stage assessment process. *North Devon* does not endorse the proposition that all similar type of children's care homes would, by implication, not amount to a material change in the use of any building nor should it be interpreted as meaning that those who need care in the community can never constitute a household for the purposes of Class C3.

10. These judgments and the findings therein serve to illustrate that with each case it is a matter of fact and degree assessment based on the circumstances and evidence presented. In the context of an LDC appeal, it is necessary to examine the factual evidence and circumstances of this proposal. A planning judgment will need to be reached as to whether the change in the use of no. 145 would be material.
11. Turning to the particulars of this case, comparisons should be made between the proposed use and the previous use as it took place rather than a notional use or level of occupation. The argument here is not whether the proposed move from UCO Class C3 is permitted by operation of law⁷ because, as I have already indicated elsewhere, the appellant concedes the proposed [now existing] use falls within UCO C2. The question to assess is whether the proposed use amounts to development for which express planning permission is required.
12. The appeal property is in a residential area characterised by similarly design rows of terraced properties. No. 145 has front car parking space and a rear garden. The existing plans submitted with the LDC application show a 5-bedroom dwelling with an open plan kitchen/lounge at ground floor level and home office. The proposed plans show a similar ground floor layout. There would be two bathrooms and 3 bedrooms on the first and second floor, and a staff room and office at second floor level.
13. I saw that the layout is significantly different to the proposed plans. For example, the front bedroom includes desks, furniture and equipment normally associated with an office, yet the proposed plans show two small offices at ground and second floor level. The evidence presented does not clearly or precisely show the functional need for an office or meeting room in the front bedroom at first-floor level. In any event, I consider that, when compared to the property's lawful use, there would be a significant change to the internal layout and configuration. The proposed layout would be perceived as a managed and specialist form of residential accommodation. Given the inconsistency between the existing and proposed layout, the contradictory information undermines the weight I can attach to the appellant's claims.
14. It is necessary to assess the character of the use as a children's care home. The children would be placed following risk assessments and referrals, and the appellant explains that the occupiers' use of no. 145 would be the same as a normal family sharing communal facilities. However, children would require 24-hour care, and two carers would sleep overnight at the property, and carers would arrive and depart according to a set schedule, yet the nature and pattern of the rota is unclear. A manager would visit the property during weekdays and whilst this is a requirement by OFSTED, it indicates to me that the nature of the property's residential use would be highly regulated.

⁷ S55(2)(f) of the Act provides that, in the case of buildings which is used for a purpose of any class specified in the UCO, the use of the buildings, subject to the provisions of the UCO, for any other purpose of the same class shall not be taken to involve development of land. Article 3 (1A) and Schedules 1 and 2 to the UCO apply.

15. The appellant contends the activity is comparable to levels of weekly movements of a typical family, staff changeovers would be limited to short windows, social worker visits would be infrequent and probably limited to monthly or six-weekly, and family or friend visits would be carefully managed and comparable to normal household visitors. Nonetheless, staff would be transitory and attend on a rotational basis. Additionally, the argument is that the children would either be tutored online or in-person and might attend schools locally. That type of arrangement is not that untypical of a family setting, but the level of care provided would be considerable and not low-key in scale. When the level of care afforded by staff on rota is taken together with the carefully organised and managed setting of the site, I consider that the residential use would generate significant levels of comings and goings given the pattern of occupancy.
16. There are parking spaces at the front of the property along with adequate bicycle and bin storage. Be that as it may, the caring element would involve a closely managed and supervised regime because of the residents' needs. It is reasonable to expect the engagement of external agencies. The appellant describes limited visitations from social workers or tutors, nevertheless, there would be visits from inspections or regulatory bodies, and there is a lack of detail relating to other potential visits from those involved in the general welfare of the children, the management of the property or family contact. Additionally, it is reasonable to expect that the children's home would not operate in total isolation and there would be deliveries associated with the operations, or trips away from the premises. There is, therefore, potential for vehicular movements generated by these activities in addition to staff turnover as well as an increase in likely number of people arriving and departing at different times of the day or night.
17. Contrary to the appellant's arguments and as a matter of fact and degree, I find that the nature and scale of the proposed use would be characteristic of activities falling within UCO Class C2, which relate to the provision of residential accommodation and care to people in need of care. Had the proposed use been instituted on the date of the LDC application, it would have amounted to a material change in the use of the building or land and required express planning permission.
18. Based on the available evidence, when the nature and scale of the proposed use is considered in combination with the arrangement and configuration of the property, the introduction of the proposed home for children, as described in the header above, would result in identifiable on and off-site effects which, to my mind, would sufficiently bring about a significant change in the definable character of no. 145.
19. Drawing all the above threads together, as a matter of fact and degree and balance of probabilities, I find that the quantum of the evidence presented does not clearly, unambiguously or precisely show that the proposed use, as described in the LDC application or appeal form, would not amount to a material change in the use of no. 145.
20. Having regard to all other matters, I conclude that the Council's decision to refuse the LDC application was well-founded though for different reasons. I have exercised accordingly the powers transferred to me in section 195(3) of the Act.

A U Ghafoor

INSPECTOR