



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/25/3362455

10 Avenue Road Romford RM3 0SU

- 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 Ms Anne Nyiyah on behalf of Leocrys Care Limited against the decision of the Council of the London Borough of Havering.
- The application Ref D0409.24, dated 10 October 2024, was refused by decision dated 6 December 2024.
- The application was made under section 192(1)(a) of the Act.
- The use for which a certificate of lawful use or development in the appeal form as as follows: "*Certificate of Lawfulness for the use from a dwelling house (use class C3) to childrens [sic] care home (Use Class C2)*"¹.

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 the proposed change of use would not fall within the scope of s55(1) and therefore not require express planning permission. Essentially, the argument is that, even if the proposed use falls in Class C2, there would be no material change in the use of the building or land. The Council disagree and holds the character of the use and associated activity generated would fall within the definition of development. In this kind of appeal, the onus is on the appellant, and the standard is balance of probabilities. 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.
4. 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

¹ I've adopted this description as the one given on the application form is a statement.

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”².

5. *Bromley and Crawley*³ 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.
6. 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.
7. In *North Devon*⁴ 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.
8. 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, 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.

² 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.

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

⁴ *North Devon v FSS and Southern Childcare Ltd* [2003] EWHC 157 (Admin).

9. 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. 10 would be material.
10. 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 law⁵ because, as I have already indicated elsewhere, the appellant concedes the proposed use falls within UCO C2. The question to assess is whether the proposed use amounts to development for which express planning permission is required.
11. The appeal property is a 4-bedroom property located in a residential area characterised by similarly design rows of properties. No. 10 has front car parking space. The proposed plans submitted with the LDC application show at least 1 bedroom converted into a staff room. Essentially, the care home would be occupied by 6 persons living at the premises at any one time: children aged between 6-18 would receive care. The claim is that tailored care would be provided during the day, healthcare visits by doctors would be undertaken off-site, and visitations would be regulated and limited in time. However, apart from a broad-brush approach citing various other decisions, which I will return later, the evidence does not show to me with sufficient clarity how the proposed care regime would operate in practice, nor how the intensity of supervision, professional oversight, and shift-based staffing would compare to the lawful use of no. 10.
12. In contrast to the existing lawful use of the appeal property, the evidence clearly shows that the resident children would require 24-hour care, carers would arrive and depart according to a set schedule though the nature and pattern of the rota is unclear. A manager would visit the property during office hours and whilst this is a requirement by OFSTED and other regulations, it indicates to me that the nature of the property's occupation and residential use would be highly regulated through various statutory provisions.
13. The site has off-street parking available, and the appellant maintains there would only be 2 vehicles on the drive at any one time. The claim is that there would be no staff vehicle movements outside of the hours 0730 to 2030. Periodic visits from the social workers would be 1 or 2 hours at any one time. Comparisons are drawn between the proposed use and occupation of the dwelling by a large family. Be that as it may, I consider staff would be transitory and attend on a rotational basis for contracted hours.
14. 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 and family or friend visits would be carefully managed and comparable to normal household visitors. The caring element would involve a closely managed and supervised regime because of the residents' needs. Nevertheless, it is reasonable to expect the engagement of external agencies. 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

⁵ 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.

management of the property or family contact. All this indicates markedly different type of comings and goings to and from the property.

15. The argument is that the children would attend school or they could also be tutored and 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. 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 activity given the pattern of occupancy which would be markedly different in comparison to use as a dwellinghouse.
16. The appellant maintains that the proposed use would represent a single household model and have minimal impact on amenity, but 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. The evidence does not sufficiently show that the intensity of residential use would fall within the range of what could reasonably be expected of a single household.
17. Based on the available evidence, contrary to the appellant's arguments and as a matter of fact and degree, I find that 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. Much is made of previous appeal and Council decisions on similar proposals, but none are determinative⁶. The full extent of the written submissions in each case cited are not before me, but there is a need for consistency. However, the material facts between this case and those referred to by the agent are clearly distinguishable given the type, level and scale of the proposed use. Even if there are similarities in the "modus operandi," each application must be considered on their own merits. Seldom are site-specific circumstances or proposals identical. I am not persuaded the cited decisions are strong precedents to take a different approach in this appeal.
19. Drawing all the above threads together, on the 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. 10.
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

⁶ These are summarised in the appellant's statement of case.