



Appeal Decision

Site visit made on 12 August 2026

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 September 2026

Appeal Ref: APP/J0350/X/25/3374416

37 Thurston Road, Slough, United Kingdom SL1 3JW

- 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 Vishal Boodoo (Elegant Care Services) against Slough Borough Council.
 - The application ref P/12600/005 is dated 20 June 2025.
 - The application was made under section 191(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 use of the entire site except the two areas shown on the application site plan as subject of enforcement notice 23/00070 for C3(b) purposes, namely accommodation for up to 6 adults with learning difficulties and mental health issues requiring care.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council failed to issue a decision within the relevant timeframe and has confirmed that, had it determined the application, it would have refused to grant an LDC. In accordance with section 195(5) of the Town and Country Planning Act 1990 (1990 Act), I shall consider the appeal on the basis that the Council would have refused the application, as indicated in its Statement of Case.
3. Section 191(2)(a) and (b) of the 1990 Act provide that uses and operations are lawful at the time of the application if no enforcement action may then be taken in respect of them, whether because they did not involve development, did not require planning permission, the time for enforcement action has expired, or for any other reason; and if they do not constitute a contravention of any enforcement notice then in force.
4. In addition to concerns regarding the lawfulness of the use, the Council raises concerns about the extent of the application site and the existence of an Enforcement Notice (Notice) then in force on the land. It notes that a rear conservatory extension and rear outbuilding, both of which are subject to that Notice, have been excluded from the application site. Consequently, the Council contends that the application site has been drawn artificially, particularly because the conservatory lies between the main dwelling and part of the rear garden.
5. I note the Council's concerns. However, I am satisfied that the application description and accompanying plan identify with sufficient precision the land and use for which a certificate is sought. The plan identifies the land to which the application relates, and the exclusion of the conservatory, notwithstanding its

position between the dwelling and garden, does not in my judgment create uncertainty as to the extent of the claim or prevent the appeal being determined.

6. Furthermore, although the Notice was not appealed and has come into effect, the application before me does not seek a certificate in respect of the erection of the building described in the Notice as being in use as a self-contained dwelling, nor in respect of the additional single-storey rear extension. Those elements are excluded from the application site and would remain subject to the requirements of the Notice. The certificate sought relates only to the use of the remaining land identified on the application plan and described in the Application Form.
7. On that basis, determining whether that claimed use is lawful would not authorise the building or extension subject to the Notice, nor would it remove the obligation to comply with the Notice. I am therefore satisfied that the application is capable of being considered without offending section 191(2)(b) of the 1990 Act. The issue before me is therefore whether the use claimed in the application was lawful, on the date of the application, in respect of the land identified on the submitted plan and the description detailed on the Application Form.
8. The site visit had been arranged as an accompanied visit with both main parties. No representative of the Council attended, and I therefore proceeded with the visit in their absence. I was able to view the site and its surroundings sufficiently to inform my assessment. The Council was given an opportunity to request a further visit if it considered that any prejudice had arisen. No comments were received, and I have proceeded to determine the appeal based on the evidence and my observations from the site visit carried out.

Main Issue

9. There is no dispute between the parties that the last lawful use was as a dwellinghouse, use class C3 (a) of the Town and Country Planning (Use Classes) Order 1987 as amended (UCO). The appellant contends that the property is currently occupied by a group of vulnerable residents who live together as a single household and receive care and support. The appellant, therefore, seeks to confirm that the existing use falls within Class C3(b) of the UCO namely: not more than six residents living together as a single household where care is provided for residents.
10. The Council considers that the information submitted with the LDC application and appeal submissions fails to demonstrate, on the balance of probabilities, that the existing use falls within Use Class C3(b), as defined by Schedule 1, Part C of the UCO. However, it is also indicated in the Statement of Case that based on the nature and intensity of the care arrangements, the vulnerability of the occupants, and the staffing observed on site, the Council also characterises it as a Class C2.
11. For clarity, a Class C2 use of the UCO includes the provision of residential accommodation and care to people in need of care (other than a use within Class C3). Class C2 can include use as a hospital, nursing home, residential school, college or training centre. 'Care' is defined in Article 2 of the UCO as 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 in Class C2 also includes the personal care of children and medical care and treatment.
12. The main issue is whether, on the date of the application, the use of the site, except the two areas shown on the application site plan as subject to enforcement notice

23/00070, for C3(b) purposes — namely accommodation for up to six adults with learning difficulties and mental health issues requiring care — was lawful within the meaning of section 191 of the 1990 Act.

Reasons

13. 'Development' is defined in section 55(1) of the 1990 Act as including 'the making of any material change in the use of any building or other land' (my emphasis). It therefore follows that if a change of use is not a 'material' change of use then it would not constitute 'development' and could be lawful due to the provisions set out in 191(2) of the 1990 Act.
14. Section 55 (2) of the 1990 Act states that the following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land. This includes 55(2)(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.
15. It is the appellant's contention that the existing use is, therefore, not materially different to its previous use as a dwellinghouse, C3 (a) of the UCO. The case turns on whether the existing use is within use Class C3(b)¹ of the UCO and is not considered to be 'development' by virtue of section 55(2)(f) of the 1990 Act. For a material change of use to have occurred, there must be some definable change in the character of the use from what has gone on previously, based on a matter of fact and degree.
16. The relevant test is the balance of probability, not the more onerous test of beyond reasonable doubt. The burden of proof rests with the appellant to provide sufficient information to demonstrate this to be the case. The Planning Practice Guidance (PPG) states that if the Council has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous.²
17. In LDC cases of this nature, the assessment cannot be undertaken by reference only to a broad or notional understanding of what might ordinarily occur in a dwelling of this size or type. It requires a comparison between the actual previous lawful use and the use now occurring, because the question is whether there has been a material change in the character of the use as a matter of fact and degree. Accordingly, detailed information about the previous residential use and its associated activities is necessary to provide a meaningful baseline against which the existing use can be assessed.
18. During my site visit, the physical layout and appearance of the property were broadly consistent with a typical dwellinghouse. Externally, there were no clear physical differences from other properties in the street. Internally, the property contained six bedrooms, three of which had ensuite bathroom facilities, together with a kitchen/dining room, a main living room on the ground floor and a bathroom on the first floor. Although a downstairs front bedroom had a keyed lock, no other

¹ Use as a dwellinghouse (whether or not as a sole or main residence) by: (b) not more than six residents living together as a single household where care is provided for residents

² Paragraph: 006 Reference ID: 17c-006-20140306

locks were evident on the upstairs bedrooms. The submitted layout plans were consistent with what I saw on site, albeit the ground floor room next to the living room was identified as a sensory room and the upstairs storeroom included storage as well as an office facility.

19. However, I have very limited evidence about the previous C3(a) dwellinghouse use, including its former internal layout, room arrangement or how it was occupied before the current use began. Although the present layout is capable of being consistent with a dwellinghouse, the absence of that evidence limits the physical comparison that can be made. The more significant evidential issue, however, concerns the way in which the property operates in practice.
20. The appellant's evidence indicates that the property is occupied by no more than six vulnerable adults who receive care and support while living together within the dwelling. It describes residents sharing communal facilities, participating in household activities, socialising, sharing cleaning duties and eating communally. Those are matters capable of being consistent with a Class C3(b) use.
21. Nevertheless, the evidence does not provide a sufficiently detailed picture of how the occupiers function together as a single household. The sharing of facilities and some household activities is relevant, but it does not, by itself, demonstrate that the occupiers live together as a single household. The evidence does not clearly explain the degree of independence of the residents, the extent to which they are free to come and go without supervision, or the level of staff involvement in their everyday activities. While the evidence states that residents are independent within the dwelling, it also states that they usually require support from a social care assistant when undertaking external trips. Although this is said to be typical of this setting, the lack of detail creates uncertainty about the nature of the use, including its character and intensity.
22. This is compounded by the fact there is also limited detail about the care and staffing arrangements operating from the property. The appellant refers to carers attending the property and assisting with personal care matters such as cooking, washing and socialising. However, the evidence does not clearly identify the number of carers attending the property at any one time or through the week, staffing ratios during the day and night, shift arrangements, the frequency of staff changeovers, or the detailed responsibilities of carers. It is also indicated that a care manager is part of the staff for the premises but provides limited details on whether the manager attends the property, how often and for what purpose.
23. The evidence also refers to periodic visits by medical professionals. The sensory room on the ground floor is said to be used for consultations with occupiers, which provides privacy, and visits may last between two and four hours. I accept that medical and other professionals may visit residents at home without necessarily altering the character of a dwellinghouse use. However, again, there is limited detail on the frequency, duration and nature of those visits, or the extent to which any treatment functions as part of the day-to-day or weekly activities.
24. These matters are material because they go directly to the character, intensity and activities associated with the current use. They are necessary to determine whether the occupiers live together as a single household within Class C3(b), rather than whether the use has the character of a more managed or institutional form of residential accommodation and care.

25. I have had regard to the appellant's submissions concerning *Hossack*³. However, that case confirms that whether occupiers are living together as a single household is a matter of fact and degree to be assessed having regard to all relevant circumstances. In the present case, I do not consider that I have sufficient evidence to undertake that assessment. In particular, the evidence provides only a limited understanding of the staffing arrangements, the degree of supervision and support provided, the extent of staff involvement in the occupiers' day-to-day activities, and the way in which the occupiers function together as a single household.
26. Consequently, although the evidence demonstrates some features capable of being consistent with a Class C3(b) use, it does not provide a sufficiently clear evidential basis to compare the actual previous lawful use with the current use, either physically or operationally. Nor does it establish with sufficient precision how the occupiers live together as a single household, or how the care, staffing, medical and support arrangements operate in practice. I am therefore not satisfied, on the balance of probabilities, that the claimed use was lawful on the date of the application. The burden of proof has not been discharged.

Other Matters

27. There are details of individual tenancy agreements for different occupiers submitted with the appeal submissions. However, the appellant indicates in his Statement of Case that they were provided at the Council's request and are not relevant to the appeal. As such, I have not considered this information as part of the appeal.

Conclusion

28. For the reasons given above I conclude that, had the Council refused to grant a certificate of lawful use or development in respect of the use of the site except the two areas shown on the application site plan as subject of enforcement notice 23/00070 for C3(b) purposes, namely accommodation for up to 6 adults with learning difficulties and mental health issues requiring care that refusal would have been well founded and that the appeal should fail.
29. I will exercise the powers transferred to me under section 195(3) of the 1990 Act accordingly.

M. P. Howell

INSPECTOR

³ R (Hossack) v Kettering BC [2002] EWCA Civ 886)