



Appeal Decision

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 21 September 2026

Appeal Ref: APP/D5120/X/25/3373810

2 St Edmunds Close, Bexley, London DA18 4DU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr O Olarinsoye against the decision of the Council of the London Borough of Bexley.
 - The application Ref 25/00454/LDCP, dated 5 March 2025, was refused by notice dated 16 September 2025.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The proposed use for which a certificate of lawful use or development is sought is as a residential care home Class C3(b) for up to 4 young persons with learning disabilities or mental health problems in need of care, but living as one household.
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Decision

1. The appeal is dismissed.

Costs Application

2. An application for an award of costs was made by Mr O Olarinsoye against the Council of the London Borough of Bexley. That application is the subject of a separate Decision.

Procedural Matter

3. Due to the nature of this LDC appeal, which turns as it does on arguments of lawfulness as to the proposed use, no site visit was necessary to determine it. The Decision has been made on the written submissions of the parties.

Main Issue

4. The main issue in this appeal is whether the Council's reasons for refusing the LDC were well-founded.

Reasons

5. The Council refused the LDC as it was of a view that adequate information had not been submitted with the application to determine whether the proposal would fall within Class C3(b) of the Town and Country Planning (Use Classes) Order 1987 as amended (UCO), and whether or not there would be a material change of use of the property.
 6. Class C3(b) is use as a dwellinghouse (whether or not as a sole or main residence) by not more than 6 residents living together as a single household where care is provided for residents.
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7. As I understand it, the lawful use of the appeal property at the time of the application was Class C3(a) (use as a dwellinghouse by a single person or by people to be regarded as forming a single household). Were I to find that the proposed use falls within Class C3(b), then the appeal would succeed as the UCO provides that where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or that other land for any other purpose of the same class shall not be taken to involve development of the land.

8. The statement supporting the application for the LDC said that:

"There will be 1 x permanent employee who will be a resident at the premises to ensure that the property is managed at any given time and providing specialist care and support to the 4 service users."

The service users would be "between the ages of 16 – 18 years". Between these ages, service users would be under 18 years old and would be children.

9. The Council considered that the application was unclear as to how the carer would live on site as their primary residence and queried whether the single bedroom would be shared by other staff on a rota basis.
10. In his appeal statement, the appellant (seemingly in response to the Council's request for greater information and clarity) said that:

*"There will be 1 full-time employee working **on shift pattern** to ensure that the property is managed at any given time, always providing specialist care and support to the 4 young adults (service users) 24 hours."* [my emphasis]

Confusingly, however, the appeal statement goes on to say:

"In summary, the young service users will be in need of care because of their individual health issues, but they will be living at the property as one household. They would be receiving care from 1 full time care[r] who will be a resident at the premises 24 hours."

11. The submissions do not make sense. A 'shift pattern' to cover 24 hour care and support must logically involve more than 1 carer. Further, there is insufficient explanation of that shift pattern. Without details, such as the number of carers and their shift hours, it is not possible to form an assessment as to whether (as a matter of fact and degree) any carer could genuinely be said to be 'resident' at the property. It is important because of the case, cited by the appellant, of *North Devon DC v FSS* [2003] EWHC 157 (Admin)¹. Regardless of other cited caselaw, this case established the principle that children cannot live together as a single household by themselves without a resident carer to run a proper functioning household. There is nothing in the appeal submissions I have seen which prevents this legal principle being applied in this case and, for the reasons I have given, I find the appellant's case to be insufficiently precise and unambiguous on the matter of a resident carer.
12. Accordingly, the appellant has not demonstrated on the balance of probabilities that the proposed use would be within Class C3(b).

¹ The house was being used to provide care for 2 children. 2 non-resident staff were on duty at all times and the house was under the supervision of a team of 6 or 7 adult carers who operated 8-hour shifts.

13. Further, without the above carer shift information and without sufficiently precise information as to the profile and needs of the young persons, it is not possible to assess the extent of change to the definable character of the land through – for instance – the nature and degree of visits to the property by others (such as professional staff).
14. Therefore, the appellant has not demonstrated on the balance of probabilities that the proposed use would not be a material change of use requiring planning permission to be lawful.

Conclusion

15. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Andrew Walker

INSPECTOR