



Appeal Decision

Site visit made on 30 September 2026

by **R Satheesan BSc PGCert MSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 October 2026

Appeal Ref: APP/Q5300/X/25/3365436

2 Boundary Road, London N9 8AX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Asad Ali against the decision of the Council of the London Borough of Enfield.
 - The application ref 25/00919/CEA, dated 5 March 2025, was refused by notice dated 6 May 2025.
 - 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 described as: "Use of dwellinghouse (Class C3a) as a children's home for up to two children, with two carers who will sleep overnight, working on a rota basis (Class C2)."
-

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.

Preliminary Matters

2. Both the application form and appeal form describe the description of the proposal as *"Use of dwelling (Class C3a) as a children's home for up to two children, with two carers who will sleep overnight, working on a rota basis (Class C2)"*. However, the Grounds of Appeal (GOA) state the proposal is for: *"Use of dwelling house (Class C3) as a children's home for two children aged 8-17, with a manager [my emphasis] and two carers, one carer who will sleep overnight, working on a rota basis (Class C2)." The GOA therefore includes reference to a "manager" which is not mentioned in the application form, nor the appeal form.*
3. However, it is clear from the Council's decision notice and Officer's Report, that they determined the LDC application on the original description set out in the application form which does not refer to a 'manager' in the description of the development. The inclusion of a manager results in a revised description which is materially different to the original description. It is thus not within the scope of this appeal to approve something materially different from that which was originally sought, since this would prejudice the Council. I have therefore determined the appeal based on the original description stated in the application form. Should the appellant seek an LDC for a revised description of development, which includes reference to 'a manager' being on site, they should apply for this separately outside of this appeal.
4. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case. On appeal, the Inspector's role is to decide whether, on the evidence, the Council's refusal to issue an LDC was well

founded. The case must be considered solely on the relevant legal tests, and its planning merits are of no relevance in the context of an appeal made under section 195 of the 1990 Act as amended. The appellant must show, on the balance of probabilities, that the use proposed would, at the date of application, be lawful.

5. I was unable to undertake an internal inspection of the appeal site as the appellant failed to attend the accompanied site visit on 30 September 2026. Accordingly, this appeal will be determined on the basis of the evidence before me, the plans submitted, and my inspection carried out from outside the appeal site. This is considered appropriate given that I am not considering the planning merits of the development. I subsequently wrote to both parties explaining this, and therefore I am satisfied that neither party would be prejudiced by this.

Main Issue

6. The main issue is whether the Council's refusal of an LDC was well founded. For this it is necessary to consider whether the proposed children's home for up to two children, with two carers who will sleep overnight, working on a rota (Class C2) would represent a material change of use (MCU) from the existing Class C3 lawful use.

Reasons

Background of the existing site and the proposed use

7. The appeal site is an end of terrace two-storey dwellinghouse with a single storey side garage and single storey rear extension, with a reasonably sized rear garden and a front drive capable of accommodating two off-street parking spaces. At the date of the application, the plans submitted with the LDC application show that the ground floor provides a living room, dining room, kitchen, utility, garage and shower room and the first floor provides three bedrooms and a bathroom.
8. The proposal is for the use of the property for two children aged between 8 and 17, and two carers, one carer will sleep overnight, working on a rota basis. Carers would operate on a shift pattern of 48 hours on, 60 hours off. Except at changeover times, which last around ten minutes, there will be no more than two carers in the premises at any one time. There would be one changeover of the overnight care staff per day, usually each morning. The appellant explains that there would not be frequent visits by any other care staff or clinicians, and that the local Social Services would normally send one or two officers every six months to inspect the premises, plus two Ofsted inspectors annually.
9. The proposed layout on the ground floor would comprise a carers' room with en suite, a shared kitchen/dining room, a TV room and an indoor activity/games room. The first floor would provide two bedrooms, each with en suite, for the children.

Whether the proposed use would constitute an MCU

10. Under Section 55(1) of the 1990 Act, "development" is defined as including the making of any "material change in the use of any buildings or other land."
11. The Council's case is that, since the existing (Class C3a) and proposed (Class C2) uses are not within the same use class, this constitutes 'development', and the proposed use therefore requires planning permission. The appellant accepts that the proposed use falls within Use Class C2 and hence the change of use from C3a

is not an automatically permitted change. Nevertheless, the appellant disagrees with the Council's assessment and considers that there is little material difference between the current and the proposed use, and thus there would be no MCU.

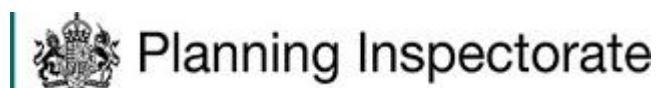
12. The concept of an MCU is not defined in statute or statutory instrument. The basic approach is that, for an MCU to have occurred, there must be a significant difference in the character of the activities from what has gone on previously as a matter of fact and degree. The planning consequences of the change may be relevant, but a change of use which leads to an 'improvement' in respect of planning merits can amount to an MCU just as one that causes harm.
13. Where a Section 192 case relates to an MCU from a use falling within one use class to a use falling within another, it is necessary to assess whether the change would be material, as a matter of fact and degree. It was held by the Court of Appeal in *Waltham Forest LBC v SSETR & Tully* [2002] EWCA Civ 330 that the proposed use should be compared with the lawful existing use and not some "notionally permitted use".
14. The use of the current property as a three-bedroom dwellinghouse could typically accommodate a family of two adults and two to three children. In this respect, the proposed use of two adult carers and two children would not be materially different from the existing three-bedroom dwellinghouse occupied by a family. I appreciate that there are likely to be some vehicle movements created by the carers coming to and leaving the site. However, the two carers on the premises would work on a shift basis, with changeovers taking approximately 10 minutes each day in the morning. Two off-street car parking spaces would be provided on the front driveway, which would remain the same as existing Class C3a dwellinghouse use.
15. As such, I do not consider that the number of such journeys to and from the site is likely to be materially different to a family of four or five, who would have similar travel patterns in the mornings and early evenings when going to and from work and school.
16. Furthermore, with only four people occupying the premises at any one time, there is no clear evidence to suggest that the proposed use would be likely to result in greater levels of noise and disturbance than the existing lawful three-bedroom dwellinghouse.
17. The proposed drawings show that the only external changes proposed would involve the provision of cycle parking and refuse/recycling storage facilities within the front garden. As such, no significant alterations are proposed to the external appearance of the property that would alter its fundamental character.
18. As a matter of fact and degree, there would not be any significant difference in the character of the activities from what has gone on previously. The proposal would not change the overall character of the existing planning unit and would not result in any intensification of the existing use to the extent that an MCU of the planning unit would occur.
19. Therefore, I consider on the balance of probabilities, that use of dwellinghouse (Class C3a) as a children's home for up to two children, with two carers who will sleep overnight, working on a rota basis (Class C2) is not "development" for the purposes of Section 55 of the Town and Country Planning Act 1990.

Conclusion

20. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed use of the dwellinghouse (Class C3a) as a children's home for up to two children, with two carers who will sleep overnight, working on a rota basis (Class C2) was not well founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

R. Satheesan

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(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 5 March 2025 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 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) (UCO), would not represent a material change from the authorised use of the site as a Class C3a dwellinghouse.

Signed

R. Satheesan

Inspector

Date: 9 October 2026

Reference: APP/Q5300/X/25/3365436

First Schedule

Use of dwellinghouse (Class C3a) as a children's home for up to two children, with two carers who will sleep overnight, working on a rota basis (Class C2).

Second Schedule

Land at 2 Boundary Road, London N9 8AX

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was 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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in this decision dated: 9 October 2026

by R Satheesan

Land at: 2 Boundary Road, London N9 8AX

Reference: APP/Q5300/X/25/3365436

Scale: Not to Scale

