Planning Inspectorate

Appeal Decision

Site visit made on 15 September 2026

by Siobhan Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2026

Appeal Ref: APP/W5780/X/25/3360229
38, Hertford Road, Newbury Park, Ilford, IG2 7HF

- 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 Thames Haven Limited against the decision of the Council of the London Borough of Redbridge.
- The application ref 2278/24, dated 20 September 2024, was refused by notice dated 14 November 2024.
- 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 a change of use from single dwelling to use class C3(b).

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. In the banner heading, I have quoted the description of the proposed use from the application form. It is clear from the evidence submitted that the appellant is seeking the proposed change of use from a dwellinghouse to a children's care home for no more than 6 residents with up to 3 children and up to 3 staff onsite. I have dealt with the appeal on this basis.

Main Issue

3. The main issue is whether a refusal to grant the LDC was well founded. This turns on whether the proposed use would fall within Class C3 or Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, and if it falls within Class C2, whether the change of use would be material.

Reasons

4. The applicant for an LDC is responsible for providing sufficient information to support an application. In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.[1] The planning merits of the case are not relevant.

5. The appellant says that the lawful use of the property is C3(a) which is the use as a dwellinghouse by a single person or by people to be regarded as forming a single

[1] Paragraph: 006 Reference ID: 17c-006-20140306

household. The Council has not disputed that the lawful use is C3(a) although it mentions that the house has been used, without planning permission, as a small house in multiple occupation. It is the appellant's position that there would be no change of use as the proposed use, in their view, would be Class C3(b) which is use as a dwellinghouse by not more than six residents living together as a single household where care is provided for residents.

6. However, Article 2 of the Town and Country Planning (Use Classes) Order 1987 defines "care" 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 (my emphasis) and medical care and treatment*." Care for children is therefore indicated as falling within Class C2.

7. *North Devon DC v First Secretary of State [2003] EWHC 157 (Admin)* provides authority for the view that children cannot, as a matter of law, form a household without the presence of a resident caregiver. Carers who provided 24-hour care but were not resident could not be regarded as living together in a household. The carer must live in full time, as opposed to shifts, and look after those in the premises.

8. The appellant's evidence is vague and ambiguous in respect of on what basis the carers would operate. There is no real explanation from the appellant about what they mean by "resident carer". They do not say whether the permanent resident carer would reside there every day and every night of the year, like a parent, or whether they would be resident and caring on a shift basis. Given that the carers would be staff, there would be limits on the hours they could work so it seems improbable, in the absence of further explanation, that one carer would permanently work and reside there. Therefore, I am unconvinced that the arrangement would be as a single household.

9. For the above reasons, the appellant has not persuaded me that the use would remain in the C3 Use Class. I note the appellant's reference to appeal decision APP/B5480/X/23/3334274 where the Inspector determined that the use of a property as a children's home would be Class C3. However, the proposal in that case was slightly different and the reasons I differ from that Inspector are explained above.

10. Nevertheless, even if the use is Class C2, *North Devon DC* established that the materiality of a change of use is not just established by recognising that there has been a change in the use class. The correct starting point for such an analysis is the existing use of the property compared to its proposed use. The dwelling would provide residential care for up to 3 children and there would be 3 carers. Therefore, I must compare that to the use of the property as a C3 dwellinghouse.

11. The Council says that no details of the care provided to residents has been provided. However, the appellant has said that the looked after children would be aged 8-18 and that they would be unable to live with their birth families because of their complex needs or disabilities. They would be cared for by the resident carer and two other carers. Normal household and family type activities would be carried out within the dwelling.

12. The information before me suggests that there would generally be no more than 6 people in the house at any time (3 residents plus 3 carers). I appreciate that there

may be staff handovers and visitors to the house. However, family houses have visitors too. There is a drive to the house where 2 cars can park and there is nothing to suggest that the staff handovers would have a significant effect on car parking.

13. Families tend to have friends, relatives and other people who may visit a house too. I consider that the general activity in and around the dwelling would not be significantly different to that of a family house.

14. I will also take into account off-site effects. The Council says that there would be a loss of a family dwelling. However, in spite of mentioning local plan policies LP5 and LP6 and the Housing Market Assessment 2023, they have not provided much information about this. It is not unusual for family housing to be needed in an area but even if the need is significant, the loss of one family house to make way for a different form of accommodation, would have a negligible impact on the off-site effects in terms of the character of the use.

15. I note the Council's concerns about children from out of the borough being accommodated and their additional impacts on education, justice services, welfare services, the NHS and social housing services. I have no substantive evidence that the small number of children accommodated could have a material effect on area wide services. Moreover, anyone living in the house as a C3 dwelling might come from out of the borough and make use of those services anyway. The accommodation already exists, so the proposal does not increase the local population.

16. Furthermore, the appellant says that there is a shortage of children's homes in Redbridge. He says that there are over 300 looked-after children in the borough and over 50% of these are placed outside the borough. The Council has not disputed these figures and therefore, I have no substantive evidence from the Council that Redbridge is taking on more children in care than it sends elsewhere. Therefore, I do not consider that there would be a significant planning consequence in relation to public services as a whole.

17. I conclude that, as a matter of fact and degree, there would not be a significant difference in the character of the activities between the family dwelling house and a care home for up to 3 children. A material change of use would therefore not occur.

Conclusion

18. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a children's care home is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

Siobhan Watson

INSPECTOR

Planning Inspectorate

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 20 September 2024 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 change of use from a dwellinghouse to a children's care home as described would not be a material change of use.

Signed

Siobhan Watson

Inspector

Date: **[ ]**
Reference: APP/W5780/X/25/3360229

First Schedule

Children's care home for no more than 6 residents with up to 3 children and up to 3 staff onsite.

Second Schedule

Land at 38, Hertford Road, Ilford, IG2 7HF

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 /operations 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 /were 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.

Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: **[ ]**

by Siobhan Watson

Land at: 38, Hertford Road, Ilford, IG2 7HF

Reference: APP/W5780/X/25/3360229

Scale: Not to Scale

