By Email
graemeraisbeck@btinternet.com

Dear Mr Raisbeck,

Your further complaint regarding the granting of a certificate of lawfulness on application 2024/91435 has been passed to me to consider at the 3rd stage of the council's complaint procedure. More information about this can be found here (www.kirklees.gov.uk/complaints).

To consider this complaint I have carefully read your extensive email exchanges with the planning department, considered Mr Walton's stage 2 response and the delegated report detailing the considerations of the planning officer in coming to the decision to grant the certificate of lawfulness.

I note you particularly take issue with the fact that the application form asks if the applicant currently owns the property in question. The form is not one formulated by Kirklees, but a government form used by planning departments nationally. The form asks for information for use in all eventualities: not all the information gathered will affect the decision arrived at in every case.

As Mr Walton has explained ownership of the property (or not) does not affect the decision as to whether a Certificate of Lawfulness should be granted or not.

In any case, even if the service were to agree with your suggestion and reject the application because it was incorrect, it would seem the overwhelmingly likely outcome would be that the application would simply be resubmitted with fully correct information, reconsidered, and the decision would be the same. It would not, materially affect the final decision, but it would simply create additional paperwork with no meaningful value.

You assert that OFSTED may object to children being placed in a property where covenants exist. This however is not a planning consideration. It would be a matter between the owner of the covenant, the business owner and OFSTED. This may in the end mean the building is not suitable for the use intended but that is a separate matter as to whether there are any planning law reasons to prevent this.

Furthermore, I would draw your attention to paragraph 9.7 of the delegated report:

On 23rd May 2023, the Housing Minister issued a written ministerial statement on planning for accommodation for looked after children. The Statement sets out that the planning system should not be a barrier to providing homes for the most vulnerable in society. The Statement also sets out that planning permission will not be required in all cases of development of residential children's homes, including for changes of use from dwellinghouses in Class C3 of the Use Classes Order 1987 where the residential children's home remains within Class C3 or there is no material change of use to Class C2.

This emphasises the importance of Local Planning Authorities appropriately facilitating the development of children's homes and similar through appropriate application of the current planning laws. It appears that this is what has occurred in this instance.

This is our final response to your complaint/ appeal. You may now complain to the Local Government and Social Care Ombudsman. The Ombudsman is not a further appeal. It looks at whether public bodies have followed the right steps when taking action or reaching a decision.

The Ombudsman decides whether it can and should investigate complaints. For example, the Ombudsman may decide not to investigate your complaint if you have not been significantly personally affected by the issue you are raising. You can find out more information about what complaints the Ombudsman may consider on its **website**.
If you wish to raise your complaint with the Ombudsman you can find out more information about how to do so below:

Website: **https://www.lgo.org.uk/how-to-complain**

Yours sincerely

Chris Read
Corporate Customer Standards Officer