

Regeneration and Economic Development Department

APPLICATION NO: 22/00519/CLD

APPLICANT: My3 Ltd

WARD AFFECTED: Halewood South

DEVELOPMENT: CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OF RESIDENTIAL DWELLING AS A CHILDRENS HOME FOR A MAXIMUM OF 2 NO. CHILDREN

LOCATION OF SITE: 48 Holland Road, Halewood, Knowsley, L26 1UF

KNOWSLEY LOCAL PLAN ALLOCATION –

Primarily Residential Area

RELEVANT POLICIES

Town and Country Planning Act 1990 (as Amended)

PLANNING HISTORY

None Relevant.

TECHNICAL CONSULTATIONS:

N/A

NEIGHBOUR NOTIFICATION:

N.A

ISSUES AND ASSESSMENT:

PROPOSAL

The application is a lawful development certificate for the proposed use of residential dwelling as a children's home for a maximum of 2 residents.

The Town and Country Planning (Use Classes) Order 1987 as amended

The key questions are whether the proposal would:

- a. Fall within Class C3 of The Town and Country Planning (Use Classes) Order 1987 as amended (the UCO).
- b. (if required whether the changes would constitute a material change of use.

Class C3

Use Class C3 of the UCO is sub-divided into 3 parts: C3(a) use by a single person or by people to be regarded as forming a single household; C3(b) use as a dwelling house where care is provided for

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residents; and C3(c) use by not more than six residents living together as a single household where no care is provided to residents.

North Devon District Council v First Secretary of State [2003] EWHC 157

In North Devon District Council v First Secretary of State, the court held that the concept of living together as a household means that a proper functioning household must exist and thus, for the use to fall within Use Class C3(b), the children and carer(s) must reside in the premises. Otherwise, the use clearly falls within Class C2 'use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3 (dwelling houses)).

However, the case found that even if the use falls within C2, a material change of use may not occur because 'carers will come and leave at the beginning and end of their shifts but otherwise the building is to all intents and purposes used as any other family house would be with two children there: shopping trips are needed; children have to be taken to school; the children assist to an extent in the preparation of meals and so on'.

Proposed Use

In relation to the proposed use, there would be a maximum of 2 children at the premises. There would be staff providing care support and as described by the planning statement the proposed use would not be materially different than if the property was used as a dwelling. Therefore In this instance it is considered that a material change of use would not take place.

RECOMMENDATION:

The proposal constitutes a lawful development for which planning permission is not required.

Andrew Hunt

16 September 2022

Alan Kilroe

20 September 2022

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