

Knowsley Council
Regeneration and Economic Development Directorate.
Delegated Planning Report

APPLICATION NO: 23/02794/CLD **CASE OFFICER:** Andrew Hunt

WARD: Halewood North **PARISH:** Tarbock
Parish Council

LOCATION: Tray Ash Farm, Ash Lane, Tarbock Green, Knowsley, WA8 8JS

PROPOSAL: LAWFUL DEVELOPMENT CERTIFICATE FOR PROPOSED USE OF
RESIDENTIAL DWELLING AS A CHILDRENS HOME FOR A
MAXIMUM OF 4 NO. CHILDREN

Site Description

The application site is a detached house to the East of Ash Lane. The site is part of a small complex of 2 dwellings and outbuildings. There is a separate dwelling (Tray Ash Bungalow) to the west, outbuildings further to the west, and dwellings on the opposite side of Ash Lane to the east. There also appears to be a mineral extraction (or industrial facility) to the south west.

Proposal

The proposal is for a lawful development certificate for the proposed use of residential dwelling as a children's home for up to 4 children.

- The proposal would include up to 4 staff (including a manager) during the day and 2 staff at night.
- The proposal would involve children from 8 – 17 years old.
- Staff would operate on a rota system with 3 days on and 2 days off with at least 2 staff overnight. Staff would not permanent reside at the premises but would operate a shift pattern.

Consultations

Police Architectural liaison Officer – I have concerns about the applicant given the lack of information provided on the business and how children will be looked after.

Representations

N/A

Planning History

Several applications have been approved at the site however only a recent application for the conversion of an outbuilding to 1 dwelling is considered to be relevant (22/00761/FUL – approved 25/04/23).

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.

a) 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 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))'.

Assessment

It is considered that as the carers do not live permanently at the dwelling (but instead operate on a rota system) that the use falls outside class C3. In addition, the presence of a manger at the building is also incompatible with a C3 use. Overall the use is considered to be within the C2 Use class and the proposal would constitute a change of use.

b) Material change of use.

Guidance

In relation to the whether the application would constitute a material change of use. The governments planning practise guidance states that whether a material change of use is a matter of fact and degree based on the individual merits of a case.

"When does a change of use require planning permission?"

A change of use of land or buildings requires planning permission if it constitutes a material change of use. There is no statutory definition of 'material change of use'; however, it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree and this will be determined on the individual merits of a case.

If planning permission is required for change of use, there may be permitted development rights which allow change of use without having to [make a planning application](#).

Paragraph: 011 Reference ID: 13-011-20140306

Revision date: 06 03 2014"

Assessment

There would be up to 4 staff at any one time (including a manager) and up to 4 children. Therefore, there would be up to 8 persons at the premises at any one time. The amount of persons at the premises is considered to exceed that of a typical residential family and consequently would have a materially greater impact than a standard domestic family. Specifically, comings and goings to the property, both in terms of vehicles and people, would likely occur on a more frequent and atypical pattern than a typical household. The number of adults with their own car (4) would be twice that of a typical household with that element alone resulting in twice the expected number of car journeys into and out of the house. Furthermore, the presence of 4 children of between 8 and 17 is likely to require regular coming and goings from school, or from a place of training/work for older children. This is also likely to significantly exceed that of a typical household.

The presence of 4 children with potential for social, emotional, and behavioural issues would require social workers, therapists and other such professionals to attend the premises on a regular basis and sometimes in a coordinated manner of multi-attendees. The professionals attending the premises for the wellbeing of the children, and the number of times that such professionals would be attending, would be significantly higher than for children in a typical family home because of the social, emotional and behavioural issues that the children may have. In such case this would be an intensification of use and a change to the character of the dwelling.

In addition, the presence of a manager at the site (in addition to the carers) is indicative of a more intensive use. The presence of non-residents working at the house as if at an office throughout the working week is not something normally associated with a typical dwellinghouse. It would therefore appear to introduce a material change in the character of the use.

Overall, it is considered that the likely movements associated with this proposal due to the number of children and the social, emotional, and behavioural issues that they may have, the professionals attending to each child due to the child's needs and as part of the child's support team, together with the manager attending weekdays 9am to 5pm, plus the carers themselves would constitute a material change of use of the property from C3 to C2.

Other Considerations

As this is a lawful development certificate the conduct of the applicant cannot be considered, only whether the proposal constitutes a material change of use.

Conclusion

The proposal would constitute a material change of use for which planning permission is required.

Recommendation

That the application be refused for the following reason:

1) Due to the number of children, their complex social, behavioural, and emotional needs and associated support staff, the level of activity at the premises would exceed a typical residential unit. Therefore, the proposal constitutes a material change of use of the property from C3 (dwelling house) to C2 (provision of residential accommodation and care to people in need of care) for which planning permission is required.

Signed Case Officer¹: **Andrew Hunt**

Signed Authorising Officer²: **K Foster**

Date: **24 January 2024**

1 I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

2 I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

Informatives

1) Coal Mining

The proposed development lies within a coal mining area which may contain unrecorded Coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Standing Advice valid from 1st January 2023 until 31st December 2024