

<u>APPLICATION NO:</u>	25/00213/CLD	<u>CASE OFFICER:</u>	Andrew Hunt
<u>WARD:</u>	Shevington	<u>PARISH:</u>	N/A
<u>LOCATION:</u>	13 Calder Close, Tower Hill, Kirkby, Knowsley, L33 4DA		
<u>PROPOSAL:</u>	CERTIFICATE OF LAWFULNESS FOR RESIDENTIAL DWELLING (USE CLASS C3) TO CHILDRENS CARE HOME (USE CLASS C2) FOR A MAXIMUM OF 2NO. CHILDREN		

Site Description

The application site is a detached dwelling set on the small cul de sac close to the end of Calder Close, Tower Hill, Kirkby. The site is surrounded by other dwellings to the north west, south east and south, with a grassed area then agricultural land to the north.

Proposal

The proposal is for a lawful development certificate for the proposed use of residential dwelling as a children's home for up to 2 children.

- There would be a maximum of two children between the ages of 7 and 17.
- There would be a pool of 6 staff at the dwelling plus a manager who would visit the property on an ad hoc basis during 9-5 Monday to Friday.
- There would normally be 2 or 3 staff at the property (including a manager), however there would be 4 staff during a handover period.
- Shift pattern is 10 am start - 10 pm (10 pm-8 am sleep)
- Staff would work on a rota basis (2 days on 4 days off).
- In terms of other planned visits there would be social service visits every 6 weeks and an annual Ofsted inspection.

Consultations

N/A

Representations

N/A

Planning History

74/14458/HIST - ERECTION OF UTILITY ROOM TO REAR OF EXISTING GARAGE
Approved - 25.09.1992

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

Effect of Change of Use

There would be up to 3 staff at any one time during the 9-5 weekday (including a manager) and up to 2 children. During most of the day this would result in a maximum of 5 persons, however, during handover periods there would be up to 5 members of staff at the premises along with the 2 children. This would result in a maximum of 7 persons.

The amount of adults that would visit 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 staff with their own car (7) would be many times that of a typical household with that element alone resulting in 3.5 times the expected number of car journeys into and out of the house compared to a two parent family. Also the adults at the property would change over time due to illness or staff leaving in contrast to a typical family where the two adults living at the property would be expected to remain the same over long periods of time. This would result in a degree of unfamiliarity between those living and working in the property and neighbouring residents. It also means the property would appear to the observer to have much more commercial character than residential.

Furthermore, the presence of 2 children is likely to require regular coming and goings from school, or from a place of training/work for older children.

The presence of 2 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.

The proposal would therefore appear to introduce a material change in the character of the use and has been determined as such in case law (Appeal Ref: APP/V4250/X/20/3262349 - 398 Ormskirk Road, Wigan WN5 9DD; Appeal Ref: APP/P4605/X/20/3260143 - 27 Camplin Crescent, Birmingham B20 1LS APP/M4320/X/22/3301638 - 144 Deyes Lane, Sefton, Maghull L31 6DW)

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.

Appeal Decision APP/V4305/X/24/3351874 - 25 Wood Close, Westvale, Kirkby L32 5SU

The lawfulness of a Care Home for 2 children along with 2 staff and a manager was recently decided in a recent appeal decision within Knowsley (22nd April 2025). The appeal concluded that the change would be a material change of use and would require planning permission.

"Although limited to be occupied by no more than 2 children, their special needs would require the house be occupied by up to 4 adults on weekdays, with 3 carers and a manager. There would be more at changeover times and social worker visits. I would expect most, if not all to arrive and leave in a car. The children would be taken to and brought from school in a car. That coming and going would be of a somewhat different character and effect to the expected pattern arising from a normal family use of the house and its neighbouring houses".

Other Considerations

The applicant in their statement quotes Rachel Maclean (the then Minister of State, Department for Levelling up, Housing and Communities) in May 2023, 'The planning system should not be a barrier to providing homes for the most vulnerable children in society' However, such as statement is only of relevance to planning applications for children's homes and is not relevant to the question of whether the proposal would be a material change of use.

In relation to the appeal decisions put forward by the applicant several of these are out of date and date back to 2017, and some of these are for 1 children or do not include the presence of a manager. In addition, some of these appeal decision are contradicted by the recent appeals mentioned above. The following points are noted in relation to several of the other examples mentioned.

- a. APP/C4235/W/17/3173975 - 604 Didsbury Road, Heaton Mersey, Stockport SK4 3AG – The inspectors report did not include any reference to a manager on site, therefore this is not directly comparable to the current proposal.
- b. APP/E2205/X/16/3161037 - The Cottage, Stonebridge Green Road, Egerton, Ashford TN27 9AP - The inspectors report did not include any reference to a

manager on site, therefore this is not directly comparable to the current proposal.

- c. Application No: 23/02464/CLD
 - The previous application was different from the current application as the manager was more of a carer with ancillary management responsibilities. This is different from the current proposal where the manager does not have a caring function.
- d. Application No: 24/00470/CLD - This was for only 1 child and is not directly comparable to the current proposal.

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 large number of staff, presence of a manger on site, along with the number of children and 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:**

Jo Sheridan

Date:

07/05/2025

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

N/A