

<u>APPLICATION NO:</u>	24/00411/CLD	<u>CASE OFFICER:</u>	Andrew Hunt
<u>WARD:</u>	Whitefield	<u>PARISH:</u>	/NA
<u>LOCATION:</u>	25 Wood Close, Westvale, Kirkby, Knowsley, L32 5SU		
<u>PROPOSAL:</u>	CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OF RESIDENTIAL DWELLING AS A CHILDREN'S HOME FOR A MAXIMUM OF 2 NO. CHILDREN		

Site Description

The application site is a 3 Bed detached house located in Wood Close. The site is southernmost of one of 3 cul-de-sacs on Wood Close and the dwelling is at the end of this close. The site is bounded by residential dwelling to the north, east and south and by a road (Wervin Way) and grassed area to the west, and a large building (Ross House) to the northwest.

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.

- The proposal would include up to 3/4 staff (including a manager) during the day and 2 staff at night.
- The proposal would involve children of an unspecified age.
- Staff would operate on a rota system with six carers would operate on a shift pattern of 48 hours on, 60 hours off. 2 staff would stay on overnight at the premises.

Consultations

N/A

Representations

N/A

Planning History

The original application for the erection of 33 dwellings at the site was approved (03/01206/FUL – (approved 13/12/2004).

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 manager 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.

Revision date: 06 03 2014"

Assessment

Number of Staff

The applicants description of development refers to up to 3 staff at the premises at any one time (2 carers and a manager).

"Application for a Lawful Development Certificate re: use of a (3a) dwelling as a children's home for up to two children, with a manager and two carers, two of whom will sleep overnight, working on a rota basis(C2)".

However, para 2.10 of the submitted planning statement states that there would be two carers, and a further carer and a manager will also attend in weekdays resulting in 4 members of staff (3 carers and 1 manager). As the planning statement is more detailed than the description it is considered that the application should be assessed on the basis of 4 staff being the maximum.

"2.10. Up to two children would live at the house, with two carers working on a rota basis sleeping overnight (or waking night) and a further carer and a manager will also attend weekdays".

..."Except at changeover times, which last around fifteen to thirty minutes, there will no more than four staff on the premises at any one time".

Effect of Change of Use

There would be up to 4 staff at any one time (including a manager) and up to 2 children. During most of the day this would result in a maximum of 6 persons, however, during handover period (of around 15-30 minutes) there would be up to 6 members of staff at the premises along with the 2 children.

The number of adults 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. 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.

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 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:**

K Foster

Date:

5 September 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

N/A