

Regeneration and Economic Development Department

APPLICATION NO: 22/00564/CLD

APPLICANT: Omega Care Group

WARD AFFECTED: Prescot North

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

LOCATION OF SITE: 9 Station Road, Prescot, Knowsley, L34 5SN

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))'.

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. The application form states that the carers would not live at the premises but would instead visit the property at allotted times using a rotor system. As the carers would not live at the premises, the use falls under the C2 use class in accordance with the North Devon District Council judgement.

Material Change of Use

The government's Planning Practise Guidance states that whether a material change of use has taken place is a matter of fact and degree and based on the individual merits of the 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.... Paragraph: 011 Reference ID: 13-011-20140306"

In relation to whether the application constitutes a material change of use. There would be one shift at the premises with staff starting at 10am and working until 10am the next day. The carers would operate on a rota system with 2 Persons on site and 4 persons off site at any one time, with one shift occurring over a 24 hour period. Based on this, it is considered that the movements associated within this would not be materially greater than a single household. Therefore, there would be no material change of use.

RECOMMENDATION:

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

Andrew Hunt
2 November 2022

Alan Kilroe
8 November 2022

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