

<u>APPLICATION NO:</u>	24/00567/CLD	<u>CASE OFFICER:</u>	Lee Osborne
<u>WARD:</u>	Northwood	<u>PARISH:</u>	
<u>LOCATION:</u>	14 Old Rough Lane, Northwood, Kirkby		
<u>PROPOSAL:</u>	CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OF RESIDENTIAL DWELLING AS A CHILDREN'S HOME FOR A MAXIMUM OF 1 NO. CHILD.		

Site Description

The application relates to a semi-detached house with attached garage on Old Rough Lane and associated garden space. The vicinity is residential in nature although adjacent a shopping parade and standalone retail unit, and is characterised by semi-detached dwellings.

Proposal

The application is a lawful development certificate for the proposed use of residential dwelling as a children's home for a maximum of 1 resident

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

The key questions are whether the proposal would:

- Fall within Class C3 of The Town and Country Planning (Use Classes) Order 1987 as amended (the UCO).
- 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 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))'.

In relation to the proposed use, the property would be registered to house a child with BESD (Behaviour, Emotional and Social Difficulties) between the ages of 7 and 17 years old. There would be two staff/carers at all times, and an assigned manager would be based at the company offices and visit the property on an ad hoc basis a few times a week for a few hours a visit (check on staff and child, signing of

paperwork etc.). The child would attend school but may be home schooled in the interim until assigned a school place. Professionals such as social workers would attend the premises to ensure the child's needs are met, but this would be on a monthly basis for a few hours and during normal working hours.

Representations

No consultations are carried out with regard this type of application as the application is to determine whether a proposal is lawful and does not require planning permission rather than the merits of a proposal which occurs with a planning application.

Relevant Policy

As the application is to determine whether the use proposed requires planning permission under planning law planning policies are not relevant in this instance as they are applicable when considering the merits of a planning application.

Article 35 Statement

NA

Assessment

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 child looked after by two carers per shift. Shifts would comprise the care staff undertaking a day shift followed by the sleeping shift for 2 days starting / finishing at 10am with shift changeover being from 10am – 10.30am, with a pool of 6 carers for the premises. There would be a manager who would work away from the premises but attend the property a few times a week for a few hours a time. Professionals (such as social workers) seeking to ensure the child's needs are met would attend the property on an ad hoc basis. As such it is considered that the one child residing at the property together with the staff levels and the associated movements would not be materially greater than a family household. Furthermore, up to 6 individual persons could live at the property as a shared residence which would be within the deemed C3 Use without planning permission being required and which could have considerably more movement to and from the property than the use under consideration. Accordingly, it is considered that the C2 use as proposed would not constitute a material change of use of the property from the existing C3 use.

Recommendation

The proposal for the use of the property as a children's home for 1no. child constitutes a lawful development for which planning permission is not required.

SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
22/10/2024	A101	-	EXISTING AND PROPOSED FLOOR PLANS PLUS LOCATION PLAN
22/10/2024	-	-	PLANNING STATEMENT

Signed Case Officer¹: **Lee Osborne**

Signed Authorising Officer²: **K Foster**

Date: **10 December 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

