

<u>APPLICATION NO:</u>	23/00559/CLD	<u>CASE OFFICER:</u>	Lee Osborne
<u>WARD:</u>	Prescot North	<u>PARISH:</u>	Knowsley Parish Council
<u>LOCATION:</u>	11 Berryhill Avenue, Knowsley, Knowsley		
<u>PROPOSAL:</u>	CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OF RESIDENTIAL DWELLING AS A CHILDRENS HOME FOR A MAXIMUM OF 2 NO. CHILDREN		

Site Description

The application relates to a semi-detached house on Berryhill Avenue and associated garden space. The vicinity is residential in nature and is characterised by semi-detached and terraced 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 2 residents.

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 children and young persons with BESD (Behaviour, Emotional and Social Difficulties) between the ages of 8 and 18 years old. The house would provide accommodation two young persons at a time. The rota for staff would be as follows: -

Day 1

A manager would be on duty 9am - 5pm working remotely off-site but would be available at all times and would cover absent care staff on site.

Day staff A arrives at 10am and is on shift for 48 hours

Day staff B arrives at 8am and leaves at 10pm

Night staff A arrives at 10pm

No hand over is required as 1 staff is still on Duty.

Day 2

A manager would be on duty 9am - 5pm working remotely off-site but would be available at all times and would cover absent care staff on site.

The same as above except Day staff A is still on the premises and Night Staff A goes home at 10am and comes back at 10pm.

Day 3

A manager would be on duty 9am - 5pm working remotely off-site but would be available at all times and would cover absent care staff on site.

Day staff A goes home at 10am

Day staff C arrives at 10am and is on duty for 48hours

Day staff D arrives 8am and leaves at 10pm

Night staff B arrives at 10pm

Day 4

Same as day 2

Day 5

Same as day 3

This is a rolling rota with 1 handover on day 3, day 6 etc.

Some additional visitations by professionals would occur on an ad hoc basis.

Consultations

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. However, Knowsley Parish Council are notified of all application through the planning list that they receive. With regard this application Knowsley Parish Council have not made any representations.

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.

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 shift change a day, with 1 day shift carer arriving at 8am and the night carer leaving at 10am with 1 carer being there on a 48 hours basis. On the third day there would be a change in personnel, but the shift pattern/rota would be the same. There would be a manager who would work away from the premises but who would attend the property to cover any carer who was absent. As such it is considered that the movements associated with this proposal and the number of children to reside at the property 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 use as proposed would not constitute a material change of use of the property.

Recommendation

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

SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
20/09/2023	EMAIL		EMAIL WITH REVISED ROTA SHIFT DETAILS (MANAGER TO WORK REMOTELY AWAY FROM PROPERTY UNLESS TO COVER STAFF CARER ABSENCE)
21/07/2023	EMAIL	-	EMAIL REVISING MAXIMUM NUMBER OF CHILDREN TO TWO (FROM THREE)
31/07/2023	EMAIL	-	EMAIL ADVISEING OF STAFF NUMBER AND SHIFT PATTERN
25/05/2023	-	-	LOCATION PLAN

Signed Case Officer¹: **Lee Osborne**

Signed Authorising
Officer²: **K Foster**

Date: **28 September 2023**

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

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