

Regeneration and Economic Development Department

APPLICATION NO: 22/00428/CLD

APPLICANT: Mr Alekos Aresti

WARD AFFECTED: Whiston & Cronton

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

LOCATION OF SITE: 3 Milton Avenue, Whiston, Knowsley, L35 2XY

KNOWSLEY LOCAL PLAN ALLOCATION –

Primarily Residential Area

RELEVANT POLICIES

Town and Country Planning Act 1990 (as Amended)

PLANNING HISTORY

Previous planning applications have been refused at the property for a two storey side extension (21/00737/FUL – refused 12/11/21) and erection of dwelling (21/00956/FUL – refused 22/3/22).

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:

- 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

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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 sleep at the premises overnight. They would operate on a rota system with 2 days in and 4 days off. There would be a maximum of 2 staff at any time with relatively infrequent handovers, only once every 2 days. The proposed development would still be a C2 use, but the level of activity associated with it would not be materially different to a C3 use and therefore planning permission is not required.

RECOMMENDATION:

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

Andrew Hunt
22 July 2022

Alan Kilroe
29 July 2022

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