

<u>APPLICATION NO:</u>	23/02464/CLD	<u>CASE OFFICER:</u>	Lee Osborne
<u>WARD:</u>	Page Moss	<u>PARISH:</u>	
<u>LOCATION:</u>	142 Rupert Road, Roby, Knowsley		
<u>PROPOSAL:</u>	CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OF RESIDENTIAL DWELLING AS A CHILDRENS HOME FOR A MAXIMUM OF 3NO. CHILDREN		

Site Description

The application relates to a detached bungalow on Rupert Road and associated garden space. The locality is residential in nature and characterised by detached and semi-detached houses with some bungalows. Along Rupert Road to the west is Huyton Gateway Club, a youth and activity club for people with learning disabilities.

Proposal

The application is a lawful development certificate for the proposed use of residential dwelling as a children's home for a maximum of 3 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 three children with emotional and/or behavioural difficulties (EBD) and children with learning disabilities between the ages of 11 and 18 years old.

Staff shifts would be 8am - 8pm and 8pm through to 8am, with a shift handover of 15 minutes at the start of each shift. The staff are contracted to work at least 35 hours per week, and therefore each staff member would complete 3 shifts per week with a mixture of days and nights. Two staff members would be at the premises at all times throughout the week, and four at the start of each shift due to the shift handover.

The agent has noted that the applicant has clarified Ofsted regulations only require a manager to be at the premises for 50% of their contracted hours. As a result, the agent has confirmed that a manager will be at the property no more than 20 hours a week at the property, and that the manager's role will comprise of managerial duties, such as administrative activities but with 50% or over of their time at the property dedicated to care of the children living at the home. As a result, at least 10 hours of the manager's time at the property will be for the provision of care. The manager's remaining time would be spent at another property completing the same activities.

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

Consultations

NA

Representations

NA

Planning History

NA

Relevant Policy

Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay; or where the development plan is absent, silent or out of date planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The development plan in Knowsley comprises the Saved Policies of the Replacement Unitary Development Plan, the Core Strategy Local Plan and the Joint Waste Local Plan. The following policies are relevant to the determination of this 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 two shift changes a day, at 8am and 8pm, with the manager coming in for 20 hours a week with at least half those hours helping with the three children. 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
22.08.2023	PP-12326920V1		LOCATION PLAN
19.09.2023			EMAIL FROM AGENT RE: SHIFT NUMBERS
21.09.2023			EMAIL FROM AGENT RE: MANAGER HOURS AND DUTIES
13.11 2023			EMAIL FROM AGENT RE: CHILDREN HEALTH ISSUES AND AGES PLUS SHIFT DETAILS

Signed Case Officer¹: **Lee Osborne**

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

**Signed Authorising
Officer²:**

K Foster

Date:

20 November 2023

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

