



Appeal Decision

Site visit made on 9 April 2025

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2025

APP/V4305/X/24/3351874

25 Wood Close, Westvale, Kirkby L32 5SU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended, (the Act), by the Planning and Compensation Act 1991 against a refusal by Knowsley Metropolitan Borough Council to grant a certificate of lawful use or development.
- The appeal was made by Acorns to Oaks Children's Care & Support Ltd.
- The application, reference 24/0041/CLD was dated 1 August 2024. It was refused by a notice dated 19 September 2024.
- The Application for a Certificate of Lawful Development was for use of a (3a) dwelling as a children's home for up to two children, with a manager and two carers, two of whom will sleep overnight, working on a rota basis (C2) in respect of the property at No. 25 Wood Close, Westvale, Kirkby L32 5SU.

Summary of decision: The appeal is dismissed.

Appeal property

1. The appeal property, No. 25 Wood Close, is a 2 storey detached house at the end of a short residential cul-de-sac. The house has 3 bedrooms, 2 bathrooms, a kitchen/dining, a lounge and office room.

Application

2. The application for a Lawful Development Certificate, (LDC), is for the change of use of the house at No. 25 from use as a C3(a) dwelling - Town and Country (Use Classes) Order 1987 as amended, to use as a children's home for up to two children, with a manager and two carers, two of whom would sleep overnight, working on a rota basis, (Use Class C2).
3. The Appellants set out details of the children's home project at No. 25 Wood Close. It was proposed to register the property with OFSTED as a small specialist care home for up to two children between the ages of 7 and 17. They would have been diagnosed with learning disabilities and/or emotional and/or behavioural difficulties.
4. The children would be looked after by up to 3 carers and a manager. Up to two children would live at the house, with 2 carers working on a rota basis sleeping overnight (or waking night) and a further carer and a manager would also attend on weekdays. Six carers would operate on a shift pattern of 48 hours on, 60 hours off. Except at changeover times, there would be no more than 4 staff on the premises at any one time. The changeover of one of the overnight care staff would be every 24 hours, usually at 10.00am. A manager and a third carer would visit the site each weekday between 9am to 5pm.
5. As to visitors, OFSTED's would visit No. 25 once a year. There would be visits by local social services about every 4 to 6 weeks. There could be occasional visits by other social workers. There would be visits by family members and friends. Visits

would be similar to those of a typical family by friends or relatives. The children would be taken to and brought home from school each day. The carers would be in and about No. 25 in a similar manner to that of an adult resident, parent or guardian in a normal domestic setting. Residents would eat together and carry out domestic chores in line with developing semi-independence living skills.

Reason for refusal

6. Knowsley Metropolitan Borough Council, (the Council), refused to issue an LDC. They said that due to the large number of staff, the presence of a manager on site, along with the children and their complex social, behavioural and emotional needs together with associated support staff, the level of activity at the premises would exceed that of a typical residential unit. They said the project would constitute a material change of use of the property from a C3, (dwelling house), to a C2, (provision of residential accommodation and care to people in need of care), use for which planning permission was required.

Background

7. Although the Use Classes Order sets out that certain types of care home fall within class C3, for example Use Class C3(b) - up to six people living together as a single household and receiving care – because children rely on adults for their day-to-day needs, they are not generally considered able to form a single household on their own. It is normally the situation, therefore, that children's homes fall within Use Class C2 irrespective of how many children live at the property.
8. An application for an LDC that sought a certificate simply stating that a change of use of a house from a C3 use to a C2 use would not require planning permission should be refused. But where a case could be made that a specific children's home use would be carried out in a manner that brought about no material change in the nature of the use, it may be appropriate to issue a certificate to that effect. In that instance, a change of use from C3 to C2 might not amount to development which requires planning permission. If the premises had the look and character of a conventional residential dwelling and the use produces no more disturbance or amenity harm than generated by a C3 use, no material change of use would occur or have occurred.
9. That situation was clarified in a Ministerial Statement on Children's homes developments made by Rachel Maclean on 23 May 2023: *"Planning permission will not be required in all cases of development of children's homes, including for changes of use from dwelling houses in Class C3 of the Use Classes Order 1987 where the children's home remains within Class C3 or there is no material change of use to Class C2. An application to the local planning authority can be made for a lawful development certificate to confirm whether, on the facts of the case, the specific use is or would be lawful. Where a Certificate is issued, a planning application would not be required for the matters specified in the certificate."*

Considerations

10. In my view the intended level and type of operation at the proposed children's home at No. 25 Wood Close would result in a material change of use of the existing dwelling.
11. A change of use from a Class C3 use to a C2 use will not generally be considered material if it doesn't change the actual daily use and character of the property. In the present instance I consider that the character of the house and its immediate surroundings would be significantly affected by its use as a children's home as

proposed. The house at No. 25 stands at the end of a short and apparently quiet cul-de-sac. Although limited to be occupied by no more than 2 children, their special needs would require the house be occupied by up to 4 adults on weekdays, with 3 carers and a manager. There would be more at changeover times and social worker visits. I would expect most, if not all to arrive and leave in a car. The children would be taken to and brought from school in a car. That coming and going would be of a somewhat different character and effect to the expected pattern arising from a normal family use of the house and its neighbouring houses.

12. As a small specialist care home for up to two children between the ages of 7 and 17, the particular needs of the children living at No. 25 mean that more carers, managers and social car workers would be needed to look after and supervise, than might be needed at other children's care homes. Whilst No. 25 is larger than other houses in the cul-de-sac, is detached and has more off-street parking and turning area than immediately neighbouring houses, it is in close proximity to them and all traffic to and from No. 25 has to pass them to this house at the end of the road. It may be that much of the activity around No. 25, including the comings and goings of care workers could be comparable with the normal residential activity associated with domestic use. But it would be of a materially different nature, in this instance not subject to limitations that could be applied to a planning permission for a children's home.

Conclusion

13. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development for the change of use of a (3a) dwelling as a children's home for up to two children, with a manager and two carers, two of whom will sleep overnight, working on a rota basis (C2) in respect of the property at No. 25 Wood Close, Westvale, Kirkby L32 5SU was well founded and that the appeal should not succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

FORMAL DECISION

14. The appeal is dismissed.

John Whalley

INSPECTOR