

# SUPPORTING STATEMENT

**SITE:**

260 Manley Road

**DATE:**

January 2025

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# 1. INTRODUCTION

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## BRIEF

- 1.1 This statement is submitted in support of an application for 'Proposed Change of Use of Dwelling (Use Class C3) to Children's Home for up to 3 Children with Carer Accommodation (Use Class C2)' by way of a Certificate of Proposed Lawful. The property subject to this application comprises a two storey, 4 bedroomed semi-detached property at 260 Manley Road, Chorlton.

## BACKGROUND

- 1.2 This application is made by Orchid Care Limited who are a Children's residential care business. By way of brief background, the operators of Orchid Care Limited also operate a well-established elderly/dementia care home in the north west (Lumb Valley Care Home). They therefore have a background in specific care provision. Their existing elderly/dementia care home is registered with CQC and has consistently achieved a rating of Good with CQC for the last 15 years. They were awarded in the top 20 care homes in the north west in 2015/2018. The operators have appropriate qualification in Social Care and Management, they and their staff are trained in safeguarding, challenging behaviour, moving and handling and risk management.
- 1.3 Their vision in providing this care home is to achieve the best possible outcome for all children regardless of their background, providing them with opportunities, feeling loved and valued as key members of the community and preparing them for adulthood, nurturing them with life skills.
- 1.4 This will be the first children's care home of this type operated by Orchid Care in Chorlton, however they do operate other homes of this type in the Greater Manchester area.
- 1.5 The care home will be decorated and maintained to the same high standard as the operator's individual homes and the young people will enjoy life experiences of living in a family, as far as is possible.
- 1.6 The application site comprises a semi-detached two storey dwelling located on Manley Road, Chorlton. The immediately surrounding area is predominantly residential.
- 1.7 According to the adopted Local Plan Proposals Map the site falls within the built up area and is not specifically allocated for any type of use/development. It is therefore the case that the presumption in favour of sustainable development applies in this circumstance and development should be approved without delay.

## 2. THE SITE & SURROUNDING AREA

### SITE LOCATION

- 2.1 The application site is located within a residential area of Chorlton, to the south of Manchester.
- 2.2 A site location plan extract is provided below:



Figure 2.1 Site Location Plan with approximate location of site outlined in red – not to scale.

### SITE DESCRIPTION

- 2.3 The site comprises a two storey semi-detached family home, with private driveway and a good sized rear garden. The dwelling takes access directly from Manley Road.
- 2.4 The property is entirely surrounded by other residential properties.

### ACCESSIBILITY

- 2.5 The site is accessed from Manley Road. This would be maintained.

### LOCAL SERVICES

- 2.6 There is an abundance of services, amenities and facilities located in Chorlton, including supermarkets, restaurants, cafes, GP surgeries, dentists. A complete service centre is within walking distance of the property.
- 2.7 In addition, there are a number primary schools within walking distance of the site including Manley Park Primary School and Oswald Road Primary School. In addition, St John Vianney RC

School is also within proximity and this school offers services for Special Education.

- 2.8 There are bus stops within 400m of the site on Manchester Road, these provide services between Chorlton and Manchester city centre. Chorlton Metro stop is within a 10 minute walk connecting services to Manchester city centre, Didsbury, Shaw, Rochdale and Oldham.

## **SUMMARY**

- 2.9 In summary, this site is located in a predominantly residential area with excellent access to services.
- 2.10 The site is located in close proximity to the bus and tram network, making it a highly sustainable site from an accessibility point of view.

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### **3. STATUTORY AND OTHER DESIGNATIONS**

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#### **HERITAGE DESIGNATIONS**

- 3.1 The application site does not include any listed buildings and is not within a Conservation Area. There are no Scheduled Ancient Monuments within the site boundaries and the site is not within a designated World Heritage Site.

#### **FLOOD RISK AND DRAINAGE**

- 3.2 The site falls within Flood Zone 1; it is therefore not at risk of flooding.

#### **PUBLIC RIGHTS OF WAY**

- 3.3 The site is not subject to any public rights of way.

#### **ECOLOGY**

- 3.4 The site is not subject to any statutory ecology related designations; there are no National Nature Reserves, Special Area of Conservation, Ramsar sites or Special Protection Areas within 1km of the site.

#### **TREES**

- 3.5 There are no TPOs within the site.

#### **SUMMARY**

- 3.6 In summary, the site is not constrained by any local, regional or national statutory or non-statutory designations that would preclude the change of use in the manner proposed.

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## 4. THE PROPOSED SCHEME

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### DESCRIPTION OF DEVELOPMENT

- 4.1 The application seeks a lawful development certificate for the proposed use of the dwelling (currently planning use class C3) as a small children's home (planning use class C2).
- 4.2 The home will accommodate up to 3 children and provide single occupation bedrooms for each child, shared living facilities and sleep in carer accommodation.
- 4.3 The proposed use will be staffed on a rota system rather than carers living at the home permanently and as such falls within Planning Use Class C2.
- 4.4 No external alterations are proposed.
- 4.5 To the ground floor the property accommodates two large communal reception rooms, and good sized kitchen. In addition, a staff office/bedroom space, a child's bedroom and wc/shower room is provided on the ground floor. Meanwhile, upstairs there are three bedrooms (2no. for children and 1no. for staff) and a separate family bathroom.
- 4.6 There would be no changes to the access to the dwelling. The existing driveway would remain providing ample parking for staff and visitors.
- 4.7 Essentially the property would operate as any traditional residential dwelling. This is a family sized home; the care home would accommodate a maximum of 3 residents with a minimum of 2 members of staff present at all times (and a maximum of 3 when the Home Manager is present or 4 at handover times). Thus, amounting to a maximum of 6 persons (3 children, 3 adults), this is broadly commensurate to what you might expect with a 4 bedroom family home.
- 4.8 The applicant will be legally bound to this under their registration and therefore there would be no circumstances in which more than 3no. children would reside at the property. This includes cases of emergency. As such, there will be a legal limit of 3no. children at the dwelling. This is consistent with the applicant's usual operations.
- 4.9 The residents of the care home would be aged between 7-18 years and would be in full time education. Depending on the suitability of local schools residents would attend local schools or there is the potential for home tuition. In terms of travelling to and from school or other activities residents will travel in one vehicle.
- 4.10 At the present time the needs of the children that may reside at this property are clearly unknown. Until such time as the Certificate is in place and the applicant can therefore prepare the home for operation, it is not known what the individual needs of the children in the care system will be at that time. Therefore, on the basis of the 'worst case' scenario (i.e. most intense case), shifts will

be operated as 12 hour shifts with 2no. staff arriving to begin their shift at 8:00am these staff will then finish at 20:00pm and the next 2no. staff will arrive at 20:00pm, clocking off at 08:00am. Therefore, in a 24 hour period there will be 2 change overs. The applicant is however flexible on the start and finish times of the 12 hour shifts if there is a preference from the Council (i.e. shifts could start at 7:00am and finish at 19:00pm and vice versa if that is considered preferable by the Council).

- 4.11 Staff will be encouraged to use public transport to access the site.
- 4.12 In addition to the shift care workers, the Care Home Manager will attend the property, however their visits are between the hours of 9:00-17:30 and therefore avoid the 'peak' times. Any other attendance to the property would be by appointment only at a scheduled time.
- 4.13 It is stated that vehicular movements from a typical residential property often follow a very similar pattern with adults leaving for work, students leaving for college and children leaving for school anywhere between the hours of 7:00-9:00am and then returning anywhere between 16:00-20:00pm.
- 4.14 In addition, families often have other evening and weekend commitments, clubs and activities that generate further movements including into the evening. Moreover, it is not unusual for those residing in family homes to work shifts and therefore movements can be expected throughout the night and at any time at all for a dwelling occupier, there are no restrictions nor are there ways in which to control a person's movements to and from their own homes. The proposed shift patterns are therefore considered to be commensurate with the movements that can be expected from a typical 4 bedroom property.
- 4.15 This is an existing family home; the proposed use is consistent with that of a 'normal' functioning family. Any visitors to the dwelling will be consistent with such a use. Friends and family visits will be in line with the usual parameters that one would expect of a 4 bed, six person family home in terms of potentially frequency. However, they would be subject to prior arrangement and therefore can be planned. Indeed, they could in fact be less given its quite possible for a property such as this to have teenage/young adult children with their own cars etc.
- 4.16 Social workers visits are pre-arranged at all times. The frequency of this again is not considered to be an issue or concern and is consistent with a usual family home and associated visitors/family/friends.
- 4.17 There are no planned medical staff attendances to the home because the home does not cater for young people with a physical disability. Formal meetings generally take place away from the home. As such, any visitors to the house could easily make use of the existing large driveway. The Council are encouraged to undertake a site visit to see first-hand the capacity and space available at the property. This is considered to be more than ample for this family home.

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## 5. JUSTIFICATION

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### INTRODUCTION

- 5.1 This is an application by way Of Certificate of Lawfulness for a Proposed Use. Development Plan Policy is not therefore explicitly relevant.

### LEGISLATIVE ISSUES

- 5.2 Sections 191 and 192 of the Town and Country Planning Act 1990 provide for anyone (not just a person with a legal interest in the land) to apply to the local planning authority (LPA) for a lawful development certificate (LDC). A certificate is a statutory document certifying:
- 1) in the case of an application under section 191, the lawfulness, for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition; or
  - 2) in the case of an application under section 192, the lawfulness of proposed operations on, or use of land.
- 5.3 The onus of proof in regard to (1) is firmly on the applicant and the issue of a certificate will depend on the on factual evidence provided about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The relevant test of the evidence in this matter is “the balance of probability” and the applicants own evidence does not need to be corroborated by independent evidence. If the LPA have no evidence to contradict the applicants version of events or make them less then probable, there is no good reason to refuse the issue of a certificate.
- 5.4 In regard to (2), this provides that, if the LPA are supplied with information satisfying them that the use or operations described in the application would be lawful, if instituted or begun at the time of the application, they shall issue a certificate to that effect; and, in any other case, they shall refuse the application.
- 5.5 In short, the purpose of section 192 is to enable any person who wishes to find out whether any proposed use or operations would be lawful to apply to the LPA for that purpose.
- 5.6 The application needs to describe the proposal with sufficient clarity and precision to enable the LPA to understand (from a written description and plans) exactly what is involved in the proposal; and to submit whatever supporting information or legal submission that are to be relied upon in order to satisfy the LPA that a certificate should be granted for the proposal.
- 5.7 In making their decision on an application under section 192, the LPA ask themselves the hypothetical question - "If this proposed change of use had already occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning

purposes?" In doing so, the LPA will not only consider whether the proposal would involve "development" requiring an application for planning permission, but whether it would involve a breach of any existing condition or limitation imposed on a grant of planning permission which has been acted upon, and which therefore constrains what can be done on the land. The LPA will not make a proposal fit a scenario; the only question is whether the proposal made by the applicant is lawful at the time of submission.

## ***JUSTIFICATION***

- 5.8 The established use of the site is that of private residential, planning use Class C3. As mentioned previously, the dwelling could at present comfortably accommodate a range of household types such as a family unit with up to approximately five or six children (depending on the precise sleeping arrangements) or a group of co-habiting adults as a house share.
  
- 5.9 The Town and Country Planning (Use Classes) Order 1987 (as amended) allows for a range of different household types and models.
  
- 5.10 If a children's home was being run on basis of permanent live-in staff, i.e. with children being looked after by a permanent occupant of the dwelling, then planning permission would not be required.
  
- 5.11 However, at this site the care providers will work shifts and not reside permanently at the property, as such it is relevant to consider case law on this matter to support the proposed use Certificate application.
  
- 5.12 In the North Devon District Council vs. The First Secretary of State [2003] Judgment, Lord Justice Collins made the point that children "need to be looked after. They cannot run a house. They cannot be expected to deal with all the matters that go to running a home ... children are regarded as needing fulltime care from an adult, someone to look after them, someone to run their lives for them and someone to make sure that the household operates as it should."
  
- 5.13 The judgment confirms that children are incapable of forming a 'household' for the purpose of Use Class C3 and also clarified that carers who provided 24-hour care but were not resident could not be regarded as forming part of a household.
  
- 5.14 Where the care providers do not live on site the use cannot be considered to fall within planning use class C3 (b) and is a C2 use. An Inspector's decision in 2010 in Stockport stated that the use of premises as a children's home will generally be considered to fall within planning use class C2.
  
- 5.15 In assessing this application for a lawful development certificate as a children's care home the pivotal question is whether or not the nature of the proposed use (a maximum of 3 children and 2 adult carers) is 'materially' different to the use of the property as a typical C3(a) dwelling.

- 5.16 Case law where an Inspector granted a lawful development certificate for the use of a house in Leicestershire as a children's home (Ref. APP/K2420/X/11/2155849) found that although the proposal would involve a change of use from use class C3 to use class C2, no *material* change of use was involved. The case related to a large modern detached house on a residential estate and it was proposed to operate as a care home for children and young people between the ages of 9 and 17 with learning disabilities. The home would provide care for up to three children by non-resident care staff working in shifts. The Inspector noted that the North Devon judgment referred to above provided the authority with the view that use as a care home for children, where carers were non-resident, fell within Use Class C2.
- 5.17 He then considered whether the change of use was material. In refusing a lawful development certificate staff numbers were cited by the Council as the sole cause for concern in this judgment. However, having looked at the numbers involved; the Inspector concluded that they were not materially different from what might be expected of a large family house. On this basis he concluded that the proposed use would not, as a use within planning use class C2, amount to a material change of use from planning use class C3 as a dwelling house. The Inspector found that the change of use would not require planning permission and allowed the appeal.
- 5.18 A lawful development certificate for the use of a dwelling falling within use class C3(a) as a children's home was also recently considered by Oldham Council (CEA/350915/23). The planning officer referred to the case law above and the application was approved.
- 5.19 As noted throughout this statement, the home will provide high-quality residential care for children and young people who cannot live within their own families and require support to enable them to achieve stability in this early stage of their lives.
- 5.20 Whilst staff may not be living at the home on a permanent basis, there will be negligible difference between the proposed use and a C3(a) residential household where the adults forming part of the household may work shifts, extended family take part in the care of children, or that of a C3(b) use. The bathroom/WC., kitchen/dining and living areas will all be shared. The comings and goings associated with the use will not be materially different from a typical residential household and the number of people occupying a property of this size overnight will correspond to that of a permanent household.

## **SUMMARY**

- 5.21 The proposed change of use will result in de minimis change to the overall function of the property, the associated level of activity will be commensurate with that of a standard 4bed, 6 person family household. Due to the small number of children to be accommodated, along with carefully considered staffing arrangements, the home is not likely to generate any more noise, disturbance or movement than one would associate with a family sized dwelling. There will be no outward sign that the property is being used as a children's care home.

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## **6. SUMMARY OF BENEFITS AND CONCLUSIONS**

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- 6.1 This statement is submitted in support of an application for 'Proposed Change of Use of Dwelling (Use Class C3) to Children's Home for up to 3 Children with Carer Accommodation (Use Class C2)' by way of a Certificate of Proposed Lawful. The property subject to this application comprises a two storey, 4 bedroomed semi-detached property at 260 Manley Road, Chorlton.
- 6.2 The site is not constrained by any local, regional or national statutory or non-statutory designations that would preclude its development in the manner proposed.
- 6.3 The proposals are in a sustainable location, in close proximity to the road network and bus network, making it a sustainable site from an accessibility point of view.
- 6.4 This proposal would enable a small scale care home facility to be provided in a residential area. The property will essentially operate in the same way as a family home, with 3 children and 2/3 members of staff/adults, much the same as a family home. There would therefore be no impact on the amenity of adjoining neighbours over and above the usual impact of having residential neighbours. The property will have a minimum of two members of staff present at all times, i.e. 24 hours a day. This type of environment works well for children's development in care homes and should therefore be supported.
- 6.5 The occupants of the proposed home will have access to comfortable accommodation of a size suitable to meet their needs, in particular plenty of shared living space in which to play.
- 6.6 OFSTED requires that children's homes are operated as closely as possible to a typical family household. The proposed home will strive to provide a substitute family environment or a "home away from home" where children and young people who cannot live within a family can access the right portion of nurture and care needed to support them to transition safely and healthily back into their own families, an alternative family setting, supported accommodation or independent living.
- 6.7 There is off-street parking provision associated with the dwelling. However, the proposed use should not generate significant levels of the traffic due to the small number of staff that will be present on site at any one time and the accessible location of the site close to public transport links and within walking and cycling distance of the surrounding residential area and local shops and services. The level of vehicle movements associated with the home will not be above or beyond those to be expected in conjunction with the existing family dwelling, in fact it could arguably be less given the occupants would not have access to their own vehicles, unlike the potential 17 year old+ potential occupants of a family home of this nature, who often have access to their own vehicle.

- 6.8 For the reasons set out above, the proposed use does to constitute a material change of use for the purposes of section 55(1) of the 1990 Act as amended, and as such planning permission for a change of use from use class C3 to C2 is not required. It is respectfully requested that this Certificate of Lawful proposed use is allowed accordingly.