

**SUPPORTING STATEMENT AND
JUSTIFICATION FOR A CERTIFICATE OF LAWFULNESS
OF PROPOSED USE**



For: North West Deals Limited

Regarding: 43 Paprika Close
Openshaw
Manchester
M11 2LS

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Introduction and Description

1.0 Application Description

1.1.1 **A CERTIFICATE OF LAWFUL DEVELOPMENT FOR THE PROPOSED USE OF A DWELLINGHOUSE (USE CLASS C3) AS A CARE HOME FOR TWO YOUNG PEOPLE (NO OLDER THAN 18 YEARS OF AGE) WITH CARE PROVIDED 24 HOURS A DAY BY UP TO TWO NON-RESIDENT CARERS WORKING IN SHIFTS AND WITH ONE MANAGER DURING NORMAL WORKING HOURS (USE CLASS C2).**

2.0 Introduction

2.1.1 This statement is made in support of an application under section 192(1) of the Town and Country Planning Act 1990 (as amended) as amended by Section 10 of the Planning & Compensation Act 1991) ("The Act"), for a Certificate of Lawfulness of Proposed Use or Development ("CLPUD") relating to the proposed use of an existing dwelling at 43 Paprika Close, Manchester M11 2LS.

2.1.2 The applicant owns the property and intends a long term let to Voices Homes Limited, an experienced care provider, who propose to run the facility as a care home for two children – as set out below.

2.1.3 The CLPUD application comprises:

- this Application form,
- location plan with red line,
- Existing and proposed floor plans,
- Site plan, showing parking arrangements, and
- this Supporting Statement – including photographs of the property in the Appendix.

The Property

3.0 Description

3.1.1 A modern semi-detached three storey town house comprising the following accommodation, shown in more detail in the accompanying floor plans:

- **Ground Floor:** Entrance hallway, to WC, living room and kitchen diner.
- **First floor:** Landing, leading to bedrooms 1-3 and family bathroom.
- **Second Floor:** Landing, leading to bedroom 4 with ensuite shower room
- **Externally:** Small front garden with side driveway with off road parking for two cars, a detached single garage and enclosed rear garden.

4.0 Location and Amenities

4.1.1 The property is located on a modern residential street within the suburb of Openshaw in East Manchester.

4.1.2 The property is less than 10 minutes' walk to Lime Square retail park on Ashton Old Road, which has a supermarket, homeware stores, restaurants, a coffee shops and a gym.

4.1.3 Gorton Railway station is within 6 minutes' walk, offering regular services into Manchester City Centre to the west, and via Ashton-under-Lyne to the east, and regular bus services run along Ashton Old Road.

4.1.4 The property is 12 minutes' drive from junctions 23 and 26 of the M60.

Planning Justification

5.0 Relevant Planning History

- 5.1.1 A search was undertaken on the council website, which revealed no planning history at the property.

6.0 Legal Background

- 6.1.1 Certificate applications are a matter of fact and law. In the case of CLPUD application, the onus of proof that the use would be lawful is on the applicant.
- 6.1.2 The facts of this application are that,
- a dwellinghouse currently exists,
 - the proposal is to use the property as a home for two young people in need of care, and
 - there will be two carers in full time attendance and in residence overnight, being rotated each 24 hours rota. A manager would also be present during normal working hours.

7.0 Justification for the Granting of a CLPUD

- 7.1.1 A CLPUD application is quite distinct to an application for planning permission which, considering section 38(6) of The Act, regard must be given to the provisions of the development plan, the merits of development and any other material planning considerations.
- 7.1.2 However, determination this application for a CLPUD should only be concerned with whether the nature of the proposed use is such that it can lawfully be carried out in the subject property without the need for planning permission. Therefore, in determining this application, it is only necessary to consider relevant primary and secondary legislation and the decisions of the courts in relation to the same.
- 7.1.3 Section 55(1) of The Act defines the term “*development*”, which includes the making of any material change in the use of any buildings. Section 55(2)(f) essentially states that in the case of buildings which are used for a purpose of any class specified by the Secretary of State, the use of the building for any purpose within the same class shall not be taken as amounting to development.
- 7.1.4 Section 57(1) of The Act provides that planning permission is required for the carrying out of any development of land and Section 336(1) defines “*land*” as including buildings.
- 7.1.5 Section 192 of The Act (as amended) makes provision for an application to be made to the local planning authority to ascertain whether any proposed use of a building would be lawful, and which is the purpose of this application for a CLPUD.
- 7.1.6 The subject property is plainly an existing single, self-contained unit of occupation designed for residential purposes, with facilities for cooking, eating, sleeping and living, normally associated with its use as a dwelling house.

- 7.1.7 The use of the property as a dwelling house accordingly falls within Class C3 of The Town & Country Planning (Use Classes) Order 1987 (as amended) (“the UCO”), which defines Class C3 as follows:
- “Use as a dwelling house (whether or not as a sole or main residence) by:*
- a) a single person or by people to be regarded as forming a single household;*
 - b) not more than six residents living together as a single household where care is provided for residents; or*
 - c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).”*
- 7.1.8 In the UCO, “care” is defined as, “personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,” and in Class C2 also includes, “the personal care of children and medical care and treatment.”
- 7.1.9 The UCO defines Class C2 as, “Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses). Use as a hospital or nursing home. Use as a residential school, college or training centre.”
- 7.1.10 The issue of whether the use of a dwelling, where 24-hour care is provided, falls into Class C2 or C3 has been the subject of case law and planning appeals. In the case of North Devon District Council v First Secretary of State [2003], the judge concluded that children could not on their own be considered to constitute a fully functioning household without a resident carer living in the property full-time. Consequently, it was decided that a change of use from C3 to C2 had occurred at the property. However, it was also decided that whilst a change of use had occurred, it was **not deemed to be a material change of use** and that as such, planning permission was **not** required.
- 7.1.11 Of relevance is also the number of people forming the “household”. It is established in case law (a judgement of the Court of Appeal in R (Hossack) v Kettering BC [2002] EWCA C iv 886) that the limit in Class C3 to more than six persons is an important consideration as with no more than that number, it would be more likely that persons would be living as a single household than if there were significantly more than six; the smaller the number of occupants, the more intimate, integrated and cohesive their occupancy would likely be and the more likely they are to be regarded as forming a single household.

Proposed Use and Occupancy

8.0 Description

- 8.1.1 A four-bedroom semi-detached townhouse to be used as two-bedroom residential children's home for two young persons, with staff working on a rota basis and sleeping over to support the young people – with two staff always being present.
- 8.1.2 It will provide separate bedrooms for the two staff and two children (up to 18 years old), an office for the staff, and ample reception rooms, and enclosed rear garden.
- 8.1.3 There are 2-3 off road parking spaces on the site, plus two single garages.

9.0 Building Work and Alterations

- 9.1.1 No significant physical alterations are proposed internally or externally, and it is not intended to carry out any changes to the physical layout. The property will appear from the outside as it does now – a normal family home.
- 9.1.2 Light refurbishment and the introduction of a fire alarm system and fire doors to meet Ofsted standards will be necessary but are not a planning consideration.

10.0 Staffing Arrangements

- 10.1.1 The applicant's proposal is that the property will be occupied by two young persons (aged between 8 – 18) together with two staff living-in, four staff in total, working in rotation to provide full time care on a rolling "two-on two-off" shift pattern that change at 07:30am.
- 10.1.2 Additionally, a manager will be present circa 50% of the time Monday to Fridays from 09.00-16.30.
- 10.1.3 Effectively, therefore, the property will be occupied as a single household with two adults and two young persons, other than during office hours where a manager may also be present.

11.0 Care and Educational Needs

- 11.1.1 Expected care needs will be one-to-one care for children with emotional and behavioural disorders.
- 11.1.2 Every child attends some form of education, though needs of course vary from child to child. They will typically attend local mainstream state schools where possible, and will be taken to and from school by staff.
- 11.1.3 Where there are more complex care needs, special educational provisions will be made - such as house tutoring.
- 11.1.4 Six monthly reviews are typically undertaken in the lounge or office by the managers, and social services typically visit once per month for an hour.

12.0 Day to Day Life and Visitors

- 12.1.1 Members of the household will take meals together and share domestic chores, shopping, social and leisure activities – akin to any normal family.
- 12.1.2 Each member of the household will have their own bedroom and will share all other domestic facilities within the property such as the bathroom, kitchen, lounge and garden.
- 12.1.3 Family visits are typically rare but depend on the circumstances in each case. Visits are typically supervised and limited.
- 12.1.4 The property would also be visited by the Local Authority social worker who, generally once every three months, would conduct a review of the young person either at the property or meet with them off-site in a more social setting, such as a local café.
- 12.1.5 Such visits and associated vehicular movements would not be too dissimilar to that of a regular household such as visiting friends and relatives, as well as visiting professionals. Use Class C3(a) makes provision for a range of non-resident household visitors including cleaners, gardeners and personal assistants, etc.

13.0 Vehicle and Travel Arrangements

- 13.1.1 There will be a “house car” for use by staff undertaking day-to-day activities. It is of course not possible to state whether the care staff will have cars as this varies. Typically, managers will drive, and from experience approximately 50% of care staff drive.
- 13.1.2 The applicant intends to recruit local staff where possible and encourages the use of sustainable transport.
- 13.1.3 The house has a garage and two off road parking spaces in addition to the unrestricted on road parking.

14.0 Further Information

- 14.1.1 CCTV is typically not provided in care homes, though video doorbells are sometimes installed.
- 14.1.2 Although light internal refurbishment may be undertaken, the property will not be adapted in any way and its function and appearance will continue to be that of a normal dwelling house.
- 14.1.3 The applicant would prefer to place children from Manchester into the home, as it is generally preferable for children to be near both their immediate and extended families, though sometimes there is a requirement for children to be placed in areas away from their families.
- 14.1.4 The applicant understands the importance of ensuring that each child receives the care and attention they require to suit their specific circumstances, in a safe and supportive environment, and this decision will be approached with careful planning on a case-by-case basis.

15.0 Conclusion

- 15.1.1 It is considered that the characteristics of the proposed use of the property by the applicant as set out in section 8 above falls within Use class C2, since the carers do not permanently reside at the property.
- 15.1.2 However, we do not consider this a material change of use, since the two carers and young persons will still operate as if they were a single-family unit.
- 15.1.3 This is a view that has been accepted previously by Manchester City Council on many occasions, and many other local planning authorities and the Planning Inspectorate.
- 15.1.4 For the above reasons it is requested that a CLOPUD be granted for proposed use of the property as C2, as set out in this application.

APPENDIX I – General Photographs



Photograph 1. Lounge



Photograph 2. Kitchen diner



Photograph 3. Kitchen diner



Photograph 4. Bedroom 4



Photograph 5. Ensuite



Photograph 6. Family bathroom



Photograph 7. Bedroom 1



Photograph 8. Bedroom 3



Photograph 9. Rear elevation and garden