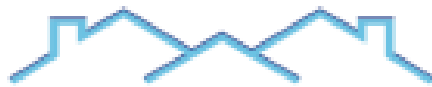


Planning Statement

No.6 Penn Street, Moston, Manchester, M40 9NF



JS Planning Services

CONTENTS

- 1.0 Introduction
- 2.0 Application Site & Existing Use
- 3.0 Planning History
- 4.0 The Proposed Use
- 5.0 Relevant Planning Legislation
- 6.0 Assessment
- 7.0 Conclusions

Appendices

- Appendix 1 No.6 Penn Street, Moston, Manchester Staff Rota
- Appendix 2 Public Transport and Care Incentive Scheme
- Appendix 3 North Devon District Council v The First Secretary of State [2003] EWHC 157 Admin
- Appendix 4 15 Crownhill Road, Burbage Appeal Decision 7th November 2011
(Appeal Ref: APP/K2420/X/11/2155849)
- Appendix 5 ‘The Cottage’, Stonebridge Green Road, Egerton, Ashford Appeal Decision 28th February 2017 (Appeal Ref: APP/E2205/X/16/3161037)
- Appendix 6 604 Didsbury Road, Heaton Mersey, Stockport (Appeal Ref: APP/C4235/W/17/3173975)

1.0 Introduction

- 1.1 This Planning Statement has been prepared by James Stannard of JS Planning Services on behalf of the applicant Helpful Investments Ltd, in support of an application submitted to the Local Planning Authority, Manchester City Council (herein referred to as the LPA), for a Certificate of Lawful Development for a Proposed Use, submitted under Section 192 of the Town and Country Planning Act.
- 1.2 The Proposed Use comprises the use of the existing property (C3(a) Use Class) known as No.6 Penn Street, as a home for accommodating 1no. vulnerable person (single occupancy) aged 7-17 years old (C2 Use Class). This Statement should be read in conjunction with all appendices, plans, and documentation submitted with this application.
- 1.3 The purpose of this Planning Statement is to provide details of the Existing and Proposed Use of the building, and to demonstrate how the proposed use would not result in any material change to the character and appearance of the building, or indeed no material change to the nature of the current use of the building, making reference to relevant appeal decisions where appropriate, which are material to the determination of the application.
- 1.4 Based on this assessment, it is argued that no material change of use would occur as a result of the proposed use of the building as a home for 1no. x vulnerable child, and therefore a Lawful Development Certificate should be granted.
- 1.5 This Planning Application is supported by the following documentation:
 - Application Form
 - Existing and Proposed Plans and Elevations
 - Planning Statement and Appendices:
 - Appendix 1 No.20 Kensington Road, Chorlton, Manchester Staff Rota
 - Appendix 2 Public Transport and Care Incentive Scheme
 - Appendix 3 North Devon District Council v The First Secretary of State [2003] EWHC 157 Admin
 - Appendix 4 15 Crownhill Road, Burbage Appeal Decision 7th November 2011 (Appeal Ref: APP/K2420/X/11/2155849)
 - Appendix 5 ‘The Cottage’, Stonebridge Green Road, Egerton, Ashford Appeal Decision 28th February 2017 (Appeal Ref: APP/E2205/X/16/3161037)
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2.0 Assessment of Context

- 2.1 The application relates to No.6 Penn Street, Moston; a two storey mid Victorian mid-terrace residential property constructed of a traditional red brick with slate tiled roof.
- 2.2 The two bedroom property benefits from a small yard area to the rear typical of this type of inner city terrace and like its neighbours does not benefit from any off-street parking provision. However, the property is within a short walking distance of a public car park which is accessed off Albine Street.
- 2.3 The current residential dwellinghouse since its construction has been occupied as a single-family unit (C3(a) Use).
- 2.4 The property is orientated with the principal elevation fronting the highway to the north, either side of terraced properties Nos. 2 and 8 Penn Street to the west and east respectively. No.5 Ward Street lies to the south, on the opposite side of a shared alleyway.
- 2.5 As shown on the Existing Floor Plans, the residential property has a ground floor that comprises a Living Room towards the front and Kitchen towards the rear, providing access to a rear yard area.
- 2.6 At first floor level, the existing residential dwelling contains 2no. Bedrooms, a larger Master Bedroom towards the front of the house and a smaller one towards the rear, and a shared Bathroom.
- 2.7 The site lies within the settlement boundary in a highly sustainable location with good access to local shops, services, facilitates, educational facilities and public transport links.

3.0 Planning History

- 3.1 A review of the Manchester City Council online planning portal shows that the site has not been subject to any planning history.

4.0 Proposed Use

- 4.1 Helpful Investments Ltd are a registered company that seeks to provide high quality care for young vulnerable people in appropriate comfortable surroundings, supported by a good balance of male and female staff, that individually and as a collective, pride themselves in delivering the highest standard of care, by building positive and lasting relationships.
- 4.2 Plans for vulnerable young people are carefully tailored to meet specific individual needs ensuring that the aims and objectives of the placement are met and are achieved.

- 4.3 The proposed use as a house for vulnerable children would accommodate 1no. child (single occupancy) aged between 7 and 17 years of age of mixed gender; race; religion; disability; and sexual orientation; and who presents social, emotional, and behavioural difficulties.
- 4.4 The home will provide support for young people who have a range of complex individual needs, providing emergency medium- and long-term placements.
- 4.5 The compatibility and matching of young people living in the property are always a vital consideration in any admission and discharge situation, alongside the ability of the home to meet the needs of the young people.
- 4.6 The proposed use would see the child having full unrestricted access to the property, with the exception of the first-floor staff bedroom, that would be locked for security and protection purposes - much in the same way that young people in a typical family household would have restricted access to an ancillary office used by a parent for home working.
- 4.7 The role of staff at this property is almost identical to that of a parent or foster parent: cooking meals, assisting children with schoolwork, transporting children to school and other necessary appointments and providing emotional and physical support. The children residing at the property would not be reliant on any medical care.
- 4.8 The use of the dwelling would be entirely communal, and activities both during the week and at weekends such as shopping, and going to school, will be undertaken as a family. The child and staff would eat and live together as a single household, with preparation of meals, washing up, household cleaning, all undertaken together as a household. Similarly, recreational activities (e.g. trips to the cinema, shops, bowling) would again be undertaken in much the same way as a family would.
- 4.9 As shown on the submitted Proposed Floor Plans, the Children's Home would see the communal rooms at ground floor and first floor communal bathroom to be used in much the same way as a family dwelling, the negligible exception being the allocation of one of the bedrooms for staff, which, for obvious reasons, would have restricted access.
- 4.10 The staff that would be required to look after the child that resides at this property would comprise a Registered Manager, who would be on site between the hours of 9am – 5:00pm Monday to Friday, and a small team of support workers who would be on site on a rota basis, with a maximum of 2no. staff being on site at any one time.
- 4.11 Aside from staff, other visitors to the site would be very limited. A member of the Social Services team would be required to visit once every 6 weeks, with an Ofsted visit taking place every 12 months.

- 4.12 The weekly rota that would be operated by the care home provider Helpful Investments Ltd, accompanies this submission (Appendix 1). The rota shows that on certain shift patterns one member of staff would be required to sleep at the property overnight.
- 4.13 Helpful Investments Ltd have adopted a Public Transport and Car Sharing Incentive Scheme (Appendix 2) which encourages and provides financial incentives for staff members to utilise public transport or to cycle to work. It is therefore anticipated that the number of trips generated by staff arriving and leaving work will be lower than that which aligns with the staff rota.
- 4.14 The above policy also refers to the 'Pool Car' which would be used by staff on shift to use for necessary journeys. This provides a 'family car' where the idea is to simulate a typical inclusive family lifestyle. Any journeys will be collaborated in much the same way a single household would to minimise the number of trips.
- 4.15 Given the relatively close proximity to local primary schools and shops, it is likely that the majority of trips will be made on foot, thereby further reducing vehicle movements.
- 4.16 Table 1 below has been provided to show and quantify the likely trip generation associated with the proposed use, based on the typical weekly rota that accompanies this Statement. This has been based on the worst-case scenario of no-one utilising the Car Incentive and Public Transport scheme.
- 4.17 The table has been colour coded as follows:
- | | |
|---------|--------------------------|
| Green = | AM trip arriving on site |
| Brown = | AM trip departing site |
| Grey = | PM trip arriving on site |
| Blue = | PM trip departing site |

	Journey 1	Journey 2	Journey 3	Journey 4
MON	Registered Manager arrives 09:00	TL1 arrives 10:00	Registered Manager departs 17:00	
TUES	Registered Manager arrives 09:00	Registered Manager departs 17:00		
WED	Registered Manager arrives 09:00	TL1 departs 10:00	TL2 arrives 10:30	Registered Manager departs 17:00
THURS	Registered Manager arrives 09:00	Registered Manager departs 17:00		
FRI	Registered Manager arrives 09:00	TL2 departs 10:00	TL3 arrives 10:30	Registered Manager departs 17:00
SAT				
SUN	TL1 arrives 10:00	TL3 departs 10:30		

Table 1: Trip generation required to service the Staffing Rota for the property.

- 4.18 Table 1 above shows that the total number of trips generated by members of staff associated with the proposed use is 17 trips across a 7-day week, amounting to an average of 2.42 (2) trips per day with noticeably less trips taking place at a weekend.
- 4.19 No other external or internal physical extensions or alterations would be made to the existing building.
- 4.20 The rota has been co-ordinated in such a way that allows a minimum 30-minute gap between a member of staff leaving the site and a member of staff arriving on site, thereby minimising disruption.

5.0 Relevant Planning Legislation

- 5.1 This application seeks to obtain a Certificate of Lawful Development for the use of an existing property No.6 Penn Street, Moston, Manchester for the purposes of providing care for a single young vulnerable people operated by supporting staff that would be organised via a controlled rota system.

5.2 Section 192 of the Town & Country Planning Act 1990 relates to Certificates of Lawfulness for proposed use or development and states the following:

- (1) *If any person wishes to ascertain whether –*
- (a) Any proposed use of buildings or other land, or*
(b) Any operations proposed to be carried out in, on, over or under land
- would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operation in question.*
- (2) *If, on an application under this section, the local planning authority are provided 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*
- (3) *A certificate under this section shall –*
- (a) Specify the land to which it relates;*
(b) Describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under Section 55(2)(f), identifying it by reference to that class);
(c) Give the reasons for determining the use or operations to be lawful, and
(d) Specify the date of the application for the certificate
- (4) *The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a **material change** before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness. (My Emphasis)*

5.3 The following section demonstrates that the proposed use of the building does not result in any material change to the character and appearance of the building, nor any material change to the nature of the existing use, and therefore does not require planning permission. Based on the assessment carried out within this supporting Statement, it is concluded that a lawful development certificate should be granted in line with Section 192 of the Town and Country Planning Act 1990.

6.0 Assessment

- 6.1 This Certificate of Lawfulness for a Proposed Use application relates to the use of an existing building (C3 Use Class) as a home for one vulnerable young person (single occupancy).
- 6.2 The conclusions of Mr Justice Collins in *North Devon District Council v The First Secretary of State* [2003] EWHC 157 Admin (Appendix 3) are pertinent to this application as it forms the basis for assessing and determining such a proposal.
- 6.3 This case focused on appeal which was allowed by an Inspector for a Lawful Development Certificate to use an existing three-bedroom semi-detached premises - whose lawful use was a dwellinghouse (C3 Use Class) – as a premises to provide residential care for two children between the ages of 10 and 17.
- 6.4 The semi-detached three-bedroom house looked like any other in the street. Internally, it was in good decorative order, with a small office downstairs, otherwise it was laid out as an ordinary house. The children slept in individual rooms, with the usual communal kitchen and bathroom facilities.
- 6.5 The operator of the premises Southern Childcare Limited provided residential care for two children placed in their care by the local authority. Two non-resident staff were on duty at all times with the house being under the supervision of a team of carers.
- 6.6 When assessing whether the proposed use of the building as a home for vulnerable children falls within the C3 or C2 Use Class, Justice Collins concludes, at paragraph 16, that:
- “Children need to be looked after. They cannot run a house. Sometimes, of course, one recognises that they are forced to do so, but as a matter of principle and approach the whole point of these homes is that the children are regarded as needing full-time 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.”*
- 6.7 The Inspector goes on at paragraph 19 to state that:
- “It seems to me that the concept of living together as a household means that, as I have put it, a proper functioning household must exist and, in the context of a case such as this, this must mean that the children and a carer must reside in the premises. Otherwise, as it seems to me, it clearly falls within Class C2.”*
- 6.8 This judgement therefore establishes that the proposed use of this dwellinghouse as a home for up to a single vulnerable child would fall within the

C2 Use Class, and not C3 Use Class, as is sometimes wrongly assumed by other applicants and agents.

6.9 However, the North Devon Judgement goes on to highlight at paragraph 20 that:

*“If an Inspector is satisfied that the use falls within C2 rather than C3, then it would appear that there is prima facie a change of use. **Nonetheless, the Inspector is entitled, as indeed are the local planning authority, to consider whether that change of use was material. It will only be material if, as a matter of fact and degree in the circumstances of the individual case, the change of use was material.**” (My Emphasis)*

6.10 In light of the above, this Statement, in acknowledging that the proposed use falls within a different Use Class to the existing lawful use, continues by assessing whether or not the proposed use constitutes a material change of use, based on the individual circumstances.

6.11 The matter of whether a material change of use has occurred is a matter of ‘fact and degree’ based on the specific circumstances of each case. The key test is whether there has been a change of use in the character of the use, and second, the effects of this change upon neighbouring uses in the locality.

6.12 Firstly, it is essential to highlight that no physical alterations or extensions would be made to the existing dwelling. There would therefore be no material change to the character, appearance of use of the building as a result of the proposed use.

6.13 Turning to the internal layout and characteristics of the building and proposed use, the Floor Plans show that the only change to the floor plan of the building as a result of the proposed use is the re-allocation of the Master Bedroom towards the front of the property as the Child’s Bedroom, with the other first-floor bedroom being allocated to the member of staff that sleeps overnight which would be locked, with restricted access. All other aspects of the propriety remain consistent with the previous use and akin to a family dwelling.

6.14 It is considered that a typical family home residing at this property under the lawful C3(a) Use could realistically contain a ‘work from home’ ancillary office used by a parent, which would be locked for the same safety and security reasons. It is therefore considered that the character and use of the building would not be materially different to that of the existing family home by virtue of the minimal changes to the floor plans of the house.

6.15 The proposed use would function or operate in an almost identical manner to that of a family household. As a matter of ‘fact and degree’ we submit that there would be no material change to the overall behaviour or function of the dwellinghouse simply by virtue of the fact that the child residing at the property would be vulnerable with specific needs. There are many family homes that are

dysfunctional, which result in noise and disturbance for neighbours. Thus from an amenity perspective, it is strongly refuted that a material change of use occurs in this regard.

- 6.16 The third factor to consider when assessing whether the proposed use would result in a material change of use comparable to a single family household, is the amount of off-street parking provision and trip generation and overall levels of activity that area associated with each use.
- 6.17 Based on the weekly staff rota that would be applied to the running of this premises which accompanies the application, there would be a maximum of 2no. staff on site at any one time.
- 6.18 The existing Victorian character of Penn Street, surrounding streets and properties therein does not allow for any off-street parking provision. As such, the parking provision is substandard for the existing lawful use of the property as a family house which contains 2no. bedrooms.
- 6.19 The Table in Section 3 (Table 1) shows the expected trip generation associated with the proposed use. However, this is based on a 'worst case scenario' that no members of staff would take advantage of or utilise the Car Sharing Incentive and Public Transport Scheme - this is considered by the applicant to be highly unlikely, given the highly sustainable location of the site and its excellent links with public transport connections.
- 6.20 Taking the existing lawful use of the current two bedroom residential property being occupied by a family unit of three, made up of two working adult parents, each with their own vehicle, and a teenage child of driving age (17+) with his/her own vehicle – amounting to a total of 3 x vehicles - it is possible to make a reasonable estimate of the likely trips generation from the current household, and compare this to that generated by the proposed use.
- 6.21 Allowing for each working parent driving to work, and the teenager sons/daughter driving to work/college in a morning, and all returning home in an evening, this equates to a minimum of 6 x trips per day Monday – Friday, equating to some 30 trips per week. When adding shopping, medical, and social trips both during the working week and at a weekend, it is not unreasonable to estimate that the total number of trips generated by this scenario would exceed 40 trips per week.
- 6.22 It is therefore argued that this proposed use would generate a lower number of traffic movements, levels of activity and intensity, comparable to the existing lawful use of the site as a single family unit of 3, which all own a private car.
- 6.23 The current lawful use of the property as a family home will therefore inevitably result in vehicles taking advantage of on street parking opportunities or the

nearby public car park. As such, it is submitted that there is no material change of use to the nature of the use of the property or the wider area as a result.

- 6.24 Based on these specific circumstances that are relevant to this case in determining whether a material change of use has occurred, the Statement wishes to draw the Case Officer's attention to an appeal made by Chartwell Care Ltd against the decision of Hinckley & Bosworth Borough Council to refuse a Certificate of Lawfulness for the use of a dwellinghouse as a children's care home at 15 Crownhill Road, Burbage (Appeal Ref: APP/K2420/X/11/2155849) that was allowed by the Inspectorate on 7th November 2011. (Appendix 4)
- 6.25 Whilst the specific details of this appeal vary slightly from this application, and every application should of course be assessed on its own merits, as a matter of 'fact and degree', the similarities are that the proposed use in this appeal case was identical to that now proposed at this property, in that the model of care provided seeks to replicate, as far as possible, typical family life in a residential property in a residential setting, notwithstanding the fact that the building was previously in use as a care home, which is likely to have be subject to a similar trip generation as proposed use.
- 6.26 The key feature that we wish to draw the Case Officer's attention to in this appeal decision, is the assessment of whether a material change of use has occurred, specifically with regards to numbers of staff, vehicle movements, and trip generation.
- 6.27 In assessing whether a material change of use has occurred, the Inspector refers to the number of staff/carers and children that would be present, and the associated vehicle movements and trip generation, as this was the sole cause of concern from the Council in refusing a Certificate of Lawfulness. The context is set out at paragraph 11 of the appeal:

"At any one time, and excluding short-term changeover periods in the early mornings and mid-afternoons, there would be up to three children and three carers present. The pattern of working means that vehicle movements to and from the property would peak at the following times: (a) 07.00 to 08.00 – two staff and the manager arriving and one night staff departing; (b) 14.30 to 15.00 – three staff arriving and two departing; and (c) around 22.00 – two staff departing. To these movements should be added school transport and transport related to outings etc. at weekends and during school holidays. The appellants give assurances that no activity involving vehicle movements would occur before 07.30 or after 22.00."

- 6.28 In the following paragraph (12), the Inspector goes on to state that:

*"In refusing an LDC, staff numbers of cited by the Council as the sole cause for concern. **However, looking at the numbers involved, they are not materially different to what might be expected of a large family house in which, say, a***

parent and two teenagers or young adults live together and each uses a car to get to work or college and for socialising.” (My Emphasis).

The Inspector continues...

*“Peak daytime vehicle movements, **setting aside the potential for the use of car sharing or public transport by staff, coincide broadly with school run periods when there would be similar activity associated with neighbouring properties and the locality in general.** Transport associated with school and weekend outings would not be an untypical occurrence in a family house. Up to two vehicles departing from the property late at night would not, on its own, be a sufficient basis for determining that a materially different character of use would be taking place.” (My Emphasis).*

- 6.29 A similar conclusion was reached by an Inspector in allowing an appeal (dated 28th February 2017) against the decision of Ashford Borough Council to refuse a Certificate of Lawfulness to use an existing dwellinghouse for use by 3 young people (between the ages of 8 and 17) and their carers, at ‘The Cottage’, Stonebridge Green Road, Egerton, Ashford (Appeal Ref: APP/E2205/X/16/3161037) (Appendix 5).

- 6.30 The property subject to this appeal contained a kitchen, a cloakroom, four bedrooms, and two bathrooms with off street parking; the layout and appearance of a typical family dwelling.

- 6.31 In assessing whether the proposed change of use would be material, the Inspector commented at paragraph 10 in her report, that:

*“A house of this size could easily accommodate a typical family with 2, 3 or more children and 2 adults and **it seems to me that the use of the house as a home for a maximum of 3 young people and their carers would not be materially different from the authorised use as a 4 bedroom family home.**” (My Emphasis).*

The Inspector continues.....

*“It is likely that there would be vehicle movements created by the carers coming to and leaving the site on a daily basis as they start and leave their shifts and journeys undertaken by the children when being taken to and from school. Nevertheless, **I do not consider that the number of such movements is likely to be significantly more than those undertaken by a family and certainly not enough to result in an intensification of use which would give rise to planning concerns.**” (My Emphasis).*

- 6.32 In allowing an appeal for a change of use of a dwelling to a children’s care home and construction of a 1.8m high fence at 604 Didsbury Road, Heaton Mersey, Stockport (Appeal Ref: APP/C4235/W/17/3173975) (Appendix 6), the Inspector states at paragraph 4 that:

“The proposed change of use would allow the use of the property as a care home for up to a maximum of 4 children (aged 6 to 17), with 2 carers present at any one time. Given the property is a 5 bed dwelling the levels of occupation would be similar to that of a large family home. Given that the majority of children would not be an age where they can own a car, and the limited number of staff, the proposal would be unlikely to generate significantly more traffic movements than would be the case if the property was used as a dwelling.” (My Emphasis).

- 6.33 The above cited examples are of course each subject to their own unique and specific circumstances. However, as highlighted, the point that this Statement wishes to stress to the Case Officer is that there is a common denominator with regards to (i) the proposed use of an existing building as a home for vulnerable children in the case system (ii) that the existing building could be utilised by a large family and (iii) the number of staff and vehicle movements associated with that proposed use would be no different to that which could be expected for a typical family household.
- 6.34 In light of the above, it is argued that the levels of activity, trip generation, or other limited comings and goings associated with the proposed use, would not materially alter, or be materially different to, those which could realistically be associated with a typical family living in the building under its lawful use as a dwellinghouse (C3(a) Use Class).

7.0 Conclusions

- 7.1 This Planning Statement has been prepared to support an application submitted to Manchester City Council for a Certificate of Lawfulness for the proposed use of a residential property known as No.6 Penn Street, Moston, Manchester as a Children’s Care Home which will accommodate a single vulnerable young person under the C2 Use Class. The existing lawful use of the building is a dwellinghouse occupied by a single family unit containing 2no. bedrooms which falls within the C3(a) Use Class.
- 7.2 The North Devon Judgement confirms that whilst the proposed use may fall within a different Use Class, it does not necessarily follow that a material change of use has occurred, and that this is a judgement to be made by the decision maker, as a matter of fact and degree, based on the individual circumstances of the case.
- 7.3 As such, this Statement has argued that the proposed use would not result in any material change of use for the following reasons:
1. *No external or internal physical alterations are proposed and as such, the proposed use does not result in a material change to the character or use of the existing building.*

2. *There would be no material change to the character or use of the building by virtue of the use of an existing bedroom as a staff bedroom, which would be locked for security and safety purposes. It is argued that this is akin to a 'work from home' office with a locked door, which could be used by a parent as part of a single family household.*
3. *It is submitted in the strongest possible terms that there would be no material change of use as a consequence of the home being occupied by a vulnerable child with specific needs, being no different to a dysfunctional family with troublesome children that could occupy the residential dwelling under the C3(a) Use Class.*
4. *It is argued that the required parking provision for the propose use would not be materially different to that required by a family of 3 residing at the existing dwellinghouse with two parents and their teenage child which is of a driving age with their own vehicle, equating to 3 x vehicles.*
5. *This Statement also argues, making reference to appeal decisions for similar proposals, that the vehicle movements, trip generation, and overall levels of activity would not be materially different to that of the existing use of a family household with 3 x vehicles. Further, it is argued that if, as anticipated, some journeys to local amenities are made on foot, and that members of staff take advantage of the Public Transport Incentive Scheme, the vehicle movements and levels of activity will in fact be lower, particularly at a weekend.*

7.4 Based on the above, it is respectfully requested that Manchester City Council grant the applicant a Certificate of Lawfulness for the proposed use as described on the Application Form and further explained within this Statement.