GSS25188 – 43 Lakin Street, Manchester, M40 9DN
PLANNING STATEMENT

Introduction

This statement accompanies the planning application for a Lawful Development Certificate at 43 Lakin Street. The proposal seeks permission for the applicant to use the site as a residential care home for 2no. looked after children. This application seeks a Certificate of Lawfulness of Proposed Use since it falls under Class C2 in a manner which is not materially different to C3 use, as will be explained in this statement.

Existing Site

43 Lakin Street is an end-of-terrace house, located on a residential street in Manchester. There is a living room, dining room and a kitchen on the ground floor. On the first floor there are two bedrooms and one bathroom.

There are public transport links on Lightbrowne Road, the street parallel, and on Kenyon Lane (a 3 minute walk from the property), with numerous bus services running to destinations such as Higher Crumpsall, Alkrington, Manchester City Centre (Piccadilly Gardens), Ashton-under-Lyne and Harpurhey.

There are local convenience stores and eateries a five minute walk away on the adjacent Lightbrowne Road, as well as places of worship, medical centres and schools within the local area, within walking distance of the property.

Proposal

The proposal is to convert this property from Class C3 to Class C2 – a residential home for looked after children (up to 2no. children).

The applications seeks a Certificate of Lawfulness of Proposed Use for this conversion, confirming that this proposed use is a lawful – since it falls within the Class C2 of the Use Classes Order 1987, but the C2 use is not materially different to a C3 use and is therefore lawful without further planning permission.

The proposed use is as a 'family home' for the young people in care, as their main residence. They will be in full time education/employment training and will have a normal day to day routine as would be expected for any child. This will include making and eating breakfast with the carers, attending school, taking part in exercise or leisure activities outside the home followed by an evening at home where the young persons will enjoy preparing and eating dinner with the carers (loco-parentis) and engage in normal, age appropriate, household activities before going to bed in their own bedroom.

It is the aim of this statement to provide evident to demonstrate that there will be no material change in the functioning of the home when it will be classed as C2 functioning as a care home for looked after children, compared to its current Class C3 use, in the way the property will operate. This has been outlined below.

GSS25188 – 43 Lakin Street, Manchester, M40 9DN
PLANNING STATEMENT

- <u>The property will operate as follows:</u>
    - Up to 2 looked after children will reside in the house. The children will be between 8-17 years of age.
    - No more than 2 full-time staff (carers) would provide care and support for the look after child.

- <u>Building Proposal:</u>
    - The sleeping arrangements for both children and staff will be within the existing two bedrooms and thus there is no need for any extensions or physical alterations to the property.
    - 1no. carer and 1no. child will sleep in each of the upstairs bedroom.
    - The Living Room on the ground floor will be used for recreation and will have a table/desk for the staff to use a home office for any necessary paperwork, in the same manner in which people use their living room/spare bedroom to work from home.
    - The children and carers will eat meals in the house; there are no requirements for any specialist catering. The house contains a modern kitchen and a good size dining area where fresh home-cooked food will be prepared and enjoyed, just like in the functioning of a family home. As with a regular family, the children will help the adults (in this case the carers) to prepare the meals as it is considered that cooking and food preparation is an important life skill which will be learnt through practise and encouragement from a young age.
    - There would be no business or commercial activities on site of any nature, so no changes would be caused to the dwelling house in that regard.

- <u>Daily Operating of the Dwelling:</u>
    - The carers will be responsible for, and will care for, the welfare and day to day functioning of the children, in a loco-parentis manner. They will support the children in going about their daily routines fulfilling a parental role and the site therefore, in practical terms, will operate like a family home.
    - The children will attend Education/Training as part of their care and will be leaving and arriving at the house in the same manner as any other child following a typical school day schedule.
    - Visitors are not anticipated to visit on a regular basis. The care company will operate a centralised software system for the cares to use, with all notes uploaded online, this mitigating the amount of visits

needed by the General Manager or external quality control bodies, which will thus only need to visit a few times a year.
Therapies and Social Worker Appointments for the children will be taking place at the children's place of education.

- Car journeys will be limited to care staff only. The care staff will also be able to arrive either on foot/public transport.
- The care staff will be working on a rotational basis, working 48-72 hour shifts, thus the handover will be less frequent than 12-24 hours shifts. This both creates a stable atmosphere for the children with the staff being with them for longer periods of time allowing them to build trust and security, and minimises the amounts of comings and goings to the property since staff handover is only happening every 2-3 days instead of daily.
- All paperwork is now online with notes uploaded rather than physically handed over, so handover time of staff is anticipated to be efficient and not take lot of time, as the transfer of information is all done electronically.
- Shift changes will take places at 08:00/20:00 following a 2-3 day shift.

We submit and maintain that the use is similar enough to a C3/C3(b) use, that a material change of use would not take place should the property operate as a C2 as described above.

The home will be managed and operated by a registered care provider, a company which specialises in, and prides itself in, providing warm and welcome homes, caring and emotionally stable environments for young people in need of care to live, in order to give them the opportunity to flourish and grow through a peaceful home-like way of life encouraging education, hobbies and leisure activities. The family-style home is preferential to an institutional setting and is favoured by the statutory regulator, Ofsted.

If the council require any more specific details of the operating or functioning of the property, we would welcome any questions or further discussion.

It is important to note that the planning accommodation for looked-after children was the subject of a Ministerial Statement in June 2023, which has been included in Appendix 1. The statement confirms that the planning system should not be a barrier to providing care homes for the most vulnerable children in society. Additionally it has been the topic of much research, that looked after children thrive and develop best in a home setting as opposed to an institutional setting, with a much higher chance of them progressing to being productive members of society in adulthood. Ofsted has been encouraging providers to move away from the traditional institutional model and move

towards home settings, having recognised that “institutionalised” persons can face difficulties transitioning effectively to independent living and employment, which is the end goal for looked after youth.

Additionally, the statement also addresses the type of application being made here for 43 Lakin Street, where we are seeking a Lawful Development Certificate for the use of dwelling a small care home for children, where no material change is involved. She writes “Planning permission will be not 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 withing 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 would be lawful. Where a certificate is issued, a planning application would not be required for the matters specified in the certificate.” See Appendix 1.

Statements of Case and Precedents

The application seeks a Certificate of Lawfulness of Proposed Use or Development (CLOPUD) under section 192 of the Town and Country Planning Act 1990 (TCPA 1990). The local planning authority is required to issue the certificate if they are satisfied that the proposed use would be lawful at the time of the application.

Legal Framework: Development and Use Classes

- **Requirement for Planning Permission:** Planning permission is needed for the "carrying out of any development on land" (Section 57(1), TCPA 1990) , which includes any "material change in the use of any buildings or other land" (Section 55(1), TCPA 1990).
- **Art.** 3 (1A) Use Classes Order 1987 (as amended) provides that there where there is a change of use within a use class that it not to be taken as development of land and therefore does not require planning permission. Where activity results in a material change of use of a building to a use falling within a different class use than planning permission will be required.
- **Use Classes:** The Town and Country Planning (Use Classes) Order 1987 defines relevant uses:
    - **Class C2 (Residential institutions):** Covers residential accommodation and care for people in need of care (excluding C3 uses), such as

hospitals, nursing homes, and residential schools. This class includes the personal care of children.

- **Class C3 (Dwellinghouses):** Covers use as a dwelling by:
  - A single person or people forming a single household.
  - No more than six residents living together as a single household, where care is provided.
  - No more than six residents living together as a single household, where no care is provided (excluding Class C4).

- **Children's Homes:** A children's home may be classified as either C2 or C3, depending on the specific circumstances. A change from C3 to C2 that is considered a **material change of use** amounts to development and requires planning permission.
- **Material Change of Use:** Determining if a change of use has occurred is a matter of "fact and degree". A change between C3(a) and C2 is not automatically material.

  Appeal decisions have confirmed that a change between use classes is not necessarily a material change of use – appeal decision APP/P4605/X/21/3280997 states: "a change from C3 (a) to C2 will not always be material. It will be a matter of fact and degree, depending upon the circumstances of the case in question.

Argument for 43 Lakin Street – CHANGE OF USE FROM C3 TO C2 BUT NO MATERIAL CHANGE OF USE

There are 2 considerations in regard to the change of use at this property.

1. Can this still be considered C3 or does it need to be converted to C2?

   This issue largely centres on whether or not the children are in themselves capable of living together as single household. The children in this case would be looked-after children requiring care. The term "care" is defined in Art. 2 Town and Country Planning (Use Classes) Order 1987 (as amended) as follows:
   " 'Care' means 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"

The looked after children in need of loco-parentis care, due to their age and abilities, are not capable of forming their own household.

The definition of **'Personal Care'** was clarified in **Harrison v Cornwall CC [1991]**, where the court interpreted the term within Section 20(1) of the Registered Homes Act 1984 (1984 Act). While the 1984 Act defines 'Personal Care' as "care which includes assistance with bodily functions where such assistance is required," the court held this definition is **not exhaustive**. It "embraces care in many forms, emotional or psychiatric as well as physical." The support provided to the young residents in this application property will be **emotional support** for their transition to independent living. It is only to this extent that it may fall under 'Personal Care', as no psychiatric or physical support will be given.

Young people transitioning to independent living still require monitoring and guidance from support workers. For planning purposes, determining the appropriate **use class** depends partly on whether the residents form a single **'household'**. Since no single support worker will reside permanently at the property, and workers are there on a shift basis, it's generally considered that the support staff do **not** form part of the residents' household (as established in *North Devon DC v First Secretary of State* – Appendix 2).

Nevertheless, children cannot form a household without the presence of a resident caregiver, as held in North Devon District Council vs FSS and Southern Childcare Ltd [2003] EWHC 157 (Admin); [2003] JPL 1191

2. Does the proposed use constitutes a material change in the character of the use of the property?

- Character Test: The change will be deemed *not* material if the activity is no different than what is expected in a conventional residential use (C3).
- Physical Appearance: The change will be deemed *not* material if the property would be physically "indistinguishable" from other family homes on the street, with no planned external alterations. Internal modifications would be minor.

At 43 Lakin Street, we can ascertain the character test and physical appearance will support that of a typical C3 dwelling:

Proposed Use Details:

- The applicant intends to house up to two looked-after children as their main residence. There will be no alterations to the family home that would result in the property looking anything different to a regular home.

- The young people will have a "normal day to day routine" including full-time education, meals, school attendance, and trips out, mirroring a typical household routine.
- The residents and support staff will aim to "create a family setting" to maintain the residential character.

Amenity and Environmental Impacts (Traffic/Noise)

The level of impact on surrounding amenities, such as noise and car parking, can be evidence of a change in character, but is not the sole determinant.

- **Noise:** The property's construction (substantial brick walls) and the nature of the use are expected to ensure that any noise or disturbance is no greater than what is currently experienced under a C3 dwelling use.
- **Traffic and Parking:**
  - Unrestricted on street parking is available on Lakin Street and the surrounding streets. The site is located in close proximity to public transport links.
  - The proposed use involves two children and two support staff. Staff will work long shifts, and handovers are efficient (less than 10 minutes), minimizing changes.
  - The proposed use is not expected to intensify the use, increase parking demand, or negatively impact highway safety more than the existing C3 use.
  - The level of coming and going (to school, work, with limited shift changes) would be comparable to a family lawfully residing in the house. A typical family home, C3, will experience deliveries, visits from family and friends, persons providing professional services, all of which would result in the regular and typical traffic, parking at any time of the day or night. The intended use as a C2, is a slightly more controlled setting in terms of visitors for the sake of the mental and emotional stability of the children, and therefore the same, if not less, amount of comings and goings to the property are anticipated when it will be C2 as to the current C3, resulting in no material change.

Case Law and Appeal Decisions

Relevant decisions reinforce the view that the proposed use is not a material change:

- **No Material Difference in Activity:** Appeal decision APP/M4320/X/22/3300634 at 19 Winstanley Rod, Waterloo, Liverpool, L22 4qn for a similar change from C3

to C2 was allowed on the basis that the activity (comings and goings) would not be "materially different" from a typical family of four. **(Appendix 2)**

- **Activity Levels Unchanged:** In appeal APP/H4315/X/22/3294620 at 81 Penny Lane, Haydock, St. Helens, WA11 0QR, the Inspector agreed that the activity from children attending school and professional visits would not lead to more activity than a single household with visiting friends and relatives. **(Appendix 3)**
- **Similar Facts (Crownhill Road):** Appeal decision APP/K2420/X/11/21558499, at 15 Crownhill Road, Burbage, Hinckley, Leicestershire, LE10 2LD, which concerned a care home for three children (ages 9-17) with learning difficulties, found that while the use was C2, it was not materially different from C3, leading to the grant of a CLOPUD. **(Appendix 4)**
- **Limited Impact on Character (Ty Rhos Bach):** Appeal decision APP/P9502/X/13/2205394 at Ty Rhos Bach, Heol Senni, Brecon, Powys, LD3 8SU also allowed a CLOPUD for a C2 use due to the limited impact on the surrounding area, concluding that the use displayed features associated with a family dwelling. **(Appendix 5)**

These decisions, and many more up and down the country, clearly indicate that, on any reasonable assessment of the current application, a lawful development certificate for the proposed use should be issued on the basis that 'on the balance of probability' no material change of use is involved and, therefore, planning permission is not required.

Conclusion

This statement has provided comprehensive evidence and legal arguments to demonstrate that the proposed change of use at 43 Lakin Street from a Class C3 dwelling to a small residential care home (Class C2) for up to two looked-after children constitutes no material change of use and is therefore lawful without the need for planning permission.

Key Findings and Justification

The core of the argument rests on the following established facts and legal precedents:

- De Minimis Change: The dwelling's operation will closely mirror a conventional family home (C3 use). The two children and two support staff will function as a single household unit, engaging in a typical day-to-day routine, including education, home-cooked meals, and leisure activities.

- No Material Physical Change: There are no proposed external alterations to the property, and internal modifications are minor, ensuring the dwelling remains indistinguishable from other family homes on the street, satisfying the physical appearance test.
- Minimal Amenity Impact: The low number of residents (up to two children and two shift staff), the long staff shifts (48–72 hours), and the efficient electronic handover process will result in a level of comings and goings, traffic, and noise that is comparable to, or less than, a typical five-person C3 family household.
- Legal Precedent: Numerous appeal decisions, including those cited in the statement (e.g., *15 Crownhill Road* and *19 Winstanley Road*), have confirmed that a change from C3 to C2 for a small children's care home is not automatically a material change of use, affirming that the matter is one of "fact and degree" based on the specific circumstances.
- Policy Support: The proposal aligns with the Ministerial Statement of June 2023, which encourages home-like settings for vulnerable children and confirms that planning permission is not required where no material change to Class C2 is involved.

In compliance with Section 192 of the Town and Country Planning Act 1990, the evidence provided demonstrates, on the balance of probability, that the proposed use of 43 Lakin Street is lawful. The activity remains within the general character of a C3 dwelling, thereby avoiding a material change of use. We respectfully request that the Local Planning Authority issue a Certificate of Lawfulness of Proposed Use (CLOPUD) for the operation of 43 Lakin Street as a residential care home for up to two looked-after children.