PLANNING STATEMENT

Application for a Lawful Development Certificate: Use of a C3a dwelling as a children's home for a maximum of 3 children with EBD, with up to three carers, two of whom will sleep overnight, working on a rota basis (C2).

Manchester:

2 Queenhill Rd

Northenden,

Manchester M22 4HW

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INTRODUCTION

1.1. This application is being submitted on behalf of Nasrin Yusaf, who is seeking planning permission to use 2 Queenhill Road Manchester M22 4HW, a C3a dwelling as a small specialist care home for 3 children, which falls within use of class of C2 Class Order.

1.2. It is accepted that the proposed use falls within Use Class C2 and hence the change of use from C3 is not an automatic permitted change. However, it is nevertheless argued that there is little material difference between the current and proposed use, meaning that planning permission is not required.

1.3. The property will be registered as an Ofsted registered children's home for 3 children aged between 7 – 17 with EBD disabilities. Children will undergo an impact risk assessment before being placed within the home to ensure they integrate with the local community. This considers the home, the environment, the community, plus peers groups and assesses each child as an individual prior to admission into the home. The children are expected to stay at the property long term. The house is not considered as a temporary or emergency housing facility for children.

1.4. Section 55(1) of The Act defines the meanings of the term 'development' as including 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 for the purposes of The Act as amounting to development. 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 a building. 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.

1.5. In 2003 ministerial statement from Rachel Maclean (Minister of State (Department for Levelling up, Housing and Communities) stated:

- *The planning system should not be a barrier to providing homes for the most vulnerable children in society. When care is the best choice for a child, it is important that the care system provides stable, loving homes close to children's communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love'.*

- *Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country. It is important that prospective applicants talk to local planning authorities about whether their service is needed in that locality, using the location assessment (a regulatory requirement and part of the Ofsted registration process set out in paragraph 15.1 of the Guide to the Children's Homes Regulations) to demonstrate this.*

- *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.*

2. THE SITE



3. THE PROPERTY

3.1. The property is a 6-bedroom Semidetached house with ample parking in the court yard of the property.

3.2. It is the company policy to encourage staff to use public transport or cycle to work and not to allow street parking.

3.3. A vehicle will be available to transport the children when necessary to school and other recreational activities.

4. THE PROPOSAL

4.1. The home will aim to provide a smooth transition for children and young people who come to live, through careful planning and consideration.

4.2. The home will primarily serve medium to long term placements to minimize disruption to residents.

4.3. There will be no external alterations to the building or surrounds. From the outside, there will be no change in the appearance or character of the dwelling.

5. PLANNING AND ASSESSMENT

5.1. It is accepted that where care is provided and this is not the main residence of the carers, the use falls within C2 and not C3.

5.2. The change of use would be material is also well established by the courts.
Notwithstanding whether the use is considered to be within Class C2, rather than Class C3b, planning permission would not be required if the change would not be a 'material change' of use. It is still necessary to consider therefore, whether that change of use would be 'material'. It is a matter of fact and degree, in the circumstances of an individual case, as to whether a change of use will be 'material'.

5.3. By way of a guide, differences which might be considered 'material' are those which are measurable or quantifiable as resulting in a significant or substantial change or step up in the character or impact of a use.

A. OFSTED

5.4. Before any home can open, it must gain the approval of OFSTED which has regulatory powers outside normal planning control. OFSTED will require a local risk assessment before approving the property as a care home. Planning is therefore not the only form of regulation which controls the suitability of the location. A basic principle in assessing a planning application is whether there is other legislation which is more appropriate to regulate the proposed development. In the case of children's care homes, the relevant powers are set out in:

- Care Standards Act 2000
- The Care Standards Act 2000 (Registration)(England) Regulations
- 2010 The Children's Homes (England) Regulations 2015
- Children's Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013

5.5. Under the requirements of OFSTED, such care homes must be run as closely as possible to a typical family household, while accepting staff are employed on a rota basis to provide the parental support to the children so many have missed in their early years. The only physical requirements specified by OFSTED are emergency lighting (no external visual distinction from

normal lighting) and locks on bedroom doors for the privacy of each child (not a material issue for planning).

5.6. The Ofsted Guide to Children's Homes stipulates that all children's homes must have a children's guide. It advises that a cared-for child's bedroom should not generally be entered without their permission and that children should be provided with appropriate, lockable furniture to store their personal items, including any personal information. It also provides advice on the use of CCTV and monitoring equipment within the home. It stipulates at length the information, monitoring and record-keeping that a children's home must carry out and the procedures that it must have in place, Ofsted will inspect a children's home each six months and an independent observer must assess the home each six weeks.

B. Risk Assessments

5.7. Before OFSTED will give their approval, they require a Location Risk Assessment to be carried out to determine the suitability of the area for a children's care home. This involves consultation with local police and social services departments. There will also be an impact risk assessment for each child where a referral has been made. This impact assessment considers all the child's needs and looks at the compatibility with the young people already within the home.

5.8. Unless they are approved by a local authority social services department, children will not be placed in the home. They are also able to confirm the urgent need for this type of facility.

C. Fire Regulations

5.9. In terms of fire regulations for care homes, the only physical requirement is to have a fire door on those leading to escape corridors. The physical appearance of such doors is not materially different from normal doors and has no material impact on the character of the property.

D. Assessment

5.10. The task must be to compare against that 'baseline' the character of the current land use with what is now proposed. In so many respects the use would operate in a way that is very similar to a normal family home. The property would provide the young people with their sole and main residence, with free and shared access to living, dining, and kitchen facilities, an ability to take shared meals prepared for them or make their own food or drink.

5.11. The residents would be taken to and brought home from school each day and with their carers they would interact with the property and the residence in a way that is very similar to an adult resident, parent or guardian. The residents would eat together and carry out domestic chores. The home would seek to foster lifestyles which would be the same as if the residents were children living in a family home.

E. Comings and goings

5.12. In terms of comings and goings, there would be little difference from the current use as a family dwelling to influence its character.

5.13. The comings and goings are not considered to be significantly different from those associated with the current use as a family. The home manager, also a carer, would arrive most weekday mornings and leave each evening, representing two car movements. In terms of the other two

staff on the premises, they would normally work on a 48-hour shift basis, which would involve only one change over each day.

5.14. All household chores such as cleaning, cooking and gardening involve the children and no additional staff are employed at the premises.

5.15. The current use as a large family house could typically have two parents with their own cars and possibly children with their own cars. This would generate potentially more movements than indicated in the following schedule.

F. Visitors

5.16. In addition to OFSTED's one visit per year, there will be visits by local social services circa every four to six weeks and one Regulation 44 each month. Usually, one social worker would visit all the children, although it may be more than one if the children are from different local authority areas.

5.17. Depending on the needs of the individual children, there may be occasional visits by other social workers. In addition, there may be visits by family members and friends, although these are carefully managed in advance, subject to the child's individual care plan. These visits are no more frequent than those to a typical family by friends or relatives.

G. Impact of the presence of staff

5.18. Visually, the property would look no different to the adjacent houses. During the day, there could be three members of staff in the property at any one time, but this would have no impact on the amenity of the area. The current use for a family with children and parents working from home could have the same impact.

5.19. In terms of the nature of the proposed use, paragraph 25 of Circular 05/2010 is relevant. It states that the criteria for determining whether the use of particular premises should be classified within the C3 use class (or similar) includes both the manner of the use and the physical condition of the premises. The circular states that the premises can properly be regarded as being used as a single dwelling house where they are:

- *a single, self-contained unit of occupation which can be regarded as being a separate 'planning unit' distinct from any other part of the building containing them.*

- *designed or adapted for residential purposes containing the normal facilities for cooking, eating and sleeping associated with use as a dwelling house.*

H. Fear of Crime

5.20. The fear of crime and anti-social behaviour is a material planning consideration which might weigh against the granting of planning permission. The application is not an application for planning permission, however, and given that this is a matter of planning merit and in the absence of any basis to conclude that crime and anti-social behaviour are an inherent part of

the character of the proposed use, such a fear is not relevant to the determination of this application for a Lawful Development Certificate.

5.21. The nature of the children is not therefore material to the determination of this application.

6. RELEVANT CASE APPEALS

6.1. *Appeal Ref: 3161037* - where the Inspector concluded a similar use would not result in significantly more movements to give rise to planning concerns.

6.2. *Appeal ref: 3263178* – "*The number of these movements is unlikely to be significantly more than the number that would be undertaken by a family and certainly not enough to result in a level of intensification in the use of the site that gives rise to concerns from a planning point of view. There is insufficient evidence before me to show that the use would be likely to result in greater levels of noise and disturbance than the existing authorised residential use."*

6.3. *Appeal Ref: 2162636* - There can be concern that the use would result in more noise and possibly anti-social behaviour due to the background of the children. A useful answer to this concern is contained in appeal decision:

11. The fear of crime is a material consideration in the determination of the appeal. However, the weight that can be attributed to it depends on whether or not the evidence shows that the potential risk of crime is shown or expected to be high and the consequences for the community and individuals are serious. Whilst it is acknowledged that the incidents cited by the local residents would cause upset, they are not altogether unusual occurrences in modern society. Some of the incidents raised issues relating to the running of the home which have the potential to be overcome by changes to the management of the site. None of the evidence suggests that the potential risk from crime is shown or expected to be high or that the consequences for local residents are serious.

12. The evidence therefore leads me to conclude that the effect of the development on the living conditions of the occupiers of neighbouring dwellings regarding risk of crime would be low and carries insufficient weight to warrant dismissing the appeal on these grounds.

6.4. *Appeal ref: 2162636* - an Inspector noted that although the building would be fitted with an office [and fire alarm], this was not uncommon in many dwelling houses around the country and would not materially alter its basic character as a dwelling house. There are no major modifications required to this property.

6.5. *Appeal Ref: 32993519* - also provides a useful assessment of a similar care home. In paragraph 12 it states:

'Whilst there will be some additional comings and goings associated with the use as a residential care home, there is no evidence before me to dispute the appellant's case that the use will not give rise to a greater level of disturbance than could be generated by the lawful use as a C3 dwellinghouse. The additional comings and goings identified by the appellant and Council are at a sufficiently low level so as to remain within the parameters of what could be usually expected of a family home and not therefore materially different so as to change the character of the property. Similarly the number of people who will be typically present at the property, and therefore the associated waste generated, is not significantly higher than could be expected with its current lawful use'.

7. CONCLUSION

7.1. It is maintained that there is no material difference in planning terms between the proposed use and the current use as a dwelling. The carers, working on a rota basis, would effectively live at the dwelling house to provide 24-hour care, as a single household.

7.2. Facilities such as the bathroom, kitchen and living rooms would be shared and the living mode would be communal. The comings and goings associated with the use would not be materially different from the current use as a family dwelling.

7.3. The proposed use is to provide a stable home environment for the occupants as their main and sole residence and that the length of stay is generally more than temporary or passing. It would not be a 'half way' house or provide overnight emergency lodgings for example. However, in any event, the courts have provided some assistance in determining the significance of there being a commercial factor to a residential use or an arrangement where the occupants have generally only a limited period of stay.

7.4. The prevailing character of the proposed use would be that of a small group of children living together and using the property in a way similar to that of a family home where they would be supervised and cared for by adult guardians. While there might be identifiable differences, between proposed and existing uses, these would not be 'material' or easily measurable and quantifiable against the rather flexible characteristics and impacts of a lawful dwelling house.

7.5. Following Gravesham BC v Secretary of State for the Environment [1982], the court accepted that the distinctive characteristic of a dwelling house was its ability to afford to those who used it the facilities required for day-day private domestic existence. It did not lose that

characteristic if it was occupied for only part of the year, or at infrequent intervals, or by a series of different persons, or if it was under commercial management.

7.6. It is maintained that the nature of the use is not materially different from the current use as a family dwelling. Comings and goings would be no greater than occur at present, hence there would be no undue disturbance to any neighbours.

7.7. The local authority is therefore respectfully requested to support the application to allow this much needed facility to be established**.**

END OF PLANNING STATEMENT