

PLAN & DESIGN CONSULTANCY

PLANNING STATEMENT

Planning Statement

APPLICATION FOR LAWFUL DEVELOPMENT CERTIFICATE FOR PROPOSED USE OR DEVELOPMENT

PROPOSED USE OF DWELLINGHOUSE (USE CLASS C3) AS A CHILDREN'S HOME (USE CLASS C2) FOR UP TO THREE CHILDREN WITH UP TO THREE CARERS/MANAGER, WITH TWO CARERS STAYING OVERNIGHT WORKING ON A ROTA BASIS.

Contents Page

Introduction……. 3

Site Description…….. 3

Submissions……... 4

The Proposal…….. 6

Conclusion……... 10

1.0 Introduction

1.1 This Planning Statement has been prepared in support of a Certificate of Lawful Development application seeking planning permission to use 348 Plymouth Grove (Use Class C3), as a small specialist Ofsted-registered care home for up to three children, looked after by up to three carers and a manager which falls within use Class C2 of the Use Classes Order.

1.2 The application relates to an existing five-bedroom dwelling house. The proposal involves the conversion of an existing five-bedroom dwelling into a six- bedroom residential care home through the conversion of the existing second living room into a ground-floor bedroom, to accommodate residents who may have difficulty using the stairs, allowing for ease of access.

1.3 The proposed works are limited to internal reconfiguration only and would not involve any alterations to the internal structural layout or any external changes to the building. The property would therefore retain its existing residential appearance and character, remaining consistent with the surrounding residential area. The proposed care home will provide supported residential accommodation within a domestic environment, delivering an important form of social infrastructure consistent with local and national planning objectives.

2.0 Site Description

2.1 The application site comprises a large residential property located on Plymouth Grove, Manchester. The property benefits from a private driveway capable of accommodating four vehicles, with additional on-street parking available.

2.2 The site benefits from good accessibility to local services and public transport links along Plymouth Grove and Stockport Road. The property is located approximately 0.1 miles from New Bank Health Centre and 1 mile from Manchester Royal Infirmary Hospital, providing proximity to healthcare facilities and related services.

2.3 The site therefore benefits from adequate accessibility and infrastructure to support the proposed use.

3.0 Submissions

3.1 The lawful existing use of the site is a private residential dwellinghouse within Use Class C3. The property can accommodate a range of domestic living arrangements, including a large family household, a couple or a group of cohabiting adults. It is submitted that the proposed use as a small children's care home would not alter the residential character or function of the property when compared to the current use as a family dwellinghouse.

3.2 The children are expected to reside at the property on a medium to long-term basis within a stable, family-style environment. Before placement, each child will undergo an impact assessment, which will consider the home, environment, community, peer groups and the unique needs of each child. Care staff would operate on a rota basis to provide continuous support, but would not permanently reside at the property.

3.3 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.

3.4 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 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."*

3.5 The judgment confirmed that children are incapable of forming a 'household' for the purpose of Use Class C3, it further established that carers who provided 24-hour care but were not residents could not be regarded as forming part of a household. 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 reaffirmed that the use of premises as a children's home will generally be considered to fall within planning use class C2.

3.6 The change of use from C3 does not qualify as an automatic permitted change. However, it is submitted that there is minimal 'material' difference between the existing and proposed use. Whether a change of use would be deemed a 'material change' has been established by the courts. In assessing whether the change would be considered 'material' depends on the facts and circumstances of each individual case and requires an evaluation of whether the change of use will be 'material'. As a general 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. It is submitted that the proposal outlined in herein does not constitute a 'material change' of use.

3.7 Section 192 (1) of the Town and Country Planning Act 1990 ('TCPA'). Allows any person wishing to ascertain whether a proposed use of land or buildings or operational development would be lawful to submit an application to the Local Planning Authority (LPA). S192(2) allows a LPA to grant a Certificate of Lawfulness if it is satisfied with the evidence submitted in support of the application.

3.8 Section 55(1) of The Act defines "development" as including any material change in the use of a building. However, Section 55(2)(f) specifies that when a building is used for

purposes within a class designated by the Secretary of State, changing its use to another purpose within the same class does not constitute development under The Act.

3.9 Section 57(1) states that planning permission is required for any development of land, with "land" defined in Section 336(1) to include buildings. Furthermore, Section 192 of The Act (as amended) allows for applications to be submitted to the local planning authority to determine whether a proposed use of a building is lawful, which is the purpose of this application.

3.10. In a ministerial statement from Rachel Maclean (Minister of State (Department for Levelling up, Housing and Communities in May 2023) she 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'.*

3.11. 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.

3.12 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.

3.13 In assessing this application for a lawful development certificate as a children's care home it is understood that the local planning authority will consider the nature of the proposed use and whether this is 'materially' different to the use of the property as a typical C3(a) dwelling.

3.14 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 modern house on a residential estate which was proposed to operate as a care home for children between the ages of 9 and 17. The home was proposed to 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. 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 family house. On this basis it was 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. Other subsequent appeal decisions for similar care homes, and decisions made by neighbouring local authorities on applications, have reaffirmed this approach including application 137956/LP/2023 which was granted by the Council in November 2023.

4.0 The Proposal

4.1. The home will aim to provide a smooth transition for children, who will come to live there through careful planning and consideration. It will primarily serve medium to long term placements to minimise disruption to residents.

4.2. 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.

4.3 Up to three children would live at the house, with three carers/manager working on a rota basis. The carers would operate on a shift pattern of 12 hours. Changeover times will last around ten minutes. The changeover of the care staff will occur at 10:00 am and 10:00 pm each day. With two staff members working on a rota basis staying overnight (or waking night). A manager would be at the premises most days between 09:30 am to 5.30 pm.

4.4 The primary purpose of the home is to support children in building confidence, developing essential life skills, and preparing for independent living. The home will provide high-quality residential care, offering a structured period of support and intervention to help them feel secure whilst achieving consistency and stability in their lives.

4.5 The proposed children's home is intended to operate in a manner to closely replicate a typical family environment. The property would provide the children with their sole and primary residence, providing shared access to domestic living, dining, and kitchen facilities. Residents would have the ability to have shared meals prepared for them or make their own food or drink. Alongside their carers, they would interact with the property in much the same way as a parent, guardian, or adult resident would. Creating a warm and nurturing atmosphere and providing consistency and stability to the children who live there (similar to a fostering model). This approach aligns with government policy, which encourages creating nurturing settings for children who, through no fault of their own, have not experienced effective parenting during their early years. Without such homes and positive interventions, these children when they leave the controlled environment of care homes will often end up in adult institutions, suffering from long term mental health problems.

4.6 The provider will collaborate closely with the local authority to deliver tailored support for each child, aiming for a smooth transition and eventual reintegration into a family environment, whether with their own families or foster families. The home will provide personalised care packages designed to meet the diverse backgrounds and needs of the children it serves. It will primarily focus on medium to long-term placements, prioritising the well-being of each child while aligning with the requirements of the local authority.

4.7 During the day it is expected that the children would engage in various activities, plus attend a mainstream or special school. Each individual child's circumstances will be assessed on a case-by-case basis with steps taken to provide the necessary support required. Where a child has missed an extensive proportion of their education or are affected in a way that they could not work effectively in a classroom environment, they could be tutored from home for a

period. This would be achieved online without any tutors having to come to the house. They may then progress to a specialist unit (smaller class sizes) then hopefully onto mainstream. In cases where children may have a home tutor, this is no different from an ordinary family that chooses to have their children educated at home. It makes no difference to the planning status of the use.

4.8 Visually, the property would appear identical to the neighbouring houses. During the day, up to three staff members may be present at the property, but this would not affect the area's amenity. The current use, with a family of children and parents working from home, could have a similar impact.

Regulatory Oversight – OFSTED & Local Authorities

4.9 Before the home can commence operations, it would need to be registered with OFSTED which also holds regulatory powers beyond standard planning controls. Having the appropriate planning consent will not, of itself enable a residential children's home to open at the property if it does not also meet the strict regulatory requirements set out by OFSTED. When operational the home will also be regulated, and subject to regular inspections by OFSTED. Indeed, Ofsted's regulatory powers would also extend to it having the option to close the home if it subsequently failed to meet all of the regulatory requirements.

4.10 OFSTED mandates a local risk assessment as part of its approval process to ensure the property is suitable as a care home. This involves consultation with local police and social services departments. Consequently, planning is not the sole mechanism governing the appropriateness of the location.

4.11 A fundamental principle in evaluating a planning application is determining whether other legislation is better suited to regulate the proposed development. For children's care homes, the relevant regulatory framework is established under the following legislation:

- 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

4.12 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 children already within the home. Unless approved by the local authority's social services department, children will not be placed in the home. The local authority's social services department are also able to confirm the urgent demand for this type of facility.

4.13 Under Section 22G of the Children Act 1989, local authorities have a statutory responsibility to take steps, as reasonably practicable, that ensure children in care are provided with accommodation that '(a) is within the authority's area; and (b) meets the needs of those children.' Three reports were published in 2020 by the Children's Commissioner: 'The Children who no-one knows what to do with'; 'Private provision in children's social care' and 'Stability index 2020', which point out the failings of local government to meet this responsibility.

4.14 The papers summarise the findings of three years of work by the Children's Commissioner's Office and explain the failure of both national and local government to adequately meet the needs of these children. The report (page 15) states: 'Local authorities are highly reliant on the independent sector, particularly for children's residential care…… Given this reliance, it is imperative the market works well and that commissioning and procurement are improved to ensure no child is placed in unsuitable care settings. Recommendations: The Government should consider the barriers to creating more residential care placements to increase supply'.

4.15 The OFSTED Guide to Children's Homes mandates that all such homes must provide a children's guide. It emphasises respecting a child's personal space, advising that their bedroom should generally not be entered without their permission. Additionally, children should have access to appropriate, lockable furniture to secure their personal belongings and private information. The guide also addresses the use of CCTV and other monitoring equipment within the home. It outlines detailed requirements for record-keeping, information management, and operational procedures. According to OFSTED requirements, care homes for children must operate as closely as possible to a typical family household.

Adjustments to Home & Fire Regulations

4.16 The physical adjustments required by OFSTED are minimal these including emergency lighting and locks on bedroom doors to ensure each child's privacy, neither of which are material planning considerations.

4.17 Regarding fire regulations for care homes, the sole physical requirement is the installation of fire doors on doors leading to escape corridors. These fire doors are visually similar to standard doors and do not have any material impact on the character or appearance of the property.

4.18 There will be no external modifications to the building or its surroundings. The appearance and character of the dwelling will remain unchanged from the outside ensuring no disruption to neighbouring residents and no material impact on the character or appearance of the property.

Visitors

4.19 Visitors to the site will be limited. Local social services will visit every four to six weeks. 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. Depending on the needs of the individual children, there may be occasional visits by other social workers.

4.20 There will be one independent monitoring visit/Regulation 44 each month. OFSTED undertake one visit to the children's home per year and Healthcare Professionals, such as therapists or support workers, may visit when required.

4.21 In addition, there may be visits by family members and friends, although these are carefully managed in advance, subject to child's individual care plan. These visits are no more frequent than those to a typical family by friends or relatives.

4.22 To ensure the safety and well-being of children in a home, all visitors will be required to provide advance notice of their visit. They will be vetted to ensure they are authorised to enter the home. Visitor's identities will be verified, and all visits recorded with names, reason

for visit and entry/exit times. Staff will adhere to the home's policy and procedures and ensure all visitors are aware of the emergency procedures and the home's policies.

Comings and Goings

4.23 In terms of comings and goings, there would be little difference from the current use as a family dwelling to influence its character. 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 12-hour shift basis, which would involve only two changes over each day.

4.24 The children would be transported to and from school/college each day as would be the case in any family environment. All household chores such as cleaning, cooking and gardening involve the children and no additional staff would be employed at the premises. The in and out movement based on experiences of other similar homes is in line with what the movement is expected from the proposed children's home in a typical week. Therefore, regarding comings and goings, there would be minimal difference from the current use as a family dwelling, meaning its character would not be significantly influenced.

4.25 It is submitted that the proposed use, as outlined in this supporting statement, would not differ significantly from a typical household. This is supported by the Egerton Appeal (Appeal Ref. 3161037) where the Inspector concluded a similar use would not result in significantly more movements to give rise to planning concerns.

4.26 A similar conclusion is drawn in the Dale Road appeal (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.'*

4.27 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 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'.*

Parking and Transport

4.28 The property driveway can accommodate four vehicles. On street parking is also available.

4.29 A vehicle will be available to transport the children when necessary to and from school or for other visits/trips which will be kept on the property's driveway.

4.30 All visitors are encouraged to use public transport when visiting, however where this is not possible there is on street parking within walking distance of the property.

4.31 The area has good transport links. It is company policy to encourage all staff to use public transport (by offering free bus passes and subsidising taxi fares) or cycle to work (cycle to work scheme) and not to encourage on street parking.

4.32 The care company aims to recruit staff locally to reduce the number of people and cars coming into the area.

Crime & Anti-social Behaviour

4.33 The concern about crime and anti-social behaviour is a relevant planning consideration that could influence the decision on planning permission. However, this application is not for planning permission. Since this is a matter of planning merit, and there is no evidence to suggest that crime or anti-social behaviour are inherent to the proposed use, such concerns are not pertinent to the determination of this application for a Lawful Development Certificate.

4.34 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 (Appeal Ref.2162636-):

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. 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.

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

5.0 Conclusion

5.1 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. Facilities such as the bathroom/wc, 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.

5.2 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.

5.3 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.

5.4 The lawful use of a dwelling house, included in Class C3 of 'the UCO 1987', is broad in scope and could in association bring with it considerable activity, associated and ancillary use, or vehicular movement. 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.

5.5 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 what occurs at present, hence there would be no undue disturbance to any neighbours.

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