



PLANNING STATEMENT

Application for Lawful Development Certificate re: use of a dwelling (C3a) as a children's home for three children, with a manager and three carers, two of whom would sleep or be awake overnight, working on a rota basis (C2).

**967 Manchester Road,
Bury,
BL9 8DN**

16/09/2024



1. The Proposal

- 1.1. This statement has been prepared by Adrian Rose, of Rose Consulting, on behalf of Mr Zeeshan Chaudary, Accord Care Homes Ltd, to change the use of 967 Manchester Road, a C3a use, to a C2 children's care home for three children, to be looked after by a manager and up to three carers, two of whom would sleep overnight.
- 1.2. Accord Care Homes partners with Local Authorities to provide high-quality accommodation and services for young people who require care. This is an ideal location for providing a home for the young people in our care. It offers a lifestyle that promotes independence while also providing necessary care. The development is designed to meet the current and future needs of young people. It is believed it will help create a diverse and balanced community.
- 1.3. The purpose of the application is to enable the creation of a children's home for children that have been taken into care permanently. The property would become a long-term home for up to three children. According to the Ofsted report, Children's social care data in England 2022-23 *'There is a growing demand for children's social care services' and it shows the decrease, nationwide, in the number of local authority homes and an increase in the number of privately run homes'.*
- 1.4. 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.
- 1.5. Following the North Devon case (North Devon District Council v First Secretary of State [2003]), carers who do not live at the property as their main residence, cannot be considered to be part of a household under C3b. However, it is still



maintained there is no material difference in the nature of the proposed use, from the current use, which would require planning permission.

1.6. 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. 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.

1.7. 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 states: *'Local authorities are highly reliant on the independent sector, particularly for children's residential care. Costs are increasing but it's unclear why. 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'.*

1.8. 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’.

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.

- 1.9. The proposed children’s home seeks to replicate as closely as possible a normal family environment. This type of provision, which government policy is promoting, is to help children who often, through no fault of their own, have not had good parenting in their early years. These are not children with special needs, who would come under Use Class C2a.



- 1.10. The proposal is to register the property as a registered children's home for a maximum of three children aged up to 18 years. The Home will be managed by a Registered Manager and children would be looked after by a manager and three carers, two of whom would sleep/be awake overnight (working on a rota basis).
- 1.11. 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.
- 1.12. OFSTED is responsible for inspecting and imposing conditions upon the registration of Children's Homes such as this. Accordingly, OFSTED would have the power to closely monitor the unit to ensure that the requirements under the Care Standards Act and Residential Family Centres Regulations 2002 are met. Accordingly, a separate regulatory body exists to ensure standards and operations within the unit are acceptable.
- 1.13. 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 security cameras (although not essential and not materially different from a system found in many households), 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).
- 1.14. In terms of fire regulations for care homes, the only physical requirement is to have fire doors. The physical appearance of such doors is not materially different from normal doors and has no material impact on the character of the property.



- 1.15. The application is to ensure that the property acquired will meet the necessary planning requirements, needed to achieve OFSTED registration.
- 1.16. The property is a five bedroomed detached house, currently used as a dwelling under C3, with two off street parking spaces to the front. It is the company policy to require staff to use public transport (by means of free bus passes or subsidised taxi fares) or cycle to work and not to allow on street parking.
- 1.17. Three children would live at the house, with two carers working on a rota basis sleeping overnight. Six carers would operate on a shift pattern of 48 hours on, 60 hours off. A manager, who is also a carer, would also visit the site each weekday between 9am and 5pm, plus a daily carer would visit each day between 9am and 6pm. There will rarely be no more than four staff on the premises at any one time'. These comings and goings are set out in the table below.
- 1.18. The purpose of the home would be to support the children to build their confidence, help them in developing life skills and prepare them for life when they leave the home to fend for themselves. This type of support has been found to be most effective in helping these children to have normal lives and not experience problems in later life.
- 1.19. During the day it is expected that the children would engage in various activities, plus attend a mainstream school.
- 1.20. With regards to schooling, it is sometimes the case that when young people come into care, they have missed an extensive proportion of their education or are affected in a way that they could not work effectively in a large classroom environment. Given this, they would be tutored from home initially. This is all achieved online, supported by their carer, without any tutors having to come to the



house. They may then progress to a specialist unit (smaller class sizes) then hopefully onto mainstream. This is no different to an ordinary family who chooses to have their children educated at home and it would make no difference to the planning status of the use.

1.21. The applicant has confirmed that 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.

1.22. The children's home model is to create a warm and nurturing family style environment for the medium to long-term care of a small number of children. This type of provision is operated in the same manner as a regular family home with two primary carers, to provide consistency and stability to the children who live there (similar to a fostering model).

1.23. Care is provided in small sized family units where residential carers help to develop the social and life skills needed when the children no longer live within an institution. 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 health problems.

2. Planning Assessment

2.1. 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 C3b.

2.2. There is some case law which establishes that if the carers work on a rota basis and that it is not their permanent residence, the use must be regarded as C2 and



not C3b. In the judgement of Mr. Justice Collins in *North Devon District Council v First Secretary of State* [2003]. J. Collins was clear on the facts of that particular case, that carers who do not live but who provide, not necessarily through the same person, a continuous 24-hour care cannot be regarded as living together and that, whilst there would be less than six residents, the children, without at least one adult living with them at the premises, would not be capable of being regarded in the true sense as a household.

- 2.3. Whether 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'.
- 2.4. 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.
- 2.5. In terms of comings and goings, there would be little difference from the current use as a dwelling to influence its character. These movements are considered further below.
- 2.6. In addition to OFSTED's one visit per year, there will be one visit by local social services each six weeks and one Regulation 44 visit per month.
- 2.7. There may be other occasional visits from local social services depending on the needs of each child. In the schedule this is shown by two movements once a week. There may also be visits by family or friends, which would be in accordance with



the child's care plan. This would be no different from children in a typical household.

Assessment

2.8. 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 children 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.

2.9. The children 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 in line with developing their semi-independence living skills. The home would seek to foster lifestyles which would be the same as if the child was living in a family home. This is shown in the schedules as 2 comings and goings on a Saturday and a Sunday.

Comings and goings

2.10. The comings and goings are not considered to be significantly different from those associated with the current use. The home manager would arrive most weekday mornings and leave each evening, representing two car movements at most, depending on whether they travel on public transport. 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 of overnight staff each day at around 10 am.



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

2.12. The most recent occupiers, prior to the placement (a family of two adults and two children) have provided an estimate of the average number of comings and goings. This is compared below with the expected number of car movements from the proposed use, based upon other similar homes. There will not be a material difference. In the schedule below each figure represents a single movement either in or out over a typical week

Schedule 1- Current Weekly Movements (estimated by current occupants)

Activity	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Travelling to work		2	2	2	2	2	
School run		4	4	4	4	4	
Shopping/ Social/recreational outings	4						4
Visitors	2			2			2
Total Movements (in and out)	6	6	6	8	6	6	6

Schedule 2 – Proposed use (based upon experience of other homes)

Activity	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Home Manager and daily carer	2	4	4	4	4	4	2



Care workers starting and finishing shift	2	2	2	2	2	2	2
School run		4	4	4	4	4	
Shopping/ Social/recreation	4						4
Visitors	2			2			2
Total Movements (in and out)	10	10	10	12	10	10	10

2.13. On this basis it is maintained that the proposed use as detailed in this supporting statement would be similar the current use. 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.

2.14. 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.'*

2.15. 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'.

Impact of the presence of staff

2.16. Visually, the property would look no different to the adjacent houses. During the day, there could be four members of staff in the property at any one time, but this would have no impact on the amenity of the area.

2.17. 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.*



2.18. In an appeal in Stockport (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.

Fear of Crime

2.19. 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.

2.20. 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-):

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.

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

3. Conclusion

3.1. 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.

3.2. 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.



- 3.3. 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.
- 3.4. 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.
- 3.5. 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 occur at present, hence there would be no undue disturbance to any neighbours.
- 3.6. The local authority is therefore respectfully requested to support the application to allow this much needed facility to be established.

