

PLANNING STATEMENT

25 Heathfield Road, BL9 8HB

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Executive Summary

This Planning Statement has been prepared in support of an application for a **Certificate of Lawfulness of Proposed Use** under **Section 192 of the Town and Country Planning Act 1990** in respect of **25 Heathfield Road, BL9 8HB**.

The application seeks formal confirmation from **Bury Metropolitan Borough Council** that the proposed use of the existing dwellinghouse as a small, family-style children's home accommodating **one child or young person aged 7–18 years** would be lawful if implemented.

The property comprises an existing **3-bedroom, 1-bathroom semi-detached dwellinghouse**. The property has a domestic layout. No external alterations, extensions, engineering works, subdivision or operational development are proposed.

The proposed use would fall within **Use Class C2** because care would be provided by non-resident care staff working on a rota basis. However, the central question for the purposes of this application is not simply whether the use falls within Class C2. The correct legal question is whether the proposed use would result in a **material change of use** from the existing lawful use of the property as a dwellinghouse.

The proposal has been carefully designed to remain small-scale, domestic and low intensity. It would provide accommodation for **one child only**, would not accept emergency placements, would not operate as a hostel, HMO, refuge, short-stay crisis unit or secure children's home, and would not involve any public-facing activity.

The applicant is the owner of the property. It is intended that an external children's home operator would take over the day-to-day management, staffing, care provision and regulatory responsibilities. The absence of a named operator at this stage does not alter the planning assessment, because the certificate is sought for a clearly defined proposed use of the land and building.

The submitted floor plans show a conventional domestic layout. The ground floor includes a **living room, kitchen/dining room**. The first floor includes **Bedroom 1, Bedroom 2, Bedroom 3**, a bathroom and hallway. Bedroom 1 would be used as the child's bedroom, Bedroom 2 would be used as staff quarters / office and storage, and Bedroom 3 would be retained as a flexible room.

Recent Bury Metropolitan Borough Council decisions strongly support the proposed approach. The Council has recently granted certificates for comparable C3 to C2 children's home uses, including **149 Wood Street, Bury**, approved as a small children's home for **one child aged 7–18** with non-resident staff on a 24-hour rota, and **109 Windsor Road, Prestwich**, approved for **one young person aged 8–18** with up to three carers working on a rota basis.

For planning certainty, the proposed use would be limited to a maximum of three non-resident staff or carers present at the property at any one time. This maximum would include any Registered Manager, Duty Manager, senior staff attendance and temporary staff handover.

For the reasons set out in this statement, it is respectfully submitted that the proposed use would not materially alter the character, scale, appearance, activity or planning consequences of the existing dwellinghouse. The proposal would not constitute development within the meaning of Section 55 of the Town and Country Planning Act 1990 and should therefore be certified lawful under Section 192.

1.0 Purpose of this Statement

1.1 Introduction

This Planning Statement has been prepared in support of an application for a **Certificate of Lawfulness of Proposed Use** pursuant to **Section 192 of the Town and Country Planning Act 1990**.

The application relates to:

25 Heathfield Road, BL9 8HB

The application seeks confirmation that the proposed use of the property as a small, family-style children's home accommodating **one child or young person aged 7–18 years** would be lawful if instituted at the date of the application.

The proposed use would be operated as a small domestic children's home. The child would reside at the property as their home and would be supported by non-resident care staff working on a rota basis.

The proposal has been specifically designed to operate at a very limited scale within a conventional residential dwelling. The key operational limitations are:

- maximum of one child or young person only;
- a maximum of three non-resident staff or carers present at the property at any one time, inclusive of management attendance and temporary handover;
- no emergency placements;
- no external alterations;
- no signage;
- no public-facing use;
- no institutional appearance;
- no subdivision of the dwelling;
- no use as a hostel, HMO, refuge, secure accommodation or short-stay crisis facility;
- no use of the property as a general staff base, regional office, training venue or meeting facility;
- continued use of the property as a single domestic planning unit.

The application therefore relates solely to the proposed use of the existing dwellinghouse. It does not seek permission for building works, external alterations, engineering operations or an intensified institutional use.

1.2 Recommended Description of Proposed Development

The recommended description for the Certificate of Lawfulness application is:

“Application for a Certificate of Lawfulness of Proposed Use for the use of the existing dwellinghouse as a small family-style children's home, falling within Use Class C2, providing residential care accommodation for one child or young person aged 7–18 years, with care provided by non-resident staff working on a rota basis.”

This wording is deliberately precise. Government guidance confirms that, where a certificate is granted under Section 192, the proposed use or development carried out in accordance with it is presumed lawful, subject to there being no material change in relevant circumstances before the use begins.

1.3 The Legal Test

A Certificate of Lawfulness application is materially different from a planning application.

The Local Planning Authority is not being asked to decide whether the proposal is desirable as a matter of planning policy. It is being asked to determine a legal question:

Would the proposed use be lawful if instituted at the date of the application?

The burden of proof rests with the applicant and the applicable standard is the balance of probability.

The principal issue is whether the proposed use would constitute a **material change of use** from the existing lawful use as a dwellinghouse.

It is accepted that the proposed use would fall within **Use Class C2**, because the child would be cared for by non-resident staff working on a rota basis. However, a change from C3 to C2 does not automatically mean that planning permission is required. The determining question is whether the practical character of the use would become materially different in planning terms.

1.4 Purpose of this Statement

This statement has been prepared to:

- describe the site and property;
- explain the proposed operational model;
- set out the legislative and policy framework;
- assess the proposed use against the legal test for materiality;
- address relevant case law and appeal principles;
- rely upon recent Bury Metropolitan Borough Council LDC decisions;
- demonstrate that the proposal would retain a residential character;
- demonstrate that the proposal would not result in a material change of use;
- establish that the proposed use is lawful.

This statement should be read alongside the submitted application form, site location plan, floor plans, Materiality Position Statement, Operational Summary, Good Neighbour Policy and Needs and Demand Statement.

2.0 Site and Property Description

2.1 Site Location and Context

The application property is located at 25 Heathfield Road, BL9 8HB, within an established residential area in the Borough of Bury.

The property sits within an established residential area. The surrounding area is characterised principally by domestic housing and ordinary residential activity, including family occupation, school journeys, commuting, visitors, deliveries, tradespeople, healthcare visits and general household activity.

The property is not located within a commercial or institutional complex. It forms part of a normal residential street and has the appearance and function of a conventional dwellinghouse.

The local area benefits from access to public transport.

2.2 Description of the Property

The property comprises an existing **3-bedroom, 1-bathroom semi-detached dwellinghouse**.

The submitted ground floor plan shows a conventional residential layout comprising:

- living room
- kitchen and dining room

The submitted first floor plan shows:

- **Bedroom 1**
- Bathroom
- **Bedroom 3**
- **Bedroom 2**

2.3 Proposed Internal Arrangement

The property would remain in domestic use as a single planning unit.

The proposed internal arrangement would be:

Bedroom 1

Bedroom 1 would be used as the sole bedroom for the child or young person.

Bedroom 2

Bedroom 2 would be used as staff quarters / office and storage space ancillary to the operation of the home. This would allow staff to undertake necessary record keeping and operational administration associated with the care of the child, without creating any separate commercial office use.

Bedroom 3

Bedroom 3 would be retained as a flexible room within the domestic layout of the property.

The living room and kitchen/dining room would continue to be used for ordinary domestic activities, including meals, recreation, relaxation, household routines and day-to-day living.

The proposed use can therefore be accommodated entirely within the existing dwelling, without external alteration, subdivision or institutional adaptation.

2.4 Access and Parking

No alterations to the existing access arrangements are proposed.

Vehicle activity associated with the home would principally comprise staff arrivals and departures, journeys connected with the child's education, appointments and activities, occasional pre-arranged professional visits, family contact where appropriate, ordinary household deliveries and maintenance attendance by appointment.

Staff handovers and professional appointments would be planned to minimise unnecessary overlap. Staff and visitors would be required to park lawfully and considerately and not to obstruct neighbouring driveways, pedestrian footways, junctions, access points or access for emergency vehicles.

The home would not generate customer traffic, public access, commercial servicing or the type of vehicle activity associated with a larger institutional or public-facing use.

2.5 Residential Character of the Planning Unit

The property currently functions as a single dwellinghouse. It would continue to function as a single residential planning unit.

The proposal does not involve:

- external alterations;
- signage;
- commercial branding;
- institutional infrastructure;
- public reception facilities;
- separate residential units;
- subdivision of the dwelling;
- changes to the external appearance;
- creation of a hostel, HMO or refuge;
- engineering works or operational development.

The property would remain visually indistinguishable from surrounding dwellings and would retain the character of a normal family-style home.

3.0 The Proposed Use

3.1 Overview of the Proposed Home

The proposal is for the use of 25 Heathfield Road as a small family-style children's home for **one child or young person aged 7–18 years**.

The child would live at the property as their home. The use would be residential in nature and would involve ordinary day-to-day domestic activities, including sleeping, eating, education, leisure, relaxation, appointments, family contact where appropriate, and community-based activities.

The home would not operate as an institution, hostel, public facility, treatment centre, clinic, school or commercial business.

The proposed use would be low intensity and would be limited by the operational parameters set out in this statement.

3.2 Applicant and Future Operator

The applicant is the owner of the property.

The applicant's intention is that an external children's home operator would take over responsibility for the day-to-day management of the property, staffing arrangements, care planning, safeguarding and regulatory compliance.

The absence of a named operator at this stage does not undermine the application. A Certificate of Lawfulness relates to the proposed use of the land and building. The proposal is therefore defined by the operational envelope set out in this statement, rather than the identity of a specific operator.

Any future operator would be required to operate in accordance with:

- the Certificate of Lawfulness;
- the Planning Statement;
- the Operational Summary;
- the Good Neighbour Policy;
- the Materiality Position Statement;
- the no emergency placements commitment;
- the maximum one-child occupancy limit.

The home would not commence operation until the necessary regulatory and operational arrangements are in place.

Any future operator would be required to secure the necessary Ofsted registration before the proposed children's home became operational. Appointment of an operator would not authorise departure from the occupancy, staffing or operational limitations forming the basis of the Certificate.

3.3 Occupancy Arrangements

The property would accommodate **one child or young person only**.

This limitation is fundamental to the proposal.

A 3-bedroom dwelling could ordinarily accommodate a larger family, including two adults and several children, a multi-generational household, foster carers and foster children, or a household with care and support needs.

The proposed single-child model is therefore materially modest in scale when compared with the range of lawful occupation that could occur within a C3 dwellinghouse.

The child would occupy the property as their principal home and would be supported within a stable, domestic environment.

3.4 No Emergency Placements

The home would not accept emergency placements.

All placements would be planned and assessed in advance.

This is an important operational safeguard because it prevents:

- short-notice admissions;
- high turnover of occupants;
- crisis-led use;
- intensified professional attendance;
- unexpected vehicle movements;
- instability in the household environment.

The exclusion of emergency placements helps ensure that the proposed use remains predictable, stable and comparable to ordinary residential occupation.

3.5 Staffing Arrangements

Care would be provided by non-resident staff working on a rota basis.

For planning certainty, the proposed use should be assessed on the basis that staffing would be limited to the level required to support one child in a domestic setting.

The proposed planning envelope would allow a maximum of three non-resident staff or carers to be present at the property at any one time. This maximum would include all care staff, Registered Manager or Duty Manager attendance, senior management attendance and any temporary staff handover.

The property would not be used for general staff meetings, organisational training, recruitment interviews or administrative functions unrelated to the care of the resident child.

Staff would support ordinary domestic routines, including meals, education, appointments, recreation, household routines, personal development and welfare.

Staff attendance would not create a separate commercial office use or institutional activity. Any staff administration would be ancillary to the residential care of the child and would be accommodated within Bedroom 2 as staff quarters / office and storage space.

Staff handovers would be managed internally and quietly. Staff would be instructed to avoid unnecessary disturbance, vehicle idling, obstruction of neighbouring driveways or congregating outside the property.

3.6 Overnight Arrangements

The proposed use would involve care staff attendance as required by the child's care plan and the future operator's registration arrangements.

Where overnight staff presence is required, this would be managed within the domestic layout of the property and would not involve repeated night-time shift changes, public-facing activity or institutional-style operations.

The key planning point is that the overnight use would remain domestic in character. There would be no late-night public access, no customer activity, no commercial deliveries and no pattern of activity materially different from ordinary residential occupation.

Bedroom 2 would provide the designated staff sleep-in room. Where the child's assessed needs required two staff to remain present overnight, one member of staff may use the sleep-in room while the second would undertake waking-night duties. Overnight arrangements would not involve a routine night-time shift change or repeated vehicle movements.

3.7 Day-to-Day Operation of the Home

The day-to-day activities occurring within the property would be domestic and residential.

The child would:

- sleep at the property;
- eat meals at the property;
- use the living room and kitchen/dining room;
- attend school, education or training where applicable;
- complete homework or structured learning activities;
- watch television and relax;
- participate in hobbies and recreation;
- attend appointments;
- maintain family contact where appropriate;
- participate in household routines.

These activities are materially comparable to those associated with a normal family dwelling.

The property would operate as a home, not as an institution.

3.8 Visitors and Professional Support

As with any child living in care, there may be periodic visits from professionals involved in supporting the child.

Such visitors may include:

- social workers;
- education professionals;
- healthcare professionals;
- therapists;
- placing authority representatives;
- independent reviewing officers;

- Ofsted or regulatory visitors;
- family members where planned and appropriate.

Professional visits would ordinarily be arranged outside staff handover periods and coordinated to avoid unnecessary overlapping appointments. The property would not be used for multi-agency meetings, staff training or organisational meetings unrelated to the resident child.

Professional attendance of this type is not materially different from activity that may occur at ordinary family homes, particularly where children receive educational, healthcare or social care support.

Bury's own officer reports have accepted that visitors such as social workers and education professionals are consistent with the activity of a normal household.

3.9 Travel and Parking Arrangements

The property has on-street parking.

Vehicle activity would principally comprise:

- staff arrivals and departures;
- child-related journeys to education, appointments and activities;
- occasional professional visits;
- planned family contact visits where appropriate;
- ordinary domestic deliveries;
- maintenance visits by appointment.

The use would not generate customer traffic, public visits, business deliveries, multiple resident vehicles or commercial servicing.

The level of vehicle activity would be comparable to that of a family household with working adults, school-age children, visitors, deliveries and appointments.

3.10 Operational Parameters of the Proposed Use

Operational characteristic	Proposed arrangement
Maximum occupancy	One child or young person only
Placement type	Planned residential placements only
Emergency placements	Not accepted
Staff	Non-resident care staff working on a rota basis
Maximum staff presence	Three staff/carers at any one time, inclusive of management attendance and temporary handover

Operational characteristic	Proposed arrangement
Bedroom 1	Sole child's bedroom
Bedroom 2	Designated staff sleep-in room / Office
Bedroom 3	Flexible Room
Bathroom provision	One shared first-floor family bathroom
General staff base	None
Public-facing use	None
External alterations	None
Planning unit	One single domestic planning unit

These parameters are fundamental to the proposed use and form the basis upon which the certificate is sought.

4.0 Statutory Development Plan and Legislative Framework

4.1 Introduction

This application is submitted pursuant to Section 192 of the Town and Country Planning Act 1990 and must therefore be determined as a matter of fact and law.

It is not a planning application and does not require the Council to undertake a general planning balance.

Nevertheless, it is appropriate to identify the legislative and policy context in which the application sits.

4.2 Section 192 of the Town and Country Planning Act 1990

Section 192 enables any person to apply for a Certificate of Lawfulness to confirm whether a proposed use or operation would be lawful if instituted at the date of the application.

The Council's role is to determine whether planning permission would be required.

The Government's Lawful Development Certificate guidance confirms that once a certificate has been granted under Section 192, a proposed use carried out in accordance with it must be presumed lawful, unless there is a material change before the use begins.

4.3 Section 55 — Definition of Development

Section 55 of the Town and Country Planning Act 1990 defines development as including the making of a **material change in the use** of land or buildings.

No operational development is proposed in this case.

There are no proposed:

- extensions;
- external alterations;
- engineering operations;
- new buildings;
- physical expansion;
- subdivision;
- changes to access;
- signage;
- commercial frontage.

The sole issue is whether the proposed use would amount to a **material change of use**.

4.4 Use Classes Position

The existing lawful use is understood to be **Use Class C3 dwellinghouse**.

The proposed use would fall within **Use Class C2 residential institution**, because the child would receive care from non-resident staff working on a rota basis.

However, the fact that the use may fall within Class C2 does not automatically mean that a material change of use would occur.

Bury's own officer reports adopt this approach. In the 109 Windsor Road delegated report, the Council recognised that a children's home with non-resident carers would fall within Class C2, but that the change from C3 to C2 may still not amount to a material change of use if there is no material difference in activity compared with conventional residential use.

4.5 National Planning Policy Framework

The **National Planning Policy Framework** was revised in December 2024 and amended in February 2025. It sets out the Government's planning policies for England and explains how those policies are expected to be applied.

This application is submitted under **Section 192 of the Town and Country Planning Act 1990** and must therefore be determined as a matter of fact and law. The Council is not being asked to undertake a planning balance exercise or to determine the general planning merits of the proposal. The central legal question remains whether the proposed use would amount to a **material change of use** from the existing lawful use as a C3 dwellinghouse.

Nevertheless, the NPPF provides important national planning context, particularly in relation to housing need, community wellbeing, social infrastructure, sustainable locations and inclusive communities.

The NPPF confirms that planning policies and decisions should support the Government's objective of significantly boosting the supply of homes. It also requires the housing needs of different groups in the community to be assessed and reflected in planning policies. The current Framework expressly includes **looked after children** within

the groups whose housing needs should be considered. The Framework also notes that evidence of need for looked after children can be found in the relevant local authority's **Children's Social Care Sufficiency Strategy**.

This is relevant to the proposed use of **25 Heathfield Road**, because the application relates to the provision of accommodation for one looked after child or young person within a small, family-style residential setting. The proposal would contribute, in a modest and proportionate way, to the supply of suitable children's residential accommodation within the local area.

The NPPF also places significant emphasis on creating healthy, inclusive and safe communities. A small children's home of the type proposed can support that objective where it provides a stable, well-managed domestic environment within an existing community. In this case, the proposed use would support one child within an ordinary residential home, close to local services, public transport connections and community facilities.

The proposed use would also be consistent with the NPPF's broader sustainable development objectives. It would make effective use of an existing residential building, would involve no new construction, no external alterations, no loss of housing through demolition and no increase in built form. The property would remain in residential use in practical terms and would continue to function as a single domestic planning unit.

The proposal would also avoid the types of impacts that the NPPF would normally require decision-makers to consider in a planning merits application. There would be:

- no external alterations;
- no signage;
- no commercial frontage;
- no subdivision of the dwelling;
- no public-facing service;
- no emergency placements;
- no intensification comparable to a hostel, HMO or institutional facility;
- no material highway or parking impact.

The NPPF is also relevant in transport terms. The proposed use is located within an established urban residential area, with access to local services, bus routes and the wider public transport network. Transport for Greater Manchester identifies bus route **512** as serving the Borough of Bury, also served by the Metrolink network.

For the avoidance of doubt, the NPPF does not displace the legal test under Section 192. The Certificate of Lawfulness application must still be determined by asking whether the proposed use would be lawful if instituted at the date of the application. However, the Framework supports the wider planning context for the proposal by recognising the need to provide homes for different groups, including looked after children, and by supporting development that contributes to healthy, inclusive and sustainable communities.

Accordingly, while the NPPF is not determinative of the LDC, it provides strong contextual support for the proposed use. The proposal would provide a small, stable, community-based home for one child, while retaining the residential character of the property and avoiding any material planning consequences that would distinguish the use from ordinary dwellinghouse occupation.

4.6 Written Ministerial Statement — Children’s Homes

On **23 May 2023**, the Government published a Written Ministerial Statement entitled “**Planning for accommodation for looked after children**”. The Statement was issued by the Minister of State for Housing and Planning with the support of the Secretary of State for Education and sets out the Government’s position on how the planning system should approach accommodation for looked after children.

The Statement is directly relevant to this application because it recognises the importance of delivering appropriate homes for vulnerable children within local communities. It confirms that the planning system should support, rather than frustrate, the provision of suitable accommodation for looked after children.

The Statement expressly confirms that:

“The planning system should not be a barrier to providing homes for the most vulnerable children in society.”

It also explains that, where care is the best option for a child, the care system should provide **stable, loving homes close to children’s communities**, in the right locations, with access to good schools and community support. The Statement makes clear that it is not acceptable for children to be placed far from the areas they would call home without a clear child protection reason.

The proposed use of **25 Heathfield Road** is consistent with this national policy direction. The proposal would provide a small, family-style home for **one child only** within an existing residential property. It would not operate as a large institution, hostel, refuge, secure unit or short-stay crisis facility. The model is deliberately low intensity and designed to provide a stable domestic environment.

The Statement is also relevant because it reminds local planning authorities that the National Planning Policy Framework requires the housing needs of different groups in the community to be assessed and reflected in planning policies and decisions. The current NPPF expressly includes **looked after children** among the groups whose housing needs should be assessed, and states that evidence of need for looked after children can be found in the relevant local authority’s Children’s Social Care Sufficiency Strategy.

Although this application is submitted under **Section 192** and must therefore be determined as a matter of law rather than as a planning balance, the Written Ministerial Statement provides important national context. It supports the principle that children’s homes should be capable of being delivered within ordinary communities where their planning consequences are compatible with the surrounding area.

The Statement does not override the legal test for a Certificate of Lawfulness. The Council must still determine whether the proposed use would amount to a material change of use. However, the Statement reinforces the need for local planning authorities to approach children’s home proposals constructively and to avoid treating the mere presence of care, regulation or vulnerable children as a reason to resist suitable accommodation.

In this case, the proposed use would remain residential in character. The property would accommodate **one child only**, there would be **no emergency placements**, no external alterations, no signage, no public-facing use and no subdivision of the dwelling. The child would live at the property as their home, supported by staff within an ordinary domestic setting.

The Written Ministerial Statement therefore supports the broader planning context for the proposal, while the lawful development certificate application remains focused on the specific legal question of materiality. On the facts of this case, the proposal would provide the type of small, stable, community-based home encouraged by the Written Ministerial Statement.

4.7 Bury Development Plan Context

Although this application is submitted under **Section 192 of the Town and Country Planning Act 1990** and must be determined as a matter of fact and law, it is useful to set out the current Bury development plan context. This assists in demonstrating that, even if the Council were to consider the wider planning context, the proposed single-child children's home would sit comfortably within the policy framework.

Bury Council confirms that the current development plan for the Borough comprises the **Places for Everyone Joint Plan**, the **Greater Manchester Joint Minerals Plan**, the **Greater Manchester Joint Waste Plan** and the **Bury Unitary Development Plan**.

The **Bury Unitary Development Plan** was adopted on **29 August 1997** and continues to be used for planning decisions until the new Bury Local Plan is adopted. Bury Council confirms that the UDP policies were saved, except Policy OL7/1, although some UDP policies have since been replaced by other adopted development plan documents, including the Greater Manchester Minerals and Waste Plans and, more recently, Places for Everyone.

The **Places for Everyone Joint Development Plan** was adopted by Bury Council with effect from **21 March 2024** and now forms part of the statutory development plan. Bury Council confirms that Places for Everyone establishes the strategic planning framework for the participating Greater Manchester districts and that Bury's emerging Local Plan will provide the more detailed local policies to sit alongside it.

The emerging **Bury Local Plan** has been subject to consultation, but it has not yet been adopted. Bury Council confirms that, in its current draft form, the Local Plan carries only limited weight, although that weight will increase as the plan progresses. Accordingly, the adopted development plan remains the principal policy context.

For the avoidance of doubt, the development plan does not alter the legal test for this application. The Council must still determine whether the proposed use would amount to a **material change of use**. However, the adopted and emerging policy context is relevant insofar as it confirms that small-scale care and community uses are not, in principle, alien to residential areas, provided residential amenity, character, parking and highway matters are properly managed.

Community Facilities and Social Care Provision

The most relevant adopted UDP policies are found within the **Community Facilities** chapter.

Policy **CF1 — Proposals for New and Improved Community Facilities** states that proposals for new and improved community facilities will generally be looked on favourably by the Council. The reasoned justification explains that hospitals, clinics, places of worship, nurseries, schools, meeting places and care facilities can all be of benefit where they do not conflict with amenity or the local environment.

Policy **CF1/1 — Location of New Community Facilities** identifies factors to be considered when assessing community facility proposals, including impact on residential amenity and the local environment, traffic generation and car parking, the scale and size of the development, access to shops and services, suitability of the location in relation to the community or catchment area, accessibility by public and private transport, and the needs of disabled people.

The proposed use at 25 Heathfield Road would satisfy these principles. The home would be very small in scale, limited to **one child only**, with no emergency placements, no external alterations, no signage, no public-facing use and no institutional character. Traffic and parking would be managed, and the property benefits from on-street parking. The use would therefore not give rise to the type of traffic, parking or amenity concerns that Policy CF1/1 seeks to manage.

Policy **CF3 — Social Services** is also directly relevant in policy terms. It states that the Council will, where appropriate, consider favourably proposals for new and improved social services facilities for children, young people, elderly people, people with mental and/or physical disabilities and illnesses, and other groups with special needs.

The justification to Policy CF3 states that the Council is committed to the principle of **care in the community**, meaning that, wherever possible, people should be encouraged to live in the community rather than in large institutions. It further states that the Council will support new and improved social services for those who are often some of the most disadvantaged in society, provided they do not conflict with residential amenity, the environment and other policies in the Plan.

The proposal is consistent with that policy direction. It would not create a large institution. It would provide a small, family-style home for one child within an existing residential property. The child would live at the property as their home, supported within a domestic setting. This reflects the principle of care being provided within ordinary community settings rather than in large-scale institutional environments.

Policy **CF3/1 — Residential Care Homes and Nursing Homes** states that residential care homes will be located in residential areas and will be permitted where they do not conflict with the amenity of adjoining areas. While the proposal is for a children's home rather than an elderly persons' care home or nursing home, the principle is still relevant: the adopted UDP accepts that residential care uses can be appropriately located in residential areas where amenity is protected.

The proposed use at 25 Heathfield Road is materially consistent with that approach. It would operate at a lower intensity than many care uses because it would accommodate **one child only**, would not accept emergency placements and would not involve any public-facing activity.

Residential Amenity and Compatibility with Residential Areas

UDP Policy **H3 — Incompatible Uses in Residential Areas** states that the Council will not permit incompatible uses in areas which are primarily residential in nature. Policy **H3/1 — Assessing Non-Conforming Uses** identifies relevant considerations including noise, vibration, smell, fumes, visual intrusion, traffic generation, parking arrangements and hours of operation.

The proposed use would not be incompatible with the residential character of Heathfield Road. It would not involve industrial, commercial, public-facing, late-night or high-turnover activity. It would remain domestic in character, with ordinary residential activities such as sleeping, eating, recreation, education, appointments and family-style routines.

The key features that protect residential amenity are:

- one child only;
- no emergency placements;
- no external alterations;
- no signage;
- no public-facing use;
- no subdivision of the property;

- managed staff handovers;
- managed visitor attendance;
- operation in accordance with the Good Neighbour Policy.

The proposal would therefore avoid the types of harm identified in Policy H3/1, particularly in relation to noise, parking, traffic and hours of operation.

Built Form, Character and Appearance

UDP Policy **EN1/2 — Townscape and Built Design** states that the Council will give favourable consideration to proposals that do not have an unacceptable adverse effect on the character and townscape of the Borough's towns, villages and settlements. Relevant factors include external appearance, relationship to the surrounding area, materials, access, parking, landscaping and lighting.

The proposal would have no adverse effect on townscape or built character because **no external alterations are proposed**. The property would continue to appear as a normal semi-detached dwelling. There would be no signage, no commercial frontage, no external plant, no additional lighting and no visible institutional features.

The proposed use would therefore preserve the external residential character of the property and the surrounding street scene.

Noise and Disturbance

UDP Policy **EN7/2 — Noise Pollution** states that the Council will not permit development that could lead to unacceptable noise nuisance to nearby occupiers or amenity users.

The proposed use would not give rise to unacceptable noise. It would accommodate one child only and would be managed by trained staff. Ordinary household activity would take place within the property. Staff handovers would occur internally and quietly. Visitors would be by appointment only. There would be no emergency placements, no group activities, no public access and no late-night commercial or institutional activity.

The submitted Good Neighbour Policy provides further operational controls to ensure that staff arrivals, departures, parking, visitors, waste, outdoor activity and neighbour communication are managed in a way that protects residential amenity.

Highways, Parking and Sustainable Travel

UDP Policy **HT2/4 — Car Parking and New Development** requires development to make adequate provision for car parking and servicing requirements in accordance with the Council's parking standards. The supporting text explains that parking and servicing arrangements are required to ensure that development does not adversely affect the safe and efficient operation of the highway network or the local environment.

Bury has also adopted **Supplementary Planning Document 11: Parking Standards in Bury**, with effect from **11 June 2025**. The stated aim of SPD11 is to ensure that an appropriate level of well-designed vehicle and cycle parking is provided in new development.

The proposal would not involve new-build development or operational development, but the parking principles remain relevant. Staff and visitor attendance would be managed. The use would not generate customer traffic, business deliveries, multiple resident vehicles or institutional servicing.

The site is also located within Borough of Bury, where public transport options are available within the wider urban area. This further supports the conclusion that the proposal would not be wholly dependent on private car travel.

Emerging Bury Local Plan Context

Although the emerging Bury Local Plan carries limited weight at this stage, it is useful context. Bury Council's Local Plan webpage states that the draft Local Plan seeks to deliver an appropriate supply of well-designed housing to meet the Borough's needs, including by supporting appropriate residential development for **looked after children and care leavers**.

This is not determinative for a Certificate of Lawfulness application, but it reinforces the wider policy direction. The proposal at 25 Heathfield Road is a small, carefully managed and community-based form of accommodation for one child. It would align with the emerging recognition that looked after children require appropriate residential provision.

5.0 Relevant Case Law, Appeal Decisions and Local LDC Precedents

5.1 Introduction

The planning status of small children's homes has been considered extensively by the Courts, Planning Inspectors and local planning authorities.

A consistent distinction has emerged:

1. A children's home with non-resident rota staff will generally fall within **Use Class C2**.
2. That does not automatically mean that a material change of use has occurred.
3. The materiality question must be assessed on the facts and degree of each case.

The focus must therefore be on the practical consequences of the proposed use.

5.2 North Devon District Council v First Secretary of State and Southern Child Care Ltd

North Devon remains the leading authority concerning children's homes.

The case confirms that where children are cared for by non-resident staff working on a rota basis, the use cannot normally be regarded as occupation by a single C3 household. It will generally fall within Class C2.

However, North Devon also establishes that Use Class categorisation and material change of use are separate questions.

Bury's officer reports expressly rely on this principle, recognising that although non-resident carers place the use within Class C2, a material change of use does not necessarily occur.

5.3 Planning Inspectorate Approach

Planning Inspectors have repeatedly concluded that small children's homes can fall within Class C2 without resulting in a material change of use.

The relevant considerations normally include:

- number of children;
- number of staff;
- whether the property remains residential in character;
- whether there are external changes;
- level of vehicle movements;
- visitor activity;
- whether the use remains a single planning unit;
- whether the practical use resembles ordinary residential occupation.

5.4 Recent Bury LDC Decision — 149 Wood Street, Bury, BL8 2QX

Bury Metropolitan Borough Council granted a Certificate of Lawfulness at **149 Wood Street, Bury** for:

“proposed change of use from dwellinghouse (Use Class C3) to small children's home (Use Class C2) for one child aged 7–18 with care provided by non-resident staff on 24 hour rota.”

The Council certified that the proposal was lawful and not considered to constitute development within the meaning of Section 55.

This decision is directly comparable to 25 Heathfield Road because both proposals involve:

- an existing dwellinghouse;
- proposed Class C2 children's home use;
- one child only;
- non-resident care staff;
- family-style residential accommodation;
- no need for full planning permission where no material change of use arises.

5.5 Recent Bury LDC Decision — 109 Windsor Road, Prestwich, M25 0DF, Application 73056

Bury also granted a Certificate of Lawfulness for the proposed use of **109 Windsor Road, Prestwich** as residential care accommodation for **one young person aged 8–18**, with up to **three carers working on a rota basis**.

The Council concluded that the use would not represent a material change of use from the existing C3 dwellinghouse and would therefore be lawful development.

The officer report is especially relevant because it concluded that the occupation of **one child and three adults** would not go beyond what would be expected of a standard family unit in a two-storey, 3-bedroom dwellinghouse, and that the comings and goings would not be unlike those of a residential household.

This is highly comparable to 25 Heathfield Road, which is also a 3-bedroom dwelling and is proposed to accommodate one child only.

5.6 Recent Bury LDC Decision — 7 Brocklehurst Avenue, Bury, BL9 9AQ

Bury granted a Certificate of Lawfulness at **7 Brocklehurst Avenue, Bury** for a residential children's home for **up to two children**, with up to two full-time carers and one manager present on site, working on a rotational basis.

The Council concluded that the proposed C2 use would not represent a material change of use from the existing C3 dwellinghouse use.

This proposal was more intensive than the proposed use at 25 Heathfield Road because it allowed up to two children. The current proposal is limited to one child only.

5.7 Recent Bury LDC Decision — 109 Windsor Road, Prestwich, Application 72930

Bury also granted a Certificate of Lawfulness at **109 Windsor Road** for residential care accommodation for **two young people aged 8–18**, with carers working on a rota basis.

The Council again concluded that the proposal would not represent a material change of use from the existing C3 dwellinghouse use.

Again, this is a more intensive proposal than the one now proposed at 25 Heathfield Road.

5.8 Summary of Local Precedent Position

The recent Bury decisions show a clear and consistent local approach.

Bury has accepted that small children's home uses can be certified lawful where:

- the use falls within Class C2;
- the property remains residential in character;
- the use remains comparable to ordinary residential occupation;
- occupation levels are modest;
- staff work on a rota basis;
- visitor activity is limited and comparable to a household;
- there are no external institutional features;
- the property remains a single planning unit.

The proposal at 25 Heathfield Road falls squarely within this pattern and is less intensive than several of the examples already certified lawful by the Council.

6.0 Assessment Against the Legal Test

6.1 Principal Issue

The principal issue is whether the proposed use of 25 Heathfield Road as a small children's home for one child would result in a material change of use from the existing lawful use as a dwellinghouse.

This is a matter of fact and degree.

The proposal should be assessed by reference to:

- scale of occupation;
- character of occupation;
- daily activity;
- staff presence;
- visitor activity;
- vehicle movements;
- physical appearance;
- planning unit;
- overall planning consequences.

6.2 Scale of Occupation

The proposed occupancy is limited to **one child only**.

This is materially modest.

The existing lawful use of the dwelling could accommodate a larger household, including working adults, children, visitors, foster children, relatives or individuals receiving care.

The proposed single-child model would therefore not represent an intensification of residential occupation beyond what could ordinarily occur in a 3-bedroom dwellinghouse.

6.3 Character of Occupation

The child would live at the property as their home.

The dwelling would provide:

- sleeping accommodation;
- living accommodation;
- kitchen and dining facilities;
- recreation and relaxation space;
- family-style routines;
- personal care;
- support with education and appointments.

These activities are domestic and residential.

The presence of care staff does not alter the residential character of those activities. Staff would support the child within a domestic home environment.

6.4 Internal Layout

The property would retain its domestic layout.

The ground floor would remain in ordinary domestic use, with living room, kitchen/dining room.

The first floor would remain arranged as Bedroom 1, Bedroom 2, Bedroom 3, bathroom and circulation space.

The proposed room arrangement would be:

- Bedroom 1 — child's bedroom;
- Bedroom 2 — staff quarters / office and storage;
- Bedroom 3 — flexible room.

This arrangement does not create an institutional layout or separate planning unit.

6.5 Staffing Arrangements

Staff would be present to support one child in accordance with the child's assessed needs.

Staff would be non-resident and would work on a rota basis. The application should be assessed on the basis of up to three staff/carers being present at the property at any one time, including manager or senior staff attendance where required.

This level of staffing is consistent with the recent 109 Windsor Road LDC approved by Bury for one young person with up to three carers working on a rota basis.

Staff attendance would not create a separate office use, business use or institutional use. It would be ancillary to the child's residential occupation.

6.6 Vehicle Movements and Parking

Vehicle movements would be limited and would principally relate to:

- staff arrivals and departures;
- school or education travel;
- appointments;
- planned professional visits;
- family contact where appropriate;
- ordinary domestic deliveries.

The proposed use would not generate customer traffic, business deliveries, public visits or multiple resident vehicles.

The level of movement would be comparable to that of a normal residential household with working adults, children, visitors, appointments and deliveries.

Bury has previously accepted that the comings and goings associated with a one-child children's home would not be unlike those of a residential household.

6.7 Professional Visitors

Professional visitors may include social workers, education professionals, healthcare professionals and placing authority representatives.

Visits would normally be planned and managed.

Such visitors are comparable to visitors that may attend ordinary family homes, particularly homes where children receive educational, healthcare or social support.

The presence of such visitors would not materially alter the planning character of the property.

6.8 No Emergency Placements

The exclusion of emergency placements is a significant factor.

It ensures that the home would not operate as a crisis-led, short-stay or high-turnover placement facility.

All placements would be planned, assessed and matched in advance.

This supports the conclusion that the proposed use would remain stable, low intensity and residential in character.

6.9 Physical Appearance and External Character

No external alterations are proposed.

There would be:

- no signage;
- no commercial frontage;
- no external equipment;
- no institutional features;
- no alterations to access;
- no external changes to identify the property as a children's home.

The property would continue to appear as an ordinary semi-detached dwelling.

6.10 Planning Unit

The property would remain a single planning unit.

There would be no subdivision, no separate flats, no independent living units and no separate commercial operation.

The continuation of a single domestic planning unit weighs strongly against any finding of material change.

6.11 Overall Assessment of Materiality

When considered collectively, the proposal would not result in a material change of use.

The proposal involves:

- one child only;
- domestic occupation;
- ordinary residential activities;
- no emergency placements;
- managed staff attendance;
- limited visitor activity;
- no external alterations;
- no signage;
- no public-facing use;
- no subdivision;
- continued use as a single planning unit.

The use would remain comparable in character, activity and appearance to a normal family dwelling.

Accordingly, the proposal would not constitute development within the meaning of Section 55 of the Town and Country Planning Act 1990.

7.0 Planning Context and Conclusion

Although the determination of a Certificate of Lawfulness application is a legal exercise rather than a planning merits exercise, the wider planning context supports the proposal.

The Government has recognised the importance of providing appropriate homes for looked after children and has stated that the planning system should not be a barrier to the delivery of children's homes.

The proposal would provide a small, carefully managed, family-style home for one child. It would not introduce a large institution, commercial activity or a materially different planning use.

The proposal would preserve the residential character of the property because:

- the property would continue to function as a home;
- the child would live there as their principal residence;
- daily activities would remain domestic;
- no physical alterations are proposed;
- no external manifestation of a C2 use would occur;

- the property would remain a single planning unit;
- vehicle movements and parking demand would not be materially different in planning character from those associated with ordinary residential occupation;
- no emergency placements would be accepted.

The recent Bury LDC decisions provide strong local support. The Council has certified as lawful a one-child children's home at 149 Wood Street, a one-child residential care home at 109 Windsor Road, and more intensive two-child models at 7 Brocklehurst Avenue and 109 Windsor Road.

The proposed use at 25 Heathfield Road is directly comparable to, and in some respects less intensive than, those approved examples.

Having regard to the scale of occupation, domestic nature of the activities, limited staffing arrangements, managed vehicle movements, absence of external alterations and recent Bury precedents, it is concluded that the proposed use would not materially alter the character of the planning unit.

The property would continue to function as a residential dwelling in practical planning terms.

It is therefore respectfully submitted that, on the balance of probability, the proposed use is lawful and that Bury Metropolitan Borough Council should issue a Certificate of Lawfulness of Proposed Use pursuant to Section 192 of the Town and Country Planning Act 1990.