



PLANNING STATEMENT

Application for a Lawful Development Certificate re: use of a (3a) dwelling as a children's home for a two children, with a manager and two carers who would stay overnight, working on a rota basis(C2).

**5, FOULDS AVENUE,
BURY,
BL8 2SF**

29/09/2026



1. Background

1.1. This statement is submitted on behalf of Arshad Ashraf of Sigma Universal Ltd, in support of an application under Section 192 of the Town and Country Planning Act 1990 for a Lawful Development Certificate confirming that the use of 5 Foulds Avenue, currently a Class C3(a) dwellinghouse, as a small children's home for up to two children would be lawful because it would not result in a material change of use.

1.2. The use for which the certificate is sought is: *'Use as a children's home (Class C2) for up to two children, cared for by two carers on duty at all times, both staying at the property overnight, working 48-hour shifts on a staggered two-days-on, four-days-off rota such that no more than one carer changeover takes place in any 24-hour period, at approximately 8.30 am.*

1.3. The home will provide a stable environment for children moving into residential care, with each placement carefully planned to support a smooth transition. The home will primarily accommodate medium- to long-term placements, thereby minimising disruption to the children and the surrounding residential area.

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

1.5. The property is a three-bedroom semi-detached house, with a driveway able to park two cars and unrestricted street parking.



1.6. Company policy requires staff to use public transport, supported where necessary by free bus passes or subsidised taxi fares, or to travel by bicycle, with secure cycle parking provided. Staff are not permitted to park on the street. Several bus routes pass the property.

2. Legal framework

2.1. Children's Care homes fall either within Use Class C3b ('not more than six residents living together as a single household where care is provided for residents') or C2 (residential institutions). This is based upon three key considerations as to whether:

- there is a carer who lives at the property as their main residence
- up to six people live as a single household.
- Care for the purpose of Class C3b covers children who are disabled, have alcohol and drug dependency issues or have a mental disorder. Children who have suffered poor parenting or other issues would come under Class C2. Class C2 covers the personal care of children and medical care and treatment.

Resident Carer

2.2. Following **North Devon District Council v The Secretary of State [2003] EWHC 157 (Admin)**, it is accepted that the children could not themselves constitute a household because they were not capable of looking after themselves. Justice Collins disagreed with the approach in *R v Bromley* that a single household could include non-residential staff. He concluded that living together as a household requires a properly functioning household to exist and that, in the circumstances of that case, the children



and carers needed to reside at the premises. The use was therefore within Class C2. Whether the change from Class C3 to Class C2 was material remained a question of fact and degree.

A Household

2.3. A children's home operated entirely through shift patterns would not, therefore, fall within Class C3(b) simply because the occupants live together. Such an arrangement does not constitute occupation of a dwellinghouse by a single person or by people living together as a family

Definition of Care

2.4. Under the Town and Country Planning (Use Classes Order) 1982, "care" means 'personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment'.

2.5. Care for the purpose of Class C3b does not include the care of children unless the children are disabled, have alcohol and drug dependency issues or have a mental disorder. Children who have suffered poor parenting or other issues would come under Class C2. Class C2 covers the personal care of children and medical care and treatment.

Material Change

2.6. It is therefore accepted, following North Devon District Council v First Secretary of State [2003] EWHC 157 (Admin), that the proposed use falls within Class C2, and that a change from Class C3 to Class C2 is not



permitted development. The sole question is therefore whether the change of use would be material.

2.7. Section 192 requires the proposed use to be compared with the actual previous use of the property, rather than with a hypothetical range of activities: *Secretary of State for the Environment, Transport and the Regions v Waltham Forest LBC* [2002] EWCA Civ 330.

2.8. Materiality is a question of fact and degree, and the focus of the investigation is the character of the use: *East Barnet UDC v British Transport Commission* [1962] 2 QB 484. Where the existing and proposed uses are both residential in nature, the decision-maker should assess the planning impact of the change, particularly on neighbouring properties: *Devon County Council v Allens Caravans (Estates) Ltd* (1962) 14 P&CR 440.

2.9. In *Gravesham BC v Secretary of State for the Environment* [1983] JPL 306 the court held that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use it the facilities required for day-to-day private domestic existence, and that it does not lose that characteristic if occupied by a series of different persons or under commercial management.

2.10. The Written Ministerial Statement of 23 May 2023 (HCWS795, Rachel Maclean MP, Minister of State, DLUHC) confirms that planning permission is not required in all cases of development of children's homes, including changes of use from Class C3 dwellinghouses where there is no material change of use to Class C2, and that a lawful development certificate may be sought to confirm the position on the facts. It further states that local planning authorities should give due



weight to, and be supportive of, applications for accommodation for looked-after children reflecting local needs.

3. Planning Assessment

3.1. Under Ofsted requirements, children's homes should operate as closely as possible to a normal family household. Staff are employed on a rota basis to provide the parental support that many children in residential care have lacked during their early years. The only internal physical requirements arising from the Ofsted regime are those necessary for the operation and regulation of the home and are not material to the planning assessment.

3.2. The Ofsted Guide to Children's Homes requires each home to provide a children's guide and sets out requirements and guidance concerning matters including privacy, access to bedrooms, secure storage of personal belongings, CCTV and monitoring equipment, record-keeping, information management and operational procedures. These requirements do not alter the fundamental residential character of the property.

Fire Regulations

3.3. In terms of fire regulations for care homes, OFSTED will require a Fire Safety Strategy.

Staff rota pattern

3.4. Up to two children would live at the house, with two carers, working on a rota basis and a manager. Two carers would work for 48 hours, staying overnight. A manager would also visit on weekdays. Six carers would operate on a 48-hour shift pattern, followed by 72 hours off. Except at changeover times, which last around fifteen to thirty minutes, there will be no more than



three staff on the premises at any one time. The changeover of one of the overnight care staff members occurs every 24 hours, usually around 8.30 am.

3.5. If a child with a higher level of need is allocated to the home, it is sometimes necessary for an overnight carer to stay awake. In these circumstances, one of the two overnight carers would arrive around 8:30 pm and work until 8:30 am, when a daytime carer would replace them. The maximum number of staff in the home would remain at two overnight and three in the daytime.

Other Visitors

3.6. All visitors must be agreed in advance, in accordance with the children's care plans. This means their times of arrival can be carefully managed to avoid more than one visitor's car being parked at any one time.

3.7. In addition to OFSTED's one visit per year, there will be visits by local social services circa every four to six weeks and one Regulation 44 each month. Usually, each child's social worker would visit them individually but if they are from the same local authority one of the social workers may visit all children. All other professional or clinical appointments and meetings would take place away from the home where possible.

3.8. Depending on the needs of the individual children, there may be occasional visits by other professionals. In addition, there may be visits by family members and friends, although these are carefully managed in advance or the home will facilitate family contact outside the home, subject to child's individual care plan. These visits are no more frequent than those of friends or relatives to a typical family. They are quantified in Schedule 2 below, showing



on average two friend or family visits over the weekend and one mid-week visit by another professional.

Purpose of the home

3.9. The purpose of the home is to support the child to build confidence, regulate behaviour and emotions, develop life skills, and prepare for life after leaving the home to meet their full potential. This type of support has been found to be most effective in meeting the needs of this group of children.

3.10. During the day, the childr will engage in various activities, plus attend a mainstream, special school or engage in a bespoke individual education plan.

3.11. 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 or who have had adverse childhood experiences. These are not children with special or additional needs, who would come under Use Class C2a.

3.12. Care is provided in small sized family units where residential carers help to develop the social and life skills needed when children move on to live independently. Without such homes and positive interventions, these children will not be able to learn the live skills necessary to thrive in their adulthood and may as a result endure ongoing emotional and mental health problems, experiencing homelessness, substance misuse and involvement in criminality.

Education

3.13. The children will attend school. Where tuition is needed, it is provided online. If a home tutor were ever engaged, that would be no



different from an ordinary family choosing home tuition — and the established household itself received tutors on most weekday evenings.

Comings and Goings

3.14. In terms of comings and goings, there would be little difference in terms of numbers or the times of these visits, from the current use as a dwelling to influence its character. These movements are considered further below. There will not be regular visits by any other care staff or clinicians. The local social services would normally send one or two officers each six weeks to inspect the premises, plus two inspectors from Ofsted annually.

3.15. Depending on the individual child's needs, there may be occasional visits by other social workers. Additionally, family members and friends may visit, but these are carefully managed in advance and depend on the child's individual care plan. These visits are no more frequent or at different times than those to a typical family by friends, relatives and professional visitors, as reflected in the schedule below.

3.16. The task must be to compare against that 'baseline' the character of the current authorised 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, and the ability to take shared meals prepared for them or make their own food or drink.

3.17. The children would be taken to and brought home from school each day, plus be taken to out-of-school activities. Their carers 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 living skills. The home would seek to foster lifestyles which would be the same as if the children were living in a family home.

3.18. The comings and goings (people and not vehicular movements) can have an impact on the character of a property and its impact on neighbours. They would not be significantly different in amount or times of day, from those associated with the previous use by a family. The proposed movements are based upon the experience of similar homes.

3.19. The home manager would arrive most weekday mornings (around 9 am) in a car and leave when appropriate, based upon the needs of the children (two movements each weekday). The other two staff members would normally arrive by taxi, public transport, or bicycle. Overnight staff typically work on a 48-hour shift basis, with only one of the two going off duty each day.

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

3.21. As stated above, these children do not require regular visits from social workers and clinicians, with most of these meetings, if they are required, taking place away from the home. However, the schedule of comings and goings (2) does allow for an average number of mid-week professional visits.

3.22. 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- Average Previous Weekly Movements (by a family)

Activity	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Travelling to work		4	4	4	4	4	
School run		4	4	4	4	4	
Shopping/ Social/recreational outings	4			2			4
Visitors	2			2		2	4
Total Movements (in and out)	6	8	8	12	8	10	8

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

Activity	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Home Manager		2	2	2	2	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 (other professional/ friends/ relatives	2			2			2
Total Movements (in and out)	8	8	8	10	8	8	8

3.23. On this basis, it is maintained that the proposed use as detailed in this supporting statement would not be materially different from the previous use.

3.24. That outcome is consistent with the appeal decisions on closely comparable homes. In the Whitburn Road appeal (APP/C5690/X/22/3299351) the Inspector found the additional comings and goings of a home for three children with rota carers to be at a sufficiently low level to remain within the parameters of what could



usually be expected of a family home. In the Dale Road appeal (APP/P1045/X/20/3263178), the Inspector concluded that movements were unlikely to be significantly more than those of a family and gave rise to no planning concern. The same conclusion was reached at The Cottage, Egerton (APP/E2205/X/16/3161037) and Chestnut House, Cottam (APP/A3010/X/21/3277785). Here the position is stronger: the proposed movements are not merely comparable with a family household — they are substantially fewer than the established household's own.

Impact of the presence of staff

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

3.26. 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.*



3.27. 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/Anti-social Behaviour

3.28. Fear of crime and anti-social behaviour can be material planning considerations where they are relevant to the determination of a planning application. However, the present application is for a Lawful Development Certificate rather than planning permission. The issue is whether the proposed use constitutes a material change of use. In the absence of evidence that crime or anti-social behaviour is an inherent characteristic of the proposed use, such concerns do not establish that the use would constitute a material change of use.

3.29. It may be suggested that the proposed use could result in increased noise or anti-social behaviour because of the circumstances of the children who may live at the property. A relevant consideration is the reasoning in appeal decision **2162636**, where the Inspector concluded that the evidence did not demonstrate a high or expected risk of crime or serious consequences for neighbouring residents and that the potential effect on neighbouring living conditions was insufficient to justify dismissal of the appeal.

3.30. The particular circumstances or history of individual children are therefore not, in themselves, material to determining whether the proposed use constitutes a material change of use. The planning assessment should instead focus on the actual character and effects of the proposed use.



3.31. The nature of the child is not therefore material to the determination of this application.

3.32. This assessment is consistent with the appeal decisions on closely comparable homes. In the Whitburn Road appeal (APP/C5690/X/22/3299351) the Inspector found the additional comings and goings of a home for three children with rota carers to be at a sufficiently low level to remain within the parameters of what could usually be expected of a family home. In the Dale Road appeal (APP/P1045/X/20/3263178) the Inspector concluded that movements were unlikely to be significantly more than those of a family and gave rise to no planning concern. The same conclusion was reached at The Cottage, Egerton (APP/E2205/X/16/3161037) and Chestnut House, Cottam (APP/A3010/X/21/3277785). Here the position is stronger: the proposed movements are not merely comparable with a family household — they are substantially fewer than the established household's own..

Decisions on comparable homes

3.33. Lawful development certificates have been granted for closely comparable small children's homes by authorities across the country.

3.34. Certificates granted include: Barnet 23/4272/192; Barnet 24/1596/192; Hyndburn 11/19/0238; Sunderland 21/02212/CLP; Redbridge 1006/23; Bolton 15060/22; Dudley P20/0074; Kirklees 2021/CL/91398/W; South Ribble 07/2021/01196/CLD; Fylde 24/0207; Manchester 142294/LP/2025; Oldham CEA/353207/24; West Northamptonshire 2024/4161/LDP; Bedfordshire



PL/24/2314/SA; Coventry PL/2024/0002190/LDCP; Milton Keynes 24/01924/CLUP; Enfield 24/04255/CE; Slough P/10175/001; Spelthorne 25/00393/CPD; Reigate & Banstead 25/00322/CLP.

3.35. Certificates granted on appeal include: Derbyshire Dales APP/P1045/X/20/3263178; Lewisham APP/C5690/X/23/3329560; Welwyn Hatfield APP/C1950/X/23/3325924; Liverpool APP/M4320/X/22/3300633; Wyre APP/U2370/X/21/3277997; Bassetlaw APP/A3010/X/21/3277785; Ashford APP/E2205/X/16/3161037; Calderdale APP/A4710/X/24/3352795.

4. Conclusion

- 4.1. Compared with the established use of this property, the proposed use involves similar movements, a single daily staff changeover within the morning peak, no evening or weekend staff changeovers, and at most three vehicles at any time — all off-street.
- 4.2. Following Gravesham, the property would retain the defining characteristic of a dwellinghouse: it would afford those living in it the facilities required for day-to-day private domestic existence, and neither rota working nor commercial management alters that.
- 4.3. Such differences as can be identified between the established and proposed uses are not, as a matter of fact and degree, material. The Council is respectfully requested to grant the certificate sought.