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SUPPORTING STATEMENT & GROUNDS FOR CLPUD APPLICATION

10 Tiverton Close, Radcliffe, Manchester

Description :

Certificate of Lawfulness for the proposed use of a dwellinghouse as a home for the care of one child aged up to 17 years old, with 24hr care provided by carers operating on a shift basis

Applicant :

Identity Care Ltd

Date :

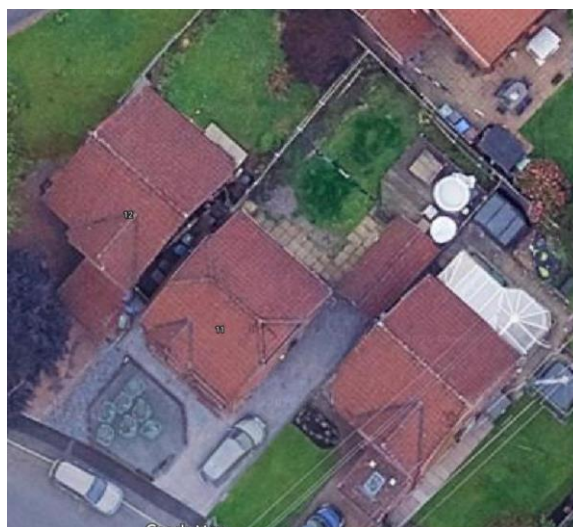
September 2026



1.0 INTRODUCTION

- 1.1 This statement is made in support of an application, under section 192 (1) of The Town & Country Planning Act 1990, as amended by Section 10 of the Planning & Compensation Act 1991) ("The Act"), for a Certificate of Lawfulness of Proposed Use or Development ("CLPUD") relating to the proposed use of an existing dwelling at 10 Tiverton Close, Radcliffe.
- 1.2 The subject property is a three bedroom detached two storey house with a detached garage located to the northside of the road. To the front of the house is a wide paved on-site parking area and to the rear is a private garden with the garage set to the rear at the end of the driveway. Tiverton Close is comprised of similar two storey detached houses all with on-site parking and various detached or integral garaging. The property is situated within an established residential area which is close to a variety of services, schools, play areas and bus stops etc.

Google Street View & Aerial photo



- 1.3 As identified below, internally the property comprises an entrance hallway leading to a living room which provides access to the kitchen at the rear. The rear garden is accessed via the kitchen and a set of patio doors from the living room. A staircase from the entrance hall provides access to the first floor where there are three bedrooms (one having an en-suite bathroom) together with a family bathroom all accessed off of a single landing.



- 1.4 A Certificate of Lawful Development is now being sought for the use of the subject property as a home for the care of one child aged up to 17 years, with 24hr care provided by carers operating on a shift basis.
- 1.5 Whilst it is accepted that a change of use would occur, the nature of the use is such that it would not amount to a material change and therefore does not require planning permission.
- 1.6 The grounds for this CLPUD are set out in the next section of this report.
- 2.0 **GROUND FOR CLPUD APPLICATION**
- 2.1 In the first instance it must be acknowledged that an application for a certificate of lawfulness is very different from an application for planning permission. In the case of the latter and in light of section 38(6) of The Act, regard has to be given to the provisions of the development plan, to the merits of development and to any other material considerations. However, determination of our client's application for a CLPUD should only be concerned with whether or not the nature of the proposed use is such that it can lawfully be carried out in the subject property without the need for planning permission.
- 2.2 For a proper determination of this application it is necessary to have regard only to relevant primary and secondary legislation and the decisions of the courts in relation to that legislation.
- 2.3 Section 55(1) of The Act defines the meanings of the term "*development*" and which includes the making of any material change in the use of any buildings. Section 55(2)(f) essentially states that in the case of buildings which are used for a purpose of any class specified by the Secretary of State, the use of the building for any purpose within the same class shall not be taken for the purposes of The Act as amounting to development. Section 57(1) of The Act provides that planning permission is required for the carrying out of any development of land and Section 336(1) defines "*land*" as including a building. Section 192 of The Act (as amended) makes provision for an application to be made to the local planning authority to ascertain whether any proposed use of a building would be lawful and which is the purpose of this application for a CLPUD.



- 2.4 The subject property is self-evidently an existing single, self contained unit of occupation designed for residential purposes and containing facilities for cooking, eating, sleeping and living, normally associated with its use as a dwelling house. The use of the property as a dwelling house accordingly falls within Class C3 of The Town & Country Planning (Use Classes) Order 1987 (as amended) (“the UCO”).
- 2.5 The UCO defines Class C3 as *“Use as a dwelling house (whether or not as a sole or main residence) by:*
(a) a single person or by people to be regarded as forming a single household;
(b) not more than six residents living together as a single household where care is provided for residents; or
(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).”
- 2.6 In the Order, “care” is defined as, *“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.”*
- 2.7 The UCO defines Class C2 as, *“Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses). Use as a hospital or nursing home. Use as a residential school, college or training centre.”*
- 2.8 The issue of whether the use of a dwelling, where 24 hour care is provided, falls into Class C2 or C3 has been the subject of case law and planning appeals. In the case of *North Devon District Council v First Secretary of State [2003]*, the judge concluded that children could not on their own be considered to constitute a fully functioning household without a resident carer living in the property full-time. As a consequence, it was decided that a change of use from C3 to C2 had occurred at the property. However, it was also decided that whilst a change of use had occurred, it was not deemed to be a material change of use and that as such, planning permission was not required.



- 2.9 Another issue of relevance relates to the number of people forming the “household”. It is established in case law (a judgement of the Court of Appeal in *R (Hossack) v Kettering BC* [2002] EWCA C iv 886) that the limit in Class C3 to more than six persons is an important consideration as with no more than that number, it would be more likely that persons would be living as a single household than if there were significantly more than six; the smaller the number of occupants, the more intimate, integrated and cohesive their occupancy would likely be and the more likely they are to be regarded as forming a single household.
- 2.10 The above and related matters together with further examples of case law etc. are helpfully addressed in section 3B-979 of the Encyclopaedia of Planning Law and Practice.
- 2.11 The applicant, Identity Care Ltd, is an established independent care provider operating in the North West, delivering care accommodation for children. One of their core services is the provision of independent, individual care homes for children aged 17 and under. Identity Care pride themselves on ensuring that their homes are warm, nurturing places to live which encourage education, hobbies and leisure activities. For the benefit of the children in their care it is essential that their homes mirror a normal housing environment in touch with the wider community.
- 2.12 The proposed use of the subject property is to provide a home for one child, with 24hr care provided by carers operating on a shift basis, living together as one household and thereby enabling them to lead as normal a life as possible.
- 2.13 The child in this case will be no older than 17 years old and will be in full time education. The property will form their permanent place of residence. He or she will have their own bedroom and will use the communal facilities of the kitchen, living room, bathroom, sunroom and garden space together with their carers.
- 2.14 They will be cared for by carers operating on a shift basis. Usually no more than two carers would be present at anyone time in the daytime with no more than one carer present overnight. The carers would be drawn from a small pool of staff assigned to the dwelling. The carers will be directly responsible for the care and welfare of the children whilst supporting them with their daily routine. The carers will make and have breakfast with them before taking



them to school or out for the day, depending on the day of the week. The carer will then return home with the young person and they will spend the evening together having dinner and engaging in normal household activities. Other bedrooms at the property will provide individual sleeping accommodation for carers when staying overnight. There would be no shift changes during unsociable hours. The property would also be managed by a property manager who would visit the property on occasion but always between the hours of 9:00 and 17:00 Monday to Friday.

- 2.15 The use of the property is intended, for the benefit of the children in the applicant's care, to mirror the routine of a normal home. As previously highlighted, the property will be the child's permanent place of residence. The small number of residents and carers assigned to the property will help to create a sense of continuity and familiarity for all concerned and as such will assist in maintaining a residential character akin to a C3 use. The number of persons occupying a property of this size and the associated comings and goings are considered to be commensurate with that of a permanent household.
- 2.16 The dwelling does not require any internal or external adaptations and benefits from a driveway and garage providing ample off-street car parking for the intended use. Notwithstanding this there are no restrictions on on-street parking in the locality. No physical alterations are proposed to the property. Due to the nature of care and the age of the child in need of care, only the carers will have access to a vehicle. In any case, Use Class C3(a) and C3(b) already makes an allowance for the presence of care staff and relevant shift changeovers.
- 2.17 In terms of additional visitors over and above immediate care staff, any such visits would take place during daytime hours only and would be generally 'ad-hoc'. The property would also be visited by the Local Authority social worker who, generally once every three months, would conduct a review of the children either at the property or meet with them off-site, such as a café setting. Such visits and associated vehicular movements would not be too dissimilar to that of a regular household such as visiting friends and relatives, as well as visiting professionals. Indeed, Use Class C3(a) makes provision for a range of non-resident household visitors including cleaners, gardeners and personal assistants.



- 2.18 Whilst it is accepted that a change of use would occur in this case, it is contended that such a change would not amount to a material change from a C3 use and as such would not require planning permission.
- 2.19 In conclusion, after taking account of relevant legal principles and their application to the evidence in this case, planning permission is accordingly not required for the proposed use which could lawfully take place within the subject premises. A Lawful Development Certificate (LDC) should therefore be granted.