

Dated 22nd September 2023

SUPPORTING STATEMENT

**in relation to the property on
136 Sunny Bank Road, Bury, BL9 8LJ**

1. **Background**

- 1.1. This supporting statement is in relation to the property located at 136 Sunny Bank Road, Bury, BL9 8LJ
- 1.2. It has previously been used as a family residential home (C3 dwellinghouse). We are intending on renting the property from the Landlord on a long-term lease.
- 1.3. Zen Care Homes Ltd works in partnership with Local Authorities in order to deliver quality accommodation and facilities for young people requiring care. This development meets the present and future needs of those young people who are in need of care and will enhance the local environment within this part of Bury. We think it will contribute to the achievement of building a mixed and balanced community.
- 1.4. This proposed use is ideal in this location and will provide an excellent home for the young people in our care, offering a lifestyle that ensures independence whilst offering care to those in need of care.

2. **Our Proposed Use**

- 2.1. We are looking to open a Children's Residential Care Home (as defined in the Care Standards Act 2000) to provide full time care for up to 3 mixed-gender young people aged between 11 and 17. Our young people can sometimes have emotional difficulties or have come out of foster care. The young people will **not** have any disabilities or medical conditions preventing them from living as a single household or undertaking self-care.
- 2.2. There are no proposed structural changes to the exterior of the building.
- 2.3. Our aim is to have young people stay with us for medium to long term (we look to have young people stay with us for a number of years). Turnover of young people will be minimal as this allows for a stable, healthy environment growing up. It will be the young people's primary and exclusive residential dwelling – our aim is to make it feel like their home as much as we can.
- 2.4. We will have a Manager working there during business hours (Mon-Fri). Otherwise, we will have staff team working on a rota system. It will not be their primary residence. There will 2 support staff members in the property during the day and between 1 and 2 support staff members sleeping overnight. Staff usually work 3 days in a row – shift changes are minimal.

3. **Grounds for Application**

3.1 Use Class C3 (b)

3.2 The proposed use falls within Class C3(B). This is because there **would not be more than six residents living together** and they are living together as a single household, and care of a non-significant nature is being provided for the residents.

3.3. The young people will not have any disabilities or medical conditions that would prevent them from living as a single household and undertaking self-care.

3.3. During their stay, the residents and the support workers would reside as a single household in accordance with the definition in the *DCLG Circular 08/2010 'Changes to Planning Regulations for Dwellinghouses and Houses in Multiple Occupation' (November 2010)*¹. Residents, including support workers will relax together, share mealtimes and all facilities including the living room, kitchen and bathroom areas. Support workers will not benefit from any additional or separate facilities.

3.4. The site will be the young person's sole place of residence throughout their stay, with the average length of stay being approximately two years. Many young people do however stay beyond two years.

3.5. The front/back doors will only be locked during the night-time. The residents are not secured into the property and are able to come and go as they please, should they wish to.

3.6. OFSTED clearly require us to maintain a homely domestic environment. We are simply unable to run a children's home without doing so – OFSTED would take enforcement action against us if we lose the look and character of a conventional residential dwelling. The character of the building must remain as a normal family dwellinghouse.

4.1 Material Change in Use

4.2 When change of use from a C3 to a C2 classification is being considered, we note that the 2003 judgement in *North Devon District Council v. Secretary of State [2003]* stated that planning permission would only be required if there had been a *material change of use* from a dwelling house.

4.3 Should Bury Planning disagree with our view that the proposed use will fall within Use Class C3 (b), we ask you to consider the extent to which, if the use fell within Class C2, there would actually be a "material change of use" that required planning permission.

4.4 We note that what constitutes a material change of use will depend on the circumstances of a particular case and will be determined in the first instance by the local planning authority for the area concerned, however we would assert that there are strong reasons to make this argument:

4.5 The home is a 3 bed detached house with 918 sq/ft on the ground floor and 633 sq/ft on the first floor.

4.6 The owner was intending to rent the property out to large family prior to our interest in the property – given the space/cost provided by the property, it is unlikely the property would be suitable for a small family.

¹ ¹ Whilst the circular is now withdrawn (07th March 2013) following the publication of the Governments Planning Practice Guidance (PPG), the PPG's do not provide guidance in addition to that stated previously, to replace the information within 08/2010. Therefore, the guidance is still considered useful.

4.7 The proposed use would have 3 people living there with the addition of staff (usually 2 support staff on a rota) – this is not materially different to the use of such a substantial property by a residential family.

4.8 The proposed use would generate traffic movements similar to the daily variations expected with a large family home which we believe is suitable for this location, and the safety and freeflow of highway movements would not be prejudice by this development (see [Schedule 1](#) for further details).

4.9 There is parking for one car in the driveway and there is also street parking directly outside the property when required.

4.10 Mr Justice Collins in *North Devon District Council v. Secretary of State* [2003] concluded:

*“Nevertheless, I consider on current evidence that the proposed use would be unlikely to constitute a “material change of use” and therefore constitute development. The change from a conventional dwellinghouse to the limited care provision that is referred to for up to 4 children and non-resident carers operating a rota at the property **would not give rise to the land use changes that could be regarded as “material” therefore triggering the requirement to obtain planning permission.**”*

4.11 It is important to note that we are legally obligated from a regulatory perspective to maintain the character of a conventional residential dwelling. OFSTED Guidance (which guides our regular inspections) states:

*“For children’s homes to be nurturing and supportive environments that meet the needs of their children, they will be **homely, domestic environments**. Children’s homes must comply with relevant health and safety legislations (alarms, food hygiene etc.); however in doing so, homes should seek as far as possible to **maintain a domestic rather than ‘institutional’ impression**”²*

4.12 The premises will have the look and character of a conventional residential dwelling. It will consist of bedrooms, all of which are lockable, shared kitchen, dining room, living room, games room and bathrooms.

4.13 The proposed use gives rise to no greater level of disturbance than may be regarded as reasonable during conventional family living for a property as substantial as this.

4. Supporting Applications

4.1 Our sister company Pure Care Homes Ltd have several care homes whereby the Local Authorities have been satisfied that our proposed use would fall into Class C3 as our use does not constitute a material change in use (See [Schedule 2](#) for certificates):

4.1.1 **6 Harboro Grove, Sale** – Trafford Council have issued a Certificate of Lawful Development which states ‘as a children’s residential home (Class C2) for up to 5no. persons between the ages of 10-18 years with a maximum of 2no. additional staff members staying overnight on a rota basis and operating in full accordance with the

²https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/463220/Guide_to_Children's_Home_Standards_inc_quality_standards_Version_1.17_FINAL.pdf

details set out within the applicant's Supporting Statement (Dated 08 February 2019), would not represent a material change of use from the existing C3 dwellinghouse use, and is therefore Lawful Development.'

- 4.1.2 **33 Parliament Street, Bury** – Bury Council is in agreement with the use falling within Class C3(b): up to six people living together as a single household and receiving care. The Certificate of Lawful Development states *'the proposed change of use of 33 Parliament Street, Bury BL9 0TE, to a children's residential home (Class C2) for up to 3 persons between the ages of 11-18 years with a maximum of 2 additional staff members staying overnight on a rota basis and operating in full accordance with the details set out within the applicant's Supporting Statement (Dated 11th August 2019), would not represent a material change of use from the existing C3 dwellinghouse use, and is therefore Lawful Development.*
- 4.1.3 **28 St Peters Road, Bury** - The Certificate of Lawful Development states *'change of use to a residential children's home (Class C2) for up to 3 young persons aged 11 to 18 years on a permanent basis with 5 staff on a non-permanent rota basis.'*
- 4.1.4 **21 Tannery Way, Manchester** – Manchester Council have issued a Certificate of Lawful Development which states *'Grant on the basis that the proposed occupation of 21 Tannery Way, Manchester, M18 8LH, , as detailed on the submitted application form, documents and drawings constitutes a Class C2 use for occupation by up to six people living together as a single household and receiving care as defined by Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.*

4.2 We understand that appeal decisions have found that even where staff providing care to other residents are on a shift system living in their own homes, the property is still within the Use Class C3 (b). This was the case with at least two appeals reported in Development Control Practice.

4.3 Enfield 11/7/06 – four residents were looked after by three staff on a shift system providing 24-hour cover with one of them staying on the premises from maximum of eight hours.

4.4 Croydon 8/1/03 - an inspection noted that residents and staff would share all facilities and take meals together and that it would not have an institutional character. On that basis the Inspector concluded that the use would fall squarely within C3.

5 Application of Case Law to our Proposed Use

- 5.1 If the proposed use is deemed to fall within C2, *North Devon [2003]* states that there must be a *material change of use*. With no exterior structural changes and no material increase in noise, movements or people, there is very little evidence to suggest it is a material change of use (**see [Schedule 1](#) for further information**).
- 5.2 OFSTED clearly require us to maintain a homely domestic environment. We are simply unable to run a children's home without doing so – OFSTED would take enforcement action against us if we lose the look and character of a conventional residential dwelling. The character of the building must remain as a normal family home.

6 Conclusion

- 6.1 In light of the above submitted evidence, the balance of probability is in favour of the issuance of a Lawful Development Certificate.
- 6.2 It is therefore respectfully requested that a Lawful Development Certificate be granted for the use of the property as a residential home for up to 3 young people requiring an element of care.

Schedule 1
Planning Considerations and Further Details

1. Regulatory Framework and Local Need

- 1.1. The care home would be registered with OFSTED and will comply with all the necessary legislative requirements.
- 1.2. As part of our required OFSTED registration process, we must demonstrate that we meet certain legal requirements set out within the Care Standards Act 2000, Care Standards Act 2000 (Registration) (England) Regulations 2010 and the Children's Homes (England) Regulations 2015.
- 1.3. OFSTED inspect newly opened care homes, and carry out at least one full inspection and one interim inspection per year. OFSTED can take enforcement action, where care homes have been shown to not meet the legal requirements set out within the Regulations.
- 1.4. Bury Children's Services have informed us that there is a need for a children's residential care home in Bury. Both ourselves and OFSTED believe that children should not be placed out-of-area as a result of a lack of local care homes due to the increased risks³ and educational damage⁴ associated with out-of-area placements.

2. Noise and Movement

- 2.1. We understand local residents will prefer to have movement around the property to be non-disruptive. Activity levels arising from the proposed use will be very low key. With this in mind we would note the following:
 - 2.1.1. Staff will work 15.5 hour shifts during the day, so staff turnover during the day will be minimal. Staff work multiple (2 to 3) days in a row. .
 - 2.1.2. During the day residents would attend school and, therefore daytime activity levels at the site would normally be limited.
 - 2.1.3. Staff will be encouraged to join a car sharing scheme and the number of visitors to the property will be minimal (it will likely include social workers every 4 to 6 weeks occasionally members of the local authority).
 - 2.1.4. We understand the property has previously been used for upwards of 6 family members without issue.

3. Children's Behaviour

- 3.1. With children's care homes, we understand that local residents can sometimes be concerned about antisocial behaviour from the children. We would note the following:
 - 3.1.1. It cannot be assumed that children living in care would be more likely to behave antisocially or create levels of noise over and above children living in a 'traditional' family unit.

³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/419070/From_a_distance_Looked_after_children_living_away_from_their_home_area.pdf

⁴ <https://www.local.gov.uk/sites/default/files/documents/healthy-futures-supportin-9cf.pdf>

- 3.1.2. The children would be cared for by specialist supervising staff and care workers who are able to deal with any situations that might arise – our vast experience in the industry ensures we house young people who we are comfortably able to safeguard and look after. We do not take on high risk children.
- 3.1.3. All children need a sense of belonging and someone who is ‘in their corner’. We believe that young people in care have every right to be included and welcomed into a local area. The unfounded⁵ and unfair⁶ perception surrounding these young people should not ostracise them from society.
- 3.2. In land-use terms we believe this will appear as very much like a large family home, but what makes it different is the perceived personalities of the young people that would occupy the site. We would like to stress that these perceptions do not reflect the realities of children in care, and any isolated instances of poor behaviour will be countered by effective and responsible management.
- 3.3. We understand that fear and perception of crime is a planning consideration, however we very firmly believe that there is zero reasonable evidence base for any fear in this instance and would vehemently oppose any unfair perceptions surrounding young people who have often already had to overcome a lot in their lives.

⁵ <https://www.celcis.org/files/4614/4308/5144/Homes-from-Hell-Media-Perceptions-Clackson-5.1.pdf>

⁶ <https://coramvoice.org.uk/sites/default/files/Children's%20views%20lit%20review%20FINAL.pdf>

Schedule 2

Certificates of Lawful Development

ApplicationNo:66907

ApplicationNo:66907

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT (PROPOSED)

Town and Country Planning Act 1990: Section 192
(as amended by Section 10 of the Planning and Compensation Act 1991)
Town and Country Planning (Development Management Procedure) Order
2010: Article 35

To:
Ms Karim
Ms
Jacin House
24v Hood Street
Manchester
M4 6WX

On Behalf Of:
Mr Mahmood
350 Manchester Rd
Bury
BL9 0NR

Application Number: 66907

Date of Registration: 26/04/2021

First Schedule

Second Schedule

Lawful Development Certificate for a proposed change of use to a residential children's home (Class G2) for up to 3 young persons aged 11 to 18 years on a permanent basis with 5 staff on a non-permanent rota basis

28 St Peters Road, Bury, BL9 9RB

Bury Metropolitan Borough Council hereby certifies that on 26/04/2021 the matter described in the First Schedule in respect of the land specified in the Second Schedule and edged red on the plan attached to this certificate is **Lawful Development** within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason(s):

Applicant Plan Numbers:
Supporting Statement dated 25th April 2021
Notes to Applicant

1. This certificate is issued solely for the purposes of Section 191/192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the matter described in the First Schedule and to the land specified in the Second Schedule was lawful, on the specified date and, thus, was not liable to enforcement action under section 172 of the 1990 Act on that date.
3. This certificate applies only to the extent of the matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any development or use materially different from that described or which relate to other land may render the owner or occupier liable to enforcement action.
4. The effect of the certificate is also qualified by the proviso in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or

operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

NOTES TO APPLICANT

Not Applicable

Signed:



On behalf of the Council

Date of Decision: 18/06/2021

ApplicationNo:64557

ApplicationNo:64557

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT (PROPOSED)

Town and Country Planning Act 1990: Section 192
(as amended by Section 10 of the Planning and Compensation Act 1991)
Town and Country Planning (Development Management Procedure) Order
2010: Article 35

To:
Ms Shazia Karim
2 The Chase
Bolton
BL1 5HL

On Behalf Of:
Mr Ghazan Mahmood
2 The Chase
Bolton
BL1 5HL

Application Number: 64557

Date of Registration: 27/08/2019

First Schedule

Second Schedule

Lawful development certificate for proposed residential childrens home (C2)

33 Parliament Street, Bury, BL9 0TE

Bury Metropolitan Borough Council hereby certifies that on 27/08/2019 the matter described in the First Schedule in respect of the land specified in the Second Schedule and edged red on the plan attached to this certificate is **Lawful Development** within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason(s):

- 1 The proposal, described in the First Schedule, is not deemed to constitute development within the meaning of Section 55 of the Town & Country Planning Act 1990 (as amended) as the proposed change of use of 33 Parliament Street, Bury BL9 0TE, to a children's residential home (Class C2) for up to 3 persons between the ages of 11-18 years with a maximum of 2 additional staff members staying overnight on a rota basis and operating in full accordance with the details set out within the applicant's Supporting Statement (Dated 11th August 2019), would not represent a material change of use from the existing C3 dwellinghouse use, and is therefore Lawful Development.

Applicant Plan Numbers:
17017-11 and Supporting Statement dated 11th August 2019
Notes to Applicant

1. This certificate is issued solely for the purposes of Section 191/192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the matter described in the First Schedule and to the land specified in the Second Schedule was lawful, on the specified date and, thus, was not liable to enforcement action under section 172 of the 1990 Act on that date.
3. This certificate applies only to the extent of the matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any development or use materially different from that described or which relate to other land may render the owner or occupier liable to enforcement

action.

4. The effect of the certificate is also qualified by the proviso in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

NOTES TO APPLICANT

Not Applicable

Signed:



On behalf of the Council

Date of Decision: 24/10/2019

96180/CPL/18



TRAFFORD
COUNCIL

Head of Planning and Development
Rebecca Coley
Trafford Council
Planning and Development
Trafford Town Hall, Talbot Road
Stretford, M32 0TH
www.trafford.gov.uk

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192 (as amended by section 10 of the Planning and Compensation Act 1991)

Town and Country Planning (Development Management Procedure) (England) Order 2015: ARTICLE 39

CERTIFICATE OF LAWFUL PROPOSED USE OR DEVELOPMENT

The Trafford Borough Council hereby certify that on 10th December 2018 the use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged red on the plan attached to this certificate, **would have been lawful** within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason(s):

The proposed use of 6 Harboro Grove, Sale, M33 5BA, as a children's residential home (Class C2) for up to 5no.persons between the ages of 10-18 years with a maximum of 2no. additional staff members staying overnight on a rota basis and operating in full accordance with the details set out within the applicant's Supporting Statement (Dated 08 February 2019), would not represent a material change of use from the existing C3 dwellinghouse use, and is therefore Lawful Development.

Signed

(Council's Authorised officer)
On behalf of the Council

Date 4th March 2019

APPLICATION NUMBER – 96180/CPL/18 APCPLZ stephenda

First Schedule

Use as a children's residential home (Class C2) for up to 5no.persons between the ages of 10-18 years with a maximum of 2no. additional staff members staying overnight on a rota basis and operating in full accordance with the details set out within the applicant's Supporting Statement (Dated 08 February 2019).

Second Schedule

6 Harboro Grove, Sale, M33 5BA



Town and Country Planning Act 1990 (as amended) (Section 192)
Town and Country Planning (Development Management Procedure) (England)
Order 2015 (as amended)

Grant of Certificate of Lawful Use or Development

Applicant

Khan
21 Tannery Way
Manchester
M18 8LH

Agent

Mr Khan
PureCare
Unit 1E Beehive Mill
Manchester
M4 6JG

Date of Application
5 October 2022

Application No.
135127/LP/2022

First Schedule

Change of use of dwellinghouse (Class C3) to children's care home (Class C2)

Second Schedule

21 Tannery Way
Manchester
M18 8LH

Manchester City Council hereby certify that on 5 October 2022 the use/operations described in the First Schedule in respect of the land specified in the Second Schedule and more particularly identified on the plan attached to this certificate edged in red, was lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason(s):

1) Grant on the basis that the proposed occupation of 21 Tannery Way, Manchester, M18 8LH, , as detailed on the submitted application form, documents and drawings constitutes a Class C2 use for occupation by up to six people living together as a single household and receiving care as defined by Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Date: 30 November 2022

Signed:

Julie Roscoe
Director of Planning, Building Control & Licensing

Manchester City Council, P O Box 532, Town Hall, Manchester M60 2LA

Notes to applicant

1. This certificate is issued solely for the purposes of section 192 of the Town and Country Planning Act 1990 (as amended).
2. This certificate is issued solely to the extent of the use/operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/operations which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
3. The effect of the Certificate is also qualified by the proviso in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

