

APPEAL STATEMENT

Project: Lawful development certificate for proposed change of use from dwelling (Class C3) to residential care (Class C2) for up to 3 no. children aged 8-18 years old with 24/7 supervision

Address: 2 Rhodes Drive, Bury, BL9 8NH

RHODES DRIVE

1. Introduction

This statement accompanies an appeal against the decision of Bury Council to refuse a Lawful Development Certificate for the proposed use of the property at 2 Rhodes Drive as a small children's residential home accommodating a maximum of three children with appropriate supervision and care.

The Council refused the certificate on the basis that the proposal **may** represent a material change of use from Use Class C3 to Use Class C2 and therefore could constitute development requiring planning permission.

Reason for Refusal from Officer's Report

Point 1:

"In this instance the existing property has 5 bedrooms. The indicative proposed floor plans show the existing lounge utilised as a staff office/bedroom, 3no. children's bedrooms at first floor and a spare bedroom and games room within the loft. It is unclear why an additional or spare bedroom is required within the loft if the proposal is for 3no. children, or who would occupy this additional bedroom. This does not appear to have been expanded on within the supporting documentation."

Point 2 :

"The Management Plan states that "under typical circumstances, two Residential Care works will be on duty at any one time" but also states that "staffing levels are increased in response to the number of children accommodated and their individual needs." As such it is unclear from the information submitted how may staff would be at the site at one time should the needs of the children be greater or when typical circumstances cannot be adhered to because of these needs.

This therefore could mean that there could be an increase in activity at the property and so a material change of use would occur. It is therefore considered that a material change of use may occur and A Certificate of Lawfulness should not be granted in the terms specified as the proposed may be considered development."



Figure 1. Existing Floor Plans

The premises is an extended semi-detached dwelling on a residential street so the likely use of the property has constantly been residential C3 uses. The property has been extended to the rear with a dormer, and to the front with a single storey canopy and porch.

The premise consists of a large lounge, open plan kitchen / dining space on the ground floor with five bedrooms across the first and second floor. The property has a driveway to the side with an access gate.



Figure 2. Front of the property



Figure 3. Aerial view of the property. Driveway / garden to the left and right hand side of the property

2. Nature of the Proposed Use

The proposal involves the occupation of the existing five-bedroom dwelling by a maximum of three children who require care in a family-style residential environment.

The key characteristics of the proposed use are:

- A maximum of **three children** living at the property.
- The children will live together in a **single household environment**.
- The property will operate as a **domestic home rather than an institution**.
- Staff will provide care and supervision consistent with safeguarding requirements for children.

The physical characteristics of the property will remain that of a normal dwellinghouse and no external alterations are proposed that would change its residential character.

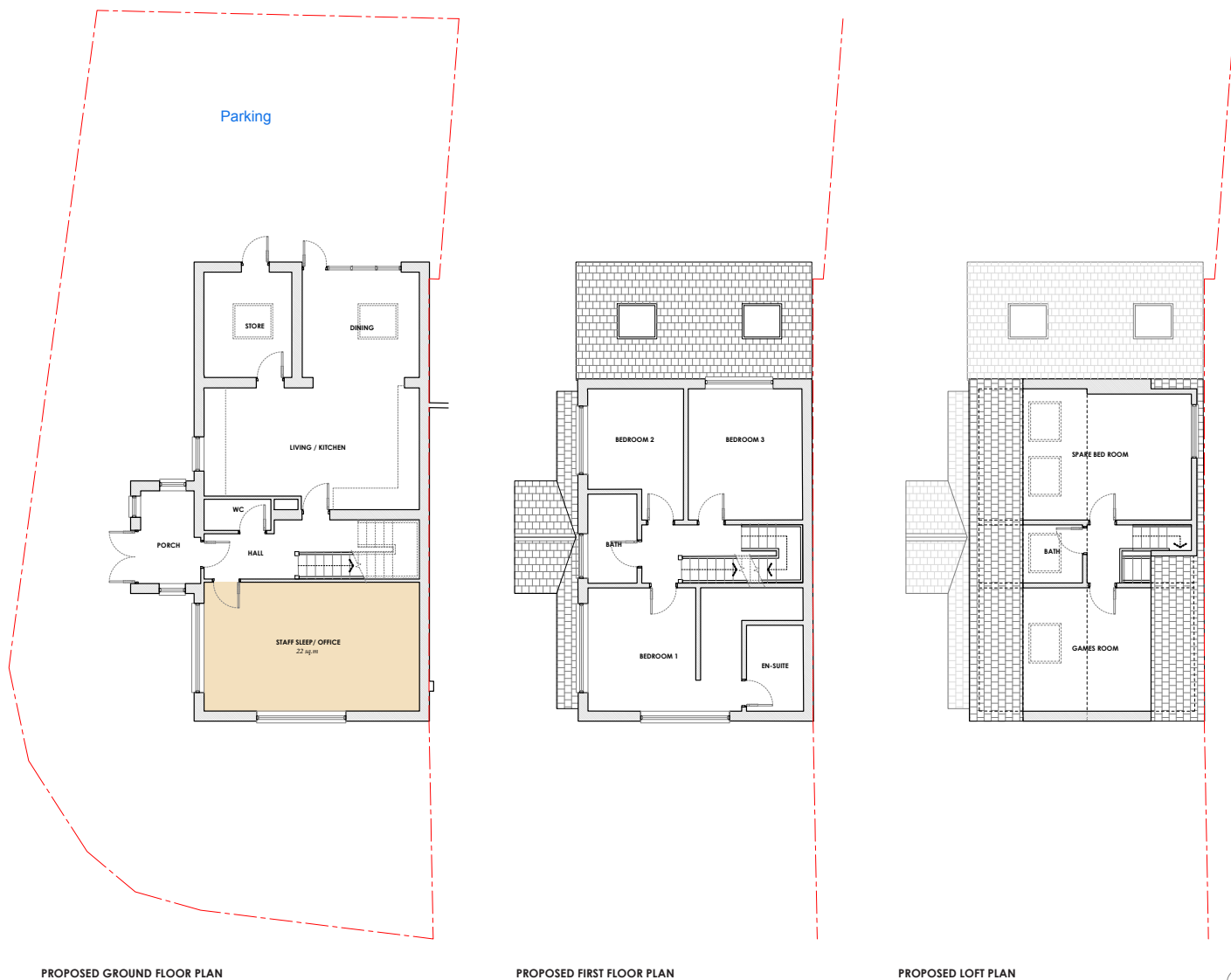


Figure 4: Proposed Plans

It is worth noting that the existing premise could technically hold a family of 6 people.

Some key points within the management plan that was submitted in the application:

1. Rhodes Home will **not** accept any placements until full registration with Ofsted has been granted.
2. The home does **not** accept emergency or unplanned admissions.
3. There will only ever be a **TOTAL OF THREE CHILDREN** aged 8-18 years.
4. Rhodes home is **not** suitable for children who require Tier 3 or inpatient mental health services.

3. Household Character

The central issue in determining lawfulness is whether the residents would live together as a **single household**.

The proposed arrangement reflects a **family-style living environment**, where:

- Children share common living spaces.
- Meals are prepared and eaten together.
- Daily routines reflect a typical domestic household.
- The property operates as a home rather than a residential institution.

Small children's homes of this scale are widely recognised as providing a **domestic-style living arrangement**, which aligns closely with the definition of a household.

Planning officers will already be aware that a typical five-bedroom family house can easily generate a similar or greater level of activity than what is proposed here. A household of this size could reasonably have multiple vehicles, visiting family and friends, and older teenagers who may also drive, all contributing to regular daily comings and goings.

In comparison, the proposed children's home would operate with a very modest level of activity. In practical terms this would normally involve:

- A single staff shift change per day
- Occasional visits from social workers or professionals
- Pre-arranged visits from parents or other authorised individuals

Overall, the level of vehicle movement and general activity associated with the proposed use is expected to be comparable to, or potentially lower than, that of a typical large family dwelling.

The presence of care staff does not automatically alter the residential nature of the use. Care provision is common in many residential arrangements such as supported living, foster care, or family homes with live-in or visiting carers.

Although staff are likely to live local and in most cases will walk to the property. The existing property can already accommodate 6 people. Therefore it is not assumed that there would be any additional pressures on off street car parking.

4. Staffing Arrangements

The officer's concern appears to relate to the potential for increased activity at the property due to staffing arrangements and shift patterns.

To provide clarity, the operational model for the home is intentionally small-scale and designed to reflect the character of a typical residential household. In practice, staffing levels would generally consist of:

- One member of staff on duty overnight (waking night support)
- One member of staff during daytime hours
- A registered manager attending during the day for oversight and management duties

As a result, there would ordinarily be only one to two staff members present at the property at any given time.

This level of staffing is modest and comparable to the normal comings and goings associated with a large family home receiving occasional visitors or support services.

The Council's refusal largely relies on this fact that care would be provided by staff operating on shift patterns.

However, the use of shift-based staff is **standard practice in regulated children's homes** and does not inherently transform the nature of the occupation into an institutional use.

Importantly:

- Staff presence is limited and proportionate to the number of children. The proposal is **ONLY** for up to three children and no more.
- The overall number of residents and staff present at any time remains small.
- Activity levels remain consistent with those expected within a normal residential property.

The presence of care workers should therefore be viewed as **ancillary to the residential use**, rather than defining the primary character of the property.

The comment regarding "Staffing levels are increased in response to the number of children accommodated and their individual needs"(page 7 in the management plan) should be read in its full context :

"Staffing levels are increased in response to the number of children accommodated and their individual needs. Where more than one child is living at the home, additional staff members are deployed to ensure safety, quality of care and meaningful engagement. Under typical circumstances two residential care workers will be on duty at one time, in addition to the registered manager during core working hours."

As you can see from the extract above, it is referring to the situation of when there is more than one child, not when there are multiple children(i.e. more than three). As the application only relates to up to three children.

As also mentioned in the management plan that the house would not accept children who require extra level of care.

This extract is very much in line with Ofsted.

Under the requirements of OFSTED, such homes must be run as closely as possible to a typical family household. Government policies promote this type of service and there is a need for this kind of care. It is considered that the proposed use would make a positive contribution to the care and protection of children.

5. Material Change of Use

A material change of use occurs where the character of the use differs significantly from the lawful use of the land.

In this case:

- The property remains in residential use.
- Occupancy levels are low.
- The pattern of daily life remains domestic in nature.
- Traffic, activity levels and intensity are comparable to a typical family household.
- The spare bedroom on the upper floor is a “spare bedroom”. This could be used for a variety of uses. For example, it can be a sensory room, a games room, a staff office room / sleep room if the lounge on the ground floor is being used as an office. Just because there is an extra room, does not mean that there will be an “extra” person or child.
- The application was strictly and only for up to three children.

Therefore, the proposal would **not result in a materially different character of use** compared with the existing lawful residential use.

6. Case Law Considerations

The Council’s report references case law suggesting that children cannot run a household independently.

However, the appellant’s proposal is not based on children living independently. Instead, the children would live within a **supported household environment**, comparable to foster care arrangements.

Many appeal decisions have recognised that **small children's homes with a limited number of residents can operate in a manner comparable to a normal household**, particularly where the scale is small and the environment remains domestic.

Any noise / disturbance is not considered to be materially different from that which would be possible from a family occupying the dwellinghouse. It is important to note that the suitability of the property would be fully assessed in order to match the type of residents that could reside there. This would be heavily monitored by Ofsted. Therefore the scheme would comply with Policies UDP EN1/2, CF3 and CF3/1.

7. Scale and Intensity

The proposed occupation is modest in scale:

- Maximum of **three children**
- Limited staff presence
- No structural changes to the property
- Continued use of the dwelling as a home

Given the low level of occupancy and the residential nature of the activity, the use is **unlikely to generate levels of activity materially different from a typical family household**.

It is not anticipated that each staff member will have a car. Car sharing would also be encouraged as well as public transport. Therefore the proposed would comply with local policies.

8. Conclusion

The appellant considers that the Local Planning Authority has applied an overly cautious interpretation of the proposed use.

The proposal:

- Maintains the **residential character** of the property
- Involves **a small number of residents living together as a household**
- Operates in a **domestic environment** rather than an institutional setting
- Would not result in a **material change of use**

For these reasons, the proposal should be considered lawful.

The appellant respectfully requests that the Planning Inspectorate **allows the appeal and grants the Lawful Development Certificate**.