



PLANNING STATEMENT

The Hollies, Cheadle Road, Blythe Bridge

Application for Certificate of Lawfulness for Use as Children's
Residential Care Home (Sui Generis)

1. Introduction

- 1.1 This statement accompanies a planning application for a proposed Children's Residential Home at the above address and has been written to meet the requirements of the National Planning Policy Framework.
- 1.2 The property in question is currently a private residential dwelling (C3) – a detached house in a predominantly residential area of Blythe Bridge. The area can be characterised as suburban with good access to the local road network and amenities.

2. Description of the Proposal

- 2.1 The proposal would provide medium to long term accommodation for up to three children aged between 7-17 years of age. Children being placed at the address will have an assessment of their needs and risk factors made prior to placement, working alongside the Local Authority. The service is aimed at children who are in the care system and need a stable home. The applicant's provision will ensure all the needs of the children are met and the right support is in place through engaging a professional and highly skilled team, with a registered manager in place to oversee the operations and providing 24hr care. This longer-term arrangement provides stability for the children providing a safe, secure home they will be supported to develop and grow in a nurturing positive environment where they feel able to be themselves and enjoy their childhood.
- 2.2 The running of this care home would be undertaken as close as possible to that of a normal dwellinghouse. Any staff training or meetings would generally take place off-site and the children

would also visit healthcare professionals off-site as per a normal family operation (i.e. doctors, dentists, etc.). As well as the children being placed in the local schools in the catchment area, they would also utilise services and facilities in the surrounding area.

- 2.3 It is important to note that before a registered care home can open, the suitability of the property will be fully assessed in order to match the types of residents that could reside there, and this is also heavily monitored by Ofsted. Factors would include nature of the surrounding community, skills and experience of the manager and staff team, proximity to other residential homes etc. Providing referrals suit the skills and experience of the staff team.
- 2.4 No increase in the physical size of the property is proposed. The property contains three bedrooms at present which would be used to accommodate Child. On the ground floor there would be a new staff office formed from the existing spacious Living Room. As such the alteration is 'de minimis' in nature and does not constitute any material change to the external appearance of the property. The layout would still very much represent that of a normal domestic dwelling.
- 2.5 With a home to accommodate three children, staffing levels are expected to consist at any one time of up to three full time staff during the daytime, and between one and two during the night time (where these would be 'waking night' shifts). Staff would work max 14hr shifts and additional staff would only be present upon site for shift changeovers (which would be staggered and therefore amount to on average, one additional staff member for up to 30 minutes, twice every 24 hours). The home manager may also attend the property on a part time basis.
- 2.6 Visitors delivering therapeutic services or undertaking statutory inspections would also occasionally come to the property (social workers, Ofsted inspectors etc). but the frequency and duration of visitors would be no different to those received at a normal dwelling. Any therapy would generally take place off site.
- 2.7 The sector is very tightly regulated and Ofsted's requirements for setting up and running a care home are extremely stringent. The home would be reviewed monthly by an independent 'regulation 44' visitor and inspected by Ofsted formally every 6-18 months. Regardless of planning permissions, detailed information will need to be approved by Ofsted in order to ultimately register and open the home.

3 Regulatory Context

- 3.1 The proposed use is subject to other legislation which is more appropriate to regulate the proposed development. In this case these are:
- The Care Standards Act 2000 (Registration)(England) Regulations 2010,

- The Children's Homes (England) Regulations 2015
- Children's Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013

3.2 Ultimately Ofsted are the body responsible for registering and monitoring care homes in accordance with these regulations. If there is a failure to meet these requirements, Ofsted's regulatory powers would extend to being able to close the home. Ofsted dictate that care homes should be run as closely in nature as possible to a 'typical' family household. The provision of residential childcare for children is largely delivered in the UK through homes of six or less children. Indeed, Ofsted (the regulator) who identified in their report entitled 'Children's Social Care in England 2019' that the demand for homes has not kept pace with demand and that children's homes providing care for between 3 - 4 children were the most common form of children's home in England as of March 2019. Care homes for between 1 – 2 children are the third most common type of care home (behind homes for 5 – 6 children) and therefore this type of home provides a substantial contribution to the overall care home provision. This trend recognises the best practice objectives of residential care homes in replicating a 'normal' domestic household environment.

3.3 Under Section 22G of the Children Act 1989, local authorities have a statutory responsibility to take steps, as reasonably practicable, that ensure children in care are provided with accommodation that '(a) is within the authority's area; and (b) meets the needs of those children.' Three reports were published in 2020 by the Children's Commissioner: '*The Children who no-one knows what to do with*'; '*Private provision in children's social care*' and '*Stability index 2020*', which point out the failings of local government to meet this responsibility.

3.4 There has been a 277% rise in the number of children knowingly being placed into illegal and unregulated care homes by Local Authorities between 2020 and 2023, due to chronic shortages in the number of homes available¹. This is placing hundreds of our most vulnerable children at risk whilst planning controls fail to prioritise delivery of the urgently needed places.

4 Planning Assessment

4.1 According to Rachel Maclean (Minister of State for Department for Levelling up, Housing and Communities in March 2023):

"The planning system should not be a barrier to providing homes for the most vulnerable children in society. When care is the best choice for a child, it is important that the care system provides stable, loving homes close to children's communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love."

¹ [Revealed: hundreds of vulnerable children sent to illegal and unregulated care homes in England | Children | The Guardian](#) – 13th April 2024

“Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country.”²

4.2 Recent caselaw has confirmed that Use class C2 (Residential Institution) is often the appropriate categorisation of a Children’s residential care home, where the property is staffed 24 hours a day, but where staff attend the property on a shift basis and do not live at the property full time. In the appeal decision **APP/F1040/X/21/3283867** the inspector concluded that:

“A children’s home run on shift patterns by carers could not be considered to fall within Class C3(a) because it would not be occupation of a dwelling house by a single person or people living together as a family. Class C3(b) refers to “use as a dwelling house by not more than six residents living together as a single household, (including a household where care is provided for residents).” If No. 3 was to be run on that basis, with children being looked after by a permanent occupant or occupants of the dwelling, it would not need planning permission. Where support staff come and go on shifts, the use cannot be considered to fall within Class C3(b). Use of No. 3 as a children’s home would fall within Class C2 of the Order (Residential institutions).”

4.3 The applicant acknowledges change of use would occur however the question of whether the development constitutes a ‘development’ and a material change requiring planning permission is a separate ‘matter of fact and degree’, as discussed in the case of *North Devon DC v FSS and Southern Childcare Ltd [2003]*. This is further enacted in HBBC approval ref: 15/00201/CLUP.

4.4 Small domestic-scale children’s homes of the type proposed in this application are very different to the larger institutions (such as elderly care homes) that fall into the C2 class and so some planning authorities such as **SMDC have opted to utilise the Sui Generis class. A recent example of this would be application ref: SMD/2024/0146** granted 24th June 2024.

4.4 Grounds for judging ‘material’ differences between a C3(a) dwelling house and a small scale residential care home must be measurable and result in a significant change in the character and/or externally perceived pattern of use of the property, regardless of who inhabits it. In *Gravesham BC v Secretary of State for the Environment (1982)*, the court upheld that the distinctive characteristic of a dwelling house was its ability to afford to those who used it the facilities required for day-to-day private domestic existence - **It did not lose that characteristic if it was occupied intermittently, by a series of different persons, or if it was under commercial management.**

² [Looked-after Children: Accommodation - Hansard - UK Parliament](#) 23rd May 2023

4.5 Over the following key areas, the registration of a care home can be seen to represent no measurable or quantifiable material change from that of a C3(a) dwelling:

Fear of Crime / Anti-Social Behaviour

4.6 Registration of residential Children's homes are often opposed by neighbours on the assumption that children placed in the home will be behaving in an antisocial manner. This is an inaccurate negative stereotype that has no statistical basis and is certainly not the reason children end up in the care system. Children in care are predominantly there due to circumstance beyond their control, including being victims of abuse and neglect. In appeal ref APP/A3010/W/23/3322527 the inspector concluded that:

"...the Council may have a perception that children who may occupy the appeal property would be exposed to crime and anti-social behaviour of an extent that would be demonstrably unsupportive of the use of the appeal property as a care home. However, such perception needs to be soundly based on evidence and relevant to the provisions of the development plan if I am to attach any significant weight in the planning balance."

4.7 Previous case law (Appeal ref: APP/C4235/A/11/2162636) indicates that although local residents might be fearful about the children committing anti-social acts or increasing crime levels, it was considered that it was not inherent in the character of a children's home that the use would adversely affect the community and as such the inspector concluded that this could not be said to affect the character of the area. Additionally there is no evidence to suggest that this use would directly result in crime and as such it is not considered that this could be used as grounds for refusal.

4.8 Looked-after children who pose a risk to the safety of themselves or others are generally housed within secure accommodation (a different use class) or subject to a 'Deprivation of Liberty Order' (DOLS) meaning they cannot leave the property unaccompanied.

4.9 Included within the Ofsted registration is a requirement for the home to complete an in-depth location risk assessment and local area report, which will be taken into consideration when reviewing potential child placements. The qualifications, skills and experience of the staff team at the home will also form part of the matching process for prospective children, as the home will have to evidence how they are able to meet the individual needs of each child placed. In this way, the children placed at the home will be suitable for the nature of the local community. The age range stated earlier will allow the best possible chances for ensuring child residents are compatible with both the location and each other.

4.10 In appeal ref APP/P1045/X/20/3263178 the inspector acknowledged that the registration and operation of a children's residential home is governed to a range of regulations and rules apart of the planning system and stated that

"Should these regulations be adhered to and the appellants meet the necessary staffing and management requirements, I do not find there to be any reason why the use proposed (LDC for C3(a) to C2) would have planning impacts that would result in it being considered to be a material change of use."

Comings and Goings, Traffic etc.

4.11 The application site's current lawful use of a C3 dwelling house according to the Use Class Order 1987, is broad in scope and could bring with it considerable activity, associated ancillary use, or vehicular movement. Given that the property currently has three bedrooms it is reasonably feasible that as a C3(a) dwelling a medium sized family could feasibly occupy the house, typically comprising of two parents and up to two children. If these children were over the age of 17 then it is also feasible that they could own and operate vehicles. Combined this could easily total four vehicles owned by the household.

4.12 Up to four staff on 14 hour shifts staggered by 24hrs, would create two staff changeover events (with one additional car each) per 24 hrs, staggered to occur at different times. Staff changeover would not be expected to last more than 30 minutes. In addition, the carers would usually transport resident children to school or alternative education provision on a daily basis, as well as transport them to activities and undertake shopping etc, all functioning as a typical household would.

4.13 In this context it can therefore be judged that vehicle movements of solely staff and the relatively few visitors for a care home use would not necessarily be higher and would therefore not present any undue additional 'disturbance' to neighbours.

4.14 The property has extensive grounds and can easily accommodate several cars without causing any obstruction.

Noise

4.14 In terms of neighbour amenity and given the same usage example above of a C3(a) dwelling, there is a reasonable assumption that gatherings and parties would be a distinct possibility at a C3(a) residential dwelling. Such gatherings would not generally be associated with use as a care home and as such there would be no potential for large social gatherings at the property, which are often the cause of anti-social behaviour in residential neighbourhoods.

4.15 Any typical family home can be expected to generate some degree of noise where children are resident – whether this be playing in the garden or practicing their musical instruments. The risk of anti-social behaviour is no greater than with any other family who may move in and in fact, residential care practitioners are better equipped and trained to manage children's behaviour than most parents. It is entirely possible for a 'normal' but noisy family with several children to move in to the property and cause more disruption than a well-run care home, with far fewer mechanisms in place for dealing with it.

Alterations to the property

4.16 The application involves the use of a ground floor reception room into a staff office, and upgrade of the existing fire alarm system. Case law would deem these type of alterations to be commensurate with the use of the property as a C3 dwelling, as noted by the inspector in appeal ref App/C4235/A/11/2162636, where they noted:

"Evidence that the property is not in use as a single-family home includes the use of one ground floor room as an office, safety notices in the kitchen, locks on the office and bedroom doors, a fire alarm and alarms on external doors. Whilst safety notices and locks on internal doors are not usual features of family homes, the use of one room as an office for a member of the household to be able to work from home is becoming more common and the alarms were not dissimilar to those fitted in some modern homes. Overall there was little evidence in the fabric of the building to differentiate it from a home in single family occupation."

5 Conclusion

5.1 Based on the above observations, aspects such as vehicle movements, residential amenity and 'neighbourliness' cannot be proved to be necessarily impacted by this proposed change of use, and therefore cannot be held as 'material'.

5.2 In a ministerial statement from Rachel Maclean (Minister of State for Department for Levelling up, Housing and Communities in March 2023) she stated:

"Planning permission will not be required in all cases of development of children's homes, including for changes of use from dwelling houses in class C3 of the Town and Country Planning (Use Classes) Order 1987 where the children's home remains within class C3 or there is no material change of use to class C2. An application to the local planning authority can be made for a lawful development certificate to confirm whether, on the facts of the case, the specific use is or would be lawful. Where a certificate is issued, a planning application would not be required for the matters specified in the certificate."³

³ [Looked-after Children: Accommodation - Hansard - UK Parliament](#) 23rd May 2023

5.3 Overall the proposal **would provide a positive step by the Local Authority to meet its own aims and responsibilities** with regard to providing inclusive and good quality provision for looked after children within the area, rather than exporting them to other Local Authorities. The function of the property would outwardly remain the same as a standard domestic dwelling and would provide looked-after children with the best possible chance to integrate into the community.

