

PLANNING STATEMENT

8 Cutgate Road

Rochdale

OL12 7NL

Proposal

Application for a Lawful Development Certificate: Use of a Dwellinghouse (C3a) as a Care Home for a Maximum of Two Children, with Two Carers, Working on a Rota Basis (C2).

Prepared by

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1.0 INTRODUCTION

- 1.1 This Planning Statement is submitted on behalf of the applicant 'Bright Future House Ltd' who provides specialist accommodation for young children and teenagers. The company is seeking a Lawful Development Certificate to use the property 8 Cutgate Road, Rochdale, a current C3a dwellinghouse, as a small specialist care home for a maximum of two children, which falls within use class C2 of the Use Classes Order.
- 1.2 The home will be registered as an Emotional and Behavioural Home providing Supported accommodation in a shared or group living situation in premises which are not limited to accommodating looked after children and care leavers. The children would be from 12 years of age and up to 18 years of age and will undergo a stringent impact risk assessment to ensure they integrate with the local community. This considers the home, the environment, the community, plus peers groups and assesses against each child as an individual prior to admission into the home. The children will live at the property long term, hopefully for many years. This is not a halfway house or emergency housing for a child.
- 1.3 The site is located within the development boundary for the settlement of Rochdale as defined in the Local Plan (below). There are no other designations to the site.



- 1.4 The Property has been extended in the past by way of a two storey extension to the rear, please see details below;

Reference	89/D23163
Application Validated	Wed 08 Mar 1989
Address	8 Cutgate Road Rochdale
Proposal	Two Storey Rear Extension To Dwellinghouse
Status	Unknown
Decision	Grant Permission subject to condition
Decision Issued Date	Tue 25 Apr 1989
Appeal Status	Unknown
Appeal Decision	Not Available

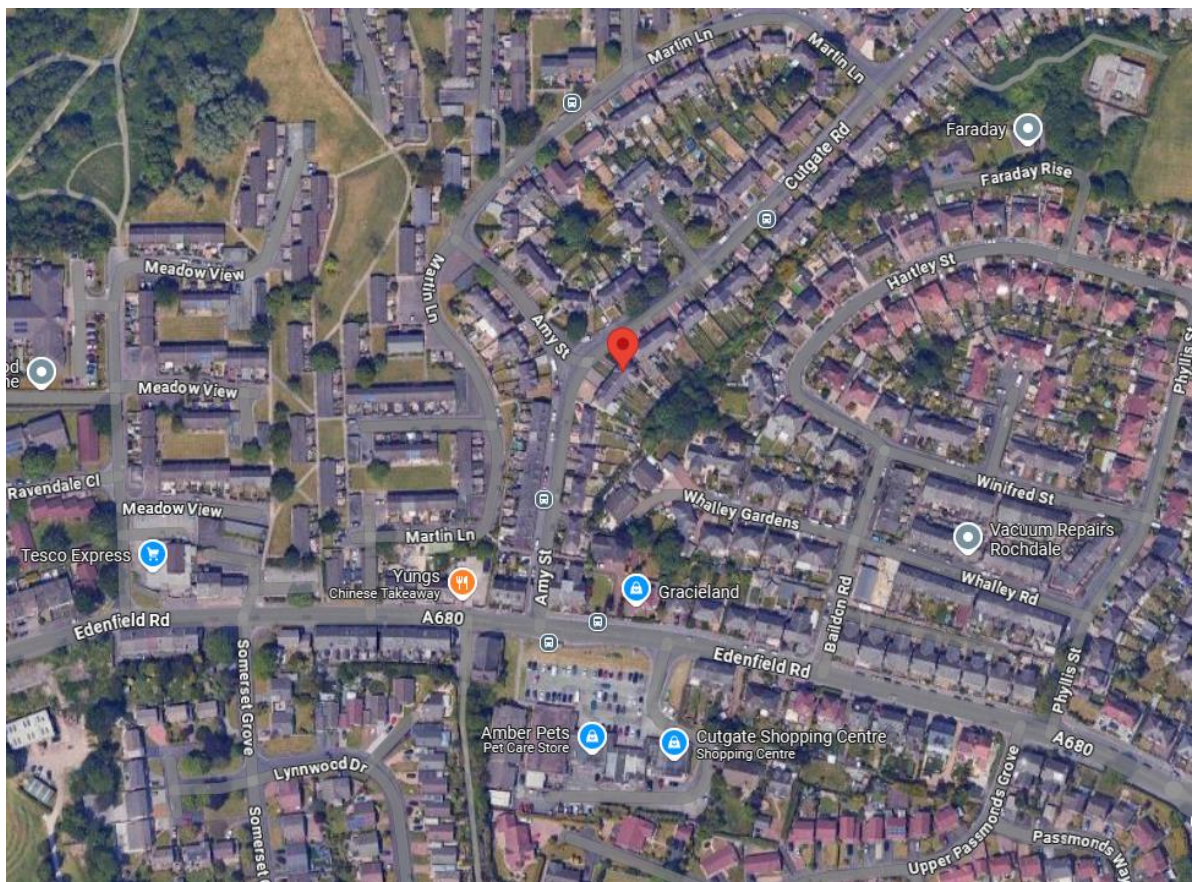
- 1.5 It is accepted that the proposed use falls within Use Class C2 and hence the change of use from C3 is not an automatic permitted change. However, it is nevertheless argued that there is little material difference between the current and proposed use, meaning that planning permission is not required.
- 1.6 Section 55(1) of The Act defines the meanings of the term ‘development’ as including 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.
- 1.7 In a ministerial statement from Rachel Maclean (Minister of State (Department for Levelling up, Housing and Communities in March 2023 she stated: *‘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’.

- 1.8 *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. It is important that prospective applicants talk to local planning authorities about whether their service is needed in that locality, using the location assessment (a regulatory requirement and part of the Ofsted registration process set out in paragraph 15.1 of the Guide to the Children’s Homes Regulations) to demonstrate this’.*
- 1.9 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 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.

2.0 SITE AND SURROUNDINGS

- 2.1 The application site relates to an end terrace. The property is two stories in height. The property has been extended by way of a two-storey extension to the rear which provides further living space at ground floor and a larger bedroom at first floor. A good level of private amenity is positioned to the rear. Parking is provided on the drive to the front and side of the dwelling. Internally the dwelling provides a lounge, open kitchen/diner, WC and sunroom at ground floor, and 3 bedrooms and a bathroom at first floor.
- 2.2 The dwelling is positioned within a mainly residential area with similar styled properties in the street. Public open space is provided at Caldershaw Green to the north. Amenities such as a minimarket, takeaway, and shops are located at Cutgate Shopping Centre to the south along Edenfield Road. The property is also located close to the public transport network (Buses) of Edenfield Road.



Above: Aerial Image indicating the property with local amenities within walking distance to the south and open space to the north.



Above: Front elevation of application property.



Above: Rear elevation of application property in 3d view where the extension is clearly visible.

3.0 PROPOSED DEVELOPMENT

Safety and Security

- 3.1 The home will aim to provide a smooth transition for children who come to live at the property, through careful planning and consideration. The home will primarily serve medium to long term placements in order to minimise disruption to residents.
- 3.2 There will be no external alterations to the building or surrounds. From the outside, there will be no change in the appearance or character of the dwelling. There will be door alarms on the front and back door; there will be locks on the young people's bedrooms. The children will have a key to their door and a thumb lock on the inside.
- 3.3 CCTV will be installed on the front and back of the property.
- 3.4 The registered manager will introduce themselves to the local residents and give them contact details and advise them if they have any concerns. They should not hesitate to contact them if they feel that their concern has not been dealt with. They can then provide them with a complaints form. They will also advise the local residents that if they are not happy with the outcomes of the complaint, then they have the right to make a complaint to Ofsted.

Ofsted

- 3.5 Before any home can open, it must gain the approval of OFSTED which has regulatory powers outside normal planning control. As such the property will be OFSTED registered. OFSTED will require a local risk assessment before approving the property as a care home. Planning is therefore not the only form of regulation which controls the suitability of the location. A basic principle in assessing a planning application is whether there is other legislation which is more appropriate to regulate the proposed development. In the case of children's care homes, the relevant powers are set out in:
- Care Standards Act 2000
 - 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.

- 3.6 Under the requirements of OFSTED, such care homes must be run as closely as possible to a typical family household; while accepting staff are employed on a rota basis to provide the parental support to the children so many have missed in their early years. The only physical requirements specified by OFSTED are emergency lighting (no external visual distinction from normal lighting) and locks on bedroom doors for the privacy of each child (not a material issue for planning).
- 3.7 The Ofsted Guide to Children's Homes stipulates that all children's homes must have a children's guide. It advises that a cared-for child's bedroom should not generally be entered without their permission and that children should be provided with appropriate, lockable furniture to store their personal items, including any personal information. It also provides advice on the use of CCTV and monitoring equipment within the home. It stipulates at length the information, monitoring and record-keeping that a children's home must carry out and the procedures that it must have in place.

Professionals and Visitors

- 3.8 In addition to Ofsted's one visit per year, there will be one visit by local social services each month and one Regulation 44 visit per 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 both children. All other professional or clinical appointments and meetings would take place away from the home where possible.
- 3.9 All case reviews, CIC Meetings e.g. health meetings, case reviews, placement meetings, care planning, placement education plans, would take place either at the local authority's office, at school, or via a team's meeting.
- 3.10 Visits by family and friends are not encouraged as they can upset the children. Where they do take place, it will be away from the home.
- 3.11 Staff will be in the property with the children at all times. Children will not be left alone at the property. Under no circumstances will children be allowed to leave the property without staff being present.

3.12 Due to the needs of the children, staff will be present and monitor at all times. The front and back doors will be alarmed and notify the staff if they open. This will ensure safe operations of the site and community cohesion.

3.13 All children will be in the home and settled into their rooms by 10pm. In the event of a breach or curfew the home's staff will search the local area and any known places. If they can't locate the child, they will follow the missing from care protocol which will be completed on the child's arrival to the home and all staff will have read and signed the protocol, to ensure they are aware what they are required to do if a child has not returned to the home.

Fire Regulations

3.14 In terms of fire regulations for care homes, the only physical requirement is to have a fire door on those leading to escape corridors. The physical appearance of such doors is not materially different from normal doors and has no material impact on the character of the property.

Staff Rota Pattern

3.15 There will be two staff members during the day and at night for the two children living at the property. Six carers would operate on a shift pattern of 2 days on, 2 days off, except at changeover times, which last around fifteen to thirty minutes. Changeover of staff would happen every two days at round 9:30 am This will ensure continuity for the children in a "homely environment".

3.16 The unit will also have a manager; the manager will work off site most of the time and would visit the site during the day between 9am to 5pm for around 1 hour. The Manager / Director will be visiting neighbours to ensure that any questions /concerns they may have are addressed.

3.17 All staff and managers will be experienced staff from within the Children's Care Industry. In addition to Induction Training, all staff will be encouraged to work towards a Level 3 Diploma for Residential Childcare, if they do not already have this. The Registered Manager will have a level 5 diploma in leadership in health and social care and children and young peoples services- adults management. They are working towards Level 5 Leadership and management of a children's and young people's home. Staff will have a CPD and have face to face training prior to starting work and an in-depth induction.

Purpose of the home and Schooling

- 3.18 The purpose of the home would be to support the children to build their confidence, help them in developing life skills and prepare them for life when they leave the home to fend for themselves. This type of support has been found to be most effective in helping these children to have normal lives and not experience problems in later life.
- 3.19 During the day it is expected that the children would engage in various activities, plus attend a mainstream school or college. Other social workers, clinicians or professional staff would not normally visit the home.
- 3.20 The residents will be taken to and brought home from school each day and with their carers they 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 get ready on a daily basis to attend school. The home seeks to foster lifestyles which would be the same as if the residents were normal teenage children living in a family home.
- 3.21 Schooling will only occur on the premises if the child is deemed not ready to assimilate into mainstream education. The company will offer a specialist support package with fully qualified and experienced tutors. An educational package will be planned around the needs of the children to help with the best possible outcome for the children.
- 3.22 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.
- 3.23 The home would try to schedule all meetings away from the property to try and keep stability for the children.
- 3.24 The home will support children with learning disabilities and would offer sensory, visual and educational therapy.

Risk Assessments

- 3.25 Before OFSTED will give their approval, they require a Location Risk Assessment to be carried out to determine the suitability of the area for a children's care home. This involves consultation with local police and social services departments. There will also be an impact risk assessment



for each child where a referral has been made. This impact assessment considers all the child's needs and looks at the compatibility with the young people already within a home, if any.

- 3.26 Unless they are approved by a local authority social services department, children will not be placed in the home. They are also able to confirm the urgent need for this type of facility. The home will support children with learning disabilities and would offer sensory, visual and educational therapy.

Parking/Intensification

- 3.27 The property would provide the young people with their sole and main residence. The residents would be taken to and brought home from school each day and with their carers they 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. The home would seek to foster lifestyles which would be the same as if the residents were children living in a family home.
- 3.28 The comings and goings are not considered to be significantly different from those associated with the current use as a family. In terms of the two staff on the premises, they would normally work on a 48-hour shift basis, which would involve only one change over every two days.
- 3.29 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. Due to the background of the children, family visits are rare and, in any case, would take place away from the home to avoid upsetting the other children.
- 3.30 This is currently a terraced dwelling which provides 3 off street parking spaces, furthermore, on street parking is available - see image below. On this basis it is maintained that the proposed use as detailed in this supporting statement would not result in significantly more movements to give rise to planning concerns or result in a severe impact on parking and highways impacts in the area.



Above: Image shows the availability of on street parking with the application property to the right.

4.0 CASE LAW

- 6.1. It is accepted that where care is provided this is not the main residence of the carers, the use falls within C2 and not C3b.
- 6.2. There is some case law which establishes that if the carers work on a rota basis and that it is not their permanent residence, the use must be regarded as C2 and not C3b. In the judgement of Mr. Justice Collins in *North Devon District Council v First Secretary of State* [2003]. J. Collins was clear on the facts of that particular case, that carers who do not live but who provide, not necessarily through the same person, a continuous 24-hour care cannot be regarded as living together and that, whilst there would be less than six residents, the children, without at least one adult living with them at the premises, would not be capable of being regarded in the true sense as a household.
- 6.3. Whether the change of use would be material is also well established by the courts. Notwithstanding whether the use is considered to be within Class C2, rather than Class C3b, planning permission would not be required if the change would not be a 'material change' of use. It is still necessary to consider therefore, whether that change of use would be 'material'. It is a matter of fact and degree, in the circumstances of an individual case, as to whether a change of use will be 'material'.
- 6.4. By way of a guide, differences which might be considered 'material' are those which are measurable or quantifiable as resulting in a significant or substantial change or step up in the character or impact of a use.
- 6.5. In terms of comings and goings, there would be little difference from the current use as a family 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.
- 6.6. There will be visits from friends when deemed appropriate, which would be in accordance with their care plan. This would be no different from children in a typical household.



5.0 ASSESSMENT

- 5.1 The task must be to compare against that 'baseline' the character of the current 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 young people with their sole and main residence, with free and shared access to living, dining, and kitchen facilities, an ability to take shared meals prepared for them or make their own food or drink.
- 5.2 The residents would be taken to and brought home from school each day and with their carers they 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. The home would seek to foster lifestyles which would be the same as if the residents were children living in a family home.

Comings and Goings

- 5.3 The comings and goings are not considered to be significantly different from those associated with the current use as a family. In terms of the two staff on the premises, they would normally work on a 48-hour shift basis, which would involve only one change over each day.
- 5.4 All household chores such as cleaning, cooking and gardening involve the children, and no additional staff are employed at the premises.
- 5.5 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. Due to the background of the children, family visits are rare and, in any case, would take place away from the home to avoid upsetting the other children.
- 5.6 The current use as a family house could typically have two parents with their own cars and possibly children with their own cars.
- 5.7 It is maintained that the proposed use as detailed in this supporting statement would not be materially different from a typical household. This is supported by the Egerton Appeal (Appeal Ref. 3161037) where the Inspector concluded a similar use would not result in significantly more movements to give rise to planning concerns.
- 5.8 A similar conclusion is drawn in the Dale Road (Manchester) appeal (Appeal ref. 3):178): 'The number of these movements is unlikely to be significantly more than the number that would be

undertaken by a family and certainly not enough to result in a level of intensification in the use of the site that gives rise to concerns from a planning point of view. There is insufficient evidence before me to show that the use would be likely to result in greater levels of noise and disturbance than the existing authorised residential use.'

- 5.9 Appeal (Ref. 32993519) also provides a useful assessment of a similar care home. In paragraph 12 it states:

'Whilst there will be some additional comings and goings associated with the use as a residential care home, there is no evidence before me to dispute the appellant's case that the use will not give rise to a greater level of disturbance than could be generated by the lawful use as a C3 dwellinghouse. The additional comings and goings identified by the appellant and Council are at a sufficiently low level so as to remain within the parameters of what could be usually expected of a family home and not therefore materially different so as to change the character of the property. Similarly the number of people who will be typically present at the property, and therefore the associated waste generated, is not significantly higher than could be expected with its current lawful use'.

Impact of the presence of staff

- 5.10 Visually, the property would look no different to the adjacent houses. During the day, there could be two members of staff in the property at any one time, but this would have no impact on the amenity of the area. The current use for a family with children and parents working from home could have the same impact.
- 5.11 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.

- 5.12 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

- 5.13 The fear of crime and anti-social behaviour is a material planning consideration which might weigh against the granting of planning permission. The application is not an application for planning permission, however, and given that this is a matter of planning merit and in the absence of any basis to conclude that crime and anti-social behaviour are an inherent part of the character of the proposed use, such a fear is not relevant to the determination of this application for a Lawful Development Certificate.
- 5.14 There can be concern that the use would result in more noise and possibly anti-social behaviour due to the background of the children. A useful answer to this concern is contained in appeal decision (Appeal Ref.2162636-):
- 5.15 The fear of crime is a material consideration in the determination of the appeal. However, the weight that can be attributed to it depends on whether or not the evidence shows that the potential risk of crime is shown or expected to be high and the consequences for the community and individuals are serious. Whilst it is acknowledged that the incidents cited by the local residents would cause upset, they are not altogether unusual occurrences in modern society. Some of the incidents raised issues relating to the running of the home which have the potential to be overcome by changes to the management of the site. None of the evidence suggests that the potential risk from crime is shown or expected to be high or that the consequences for local residents are serious.
- 5.16 The evidence therefore leads me to conclude that the effect of the development on the living conditions of the occupiers of neighbouring dwellings regarding risk of crime would be low and carries insufficient weight to warrant dismissing the appeal on these grounds.
- 5.17 The nature of the children is not therefore material to the determination of this application

6.0 CONCLUSION

- 6.1 It is maintained that there is no significant difference in planning terms between the proposed use and the current use as a dwelling. This property is a large dwelling with 3 bedrooms. The carers, working on a rota basis, would effectively live at the dwelling house to provide 24-hour care, as a single household. Facilities such as the bathroom/wc, kitchen and living rooms would be shared and the living mode would be communal. The comings and goings associated with the use would not be materially different from the current use as a family dwelling.
- 6.2 The proposed use is to provide a stable home environment for the occupants as their main and sole residence and that the length of stay is generally more than temporary or passing. It would not be a 'half way' house or provide overnight emergency lodgings for example.
- 6.3 The local authority is therefore respectfully requested to support the application to allow this much needed facility to be established.