



DESIGN AND ACCESS STATEMENT

Application to change the use of two (C3a) dwellings to a children's home for a maximum of two children, with up to six carers, two of whom will sleep overnight, working on a rota basis (C2)

181/183 Manchester Road, Rochdale, OL11 3QY

12/03/2024

1. Background



1.1. I am writing on behalf of my client, Sigma Property , who is seeking a planning permission to use 181/183 Manchester Road , two C3a dwellings, as a small specialist care home for two children with emotional and/or behavioural difficulties, (EBD) which falls within C2 of the Use Classes Order.

1.2. Two applications for a lawful development certificates (22/00685 and 22/00686/CPL) were refused

- i. *The submitted evidence alone is not sufficiently precise or unambiguous for the local planning authority to understand exactly what is involved within the proposed use of the building. Where only insufficient evidence has been provided, the local planning authority cannot reasonably determine if the activities described would comprise development in accordance with the meaning set out under S.55 of the Town and Country Planning Act 1990 and would subsequently require planning permission.*
- ii. *The proposed use would result in the change of use of the building in the context of the Town and Country (Use Classes) Order (1987) (as amended) from Class C3 to Class C2. In considering the characteristics of the use, as set out within the available evidence and on the balance of probabilities, the proposed change of use would be material and would comprise development within the meaning set out under S.55 of the Town and Country Planning Act 1990 and would subsequently require planning permission.*

1.3. The intention is to register the home for children with Emotional and Behavioural Home needs. It will through OFSTED have a stringent impact



risk assessment to ensure it will integrate with the local community. This assessment 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 children.

1.4. 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'.*

1.5. *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.*



1.6. 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: '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.

1.7. The papers summarise the findings of three years of work by the Children's Commissioner's Office and explain the failure of both national and local government to adequately meet the needs of these children. The report (page 15) states: *'Local authorities are highly reliant on the independent sector, particularly for children's residential care. Costs are increasing but it's unclear why. Given this reliance, it is imperative the market works well and that commissioning and procurement are improved to ensure no child is placed in unsuitable care settings. Recommendations: The Government should consider the barriers to creating more residential care placements to increase supply.'*

2. The Proposal

2.1. The proposal does not involve any alterations to the exterior or interior of the property.

2.2. The applicant has had regular discussions with the local Social Services Department, who have confirmed the urgent need for this care home.



- 2.3. 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. These are not children with special needs, who would come under Use Class C2a.
- 2.4. The proposal is to register the property as a registered children's home for only two children aged from 7 to 18 years. They would be looked after by a maximum of three carers each, two of whom will sleep /be awake overnight, working on a rota basis.
- 2.5. 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 security cameras (although not essential and not materially different from a system found in many households), 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).
- 2.6. In terms of fire regulations for care homes, the only physical requirement is to have fire doors on those leading to the kitchen. The physical appearance of such doors is not materially different from normal doors and has no material impact on the character of the property.
- 2.7. The application is to ensure that the property acquired will meet the necessary planning requirements to achieve Ofsted registration.



- 2.8. The property comprises of two semi-detached house, with car parking space for five cars. It is the company policy to encourage staff to use public transport and not to allow on street parking.
- 2.9. Each child would live at the property, with two carers working on a rota basis sleeping/ being awake overnight. Six carers would operate on a shift pattern of 48 hours on, 60 hours off. A manager and deputy, would also usually visit the site most weekdays between 9am and 5pm. Other than changeover times, there will no more than six staff on the premises at any one time. There would be two changes of the overnight care staff per day, usually 9.30 am each morning, which would last for around ten minutes.
- 2.10. These comings and goings are set out in the table below.
- 2.11. 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.
- 2.12. During the day it is expected that the children would engage in various activities, plus attend a mainstream or special school. In some cases, the children may receive some home schooling but only while they settle in. Clearly this is no different from a family choosing to have home tutoring.
- 2.13. With regard to schooling, it is often the case that when young people come into care, they have missed an extensive proportion of their



education or are affected in a way that they could not work effectively in a large classroom environment. Given this, they would be tutored from home initially. This is all achieved online without any tutors having to go to the house. They may then progress to a specialist unit (smaller class sizes) then hopefully onto mainstream. In cases where parents of children in an ordinary family choose to have their children educated at home, it makes no difference to the planning status of the use.

2.14. The applicant has confirmed that 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 'halfway' house or provide overnight emergency lodgings for example.

2.15. Care is provided in small sized family units where residential carers help to develop the social and life skills needed when the children no longer live within an institution. Without such homes and positive interventions, these children when they leave the controlled environment of care homes will often end up in adult institutions, suffering from long term health problems.

3. Planning Assessment

3.1. The planning policy framework is provided by the National Planning Policy Framework (NPPF) and the Core Strategy for Rochdale borough, adopted on 19 October 2016.

3.2. The relevant sections of the NPPF are as follows:



Paragraph 2 of the NPPF is highly relevant as it states that applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 60 makes clear that in order to '*support the Government's objective of significantly boosting the supply of homes.....the needs of groups with specific housing requirements are addressed*'.

Paragraph 61 makes clear how housing need in an area should be assessed and understood, and paragraph 62 advocates that planning policies should reflect the housing needs for different groups in the community.

Recent Government advice emphasises the provision set out in paragraph 62 of the NPPF, which notes that local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions. Paragraph 62 says the different groups include but are not limited to "those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes".

In her statement the Housing and Planning Minister said councils should consider whether it is appropriate to include accommodation for children in need of social services as part of the NPPF assessment. She went on to say that "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.

Paragraph 109 is specifically relevant which advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Section 8 – Promoting healthy and safe communities emphasises the need to make appropriate provision for the special needs of young people.

3.3. Although there are no specific policies referring to children's homes, the following are the most relevant.

3.4. Policy SD1 sets out the sustainable development requirements will be applied at the local level in Rochdale. It also sets out the sustainable framework to ensure housing provision meets the needs of all sections of the community and facilitate the provision of strategic and local infrastructure and services.

3.5. Policy C3 seeks to ensure appropriate housing to meet local needs, which includes special housing such as this.

3.6. Policy C6 addresses the health and well being of the local community, which includes the needs of disadvantaged children.

Principle of Use



3.7. As the proposed use will remain residential in nature, the principle of the use in a residential area is not considered to be in conflict with policy.

Location of Specialist Housing

3.8. 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

Neighbouring Amenity

3.9. It is not considered the comings and goings will have an adverse impact on the amenity of neighbours.

3.10. The comings and goings, whether by car or other means, are considered to be similar to that generated by two semi-detached dwellings. The home manager and deputy would arrive most weekdays in the morning and leave each evening (9am and 5pm). In terms of the other four overnight staff on the premises, they would normally work



on a 48-hour shift basis, so there would be no more than two change each day (9.30 am). Often the carers take the children to school at the end of their shift.

3.11. An elderly person or someone with special needs living in a dwelling with four carers arriving throughout the day does not have a material impact on the amenity of neighbours, hence nor would the proposed movements.

3.12. An estimate of the average number of comings and goings in a week of the existing and proposed use are set out below.

3.13. All household chores such as cleaning, cooking and gardening involve the children and no additional staff are employed at the premises.

Other professional Visitors

3.14. 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. All other professional or clinical appointments and meetings would take place away from the home.

3.15. Family or other visits are not encouraged as they can upset the other children. If they do occur, they take place away from the home.

Schedule of Proposed Use (based upon experience of other similar homes)

Activity	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
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Home Manager and deputy		4	4	4	4	4	
Care workers starting and finishing shift	4	4	4	4	4	4	4
School run		4	4	4	4	4	
Shopping/ Social/recreational outings	4			2			4
Other visitors	2						2
Total Movements (in and out)	10	12	12	14	12	12	10

Impact of the presence of staff

3.16. Visually, the property would look no different to the adjacent houses. During the day there could be three members of staff in the property at any one time, but this would have no impact on the amenity or character of the area.

3.17. 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) include 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.*



3.18. 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

3.19. The fear of crime and anti-social behaviour is a material planning consideration which might weigh against the granting of planning permission. 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.

3.20. 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 response to such concern is contained in appeal decision (Appeal Ref. 2162636-):

11. 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.

12. 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.

3.21. The nature of the children is not therefore material to the determination of this application. In addition, the level of professional care would also act to minimise any likely disturbance.

3.22. There would not be frequent visits by any other care staff or clinicians. The local Social Services would normally send one officer each six months to inspect the premises and after the initial inspection, an inspector from Ofsted would only visit annually. All other professional and clinical appointments with the children take place away from the home, as would any staff reviews and team meetings.

3.23. 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.



3.24. The residents would interact with the property 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 seeks to foster lifestyles which would be the same as if the residents were normal children living in a family home.

3.25. On this basis 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.

3.26. A similar conclusion is drawn in the Dale Road appeal (Appendix 3: APP/P1045/x/20/3263178) : *'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.'*

4. Conclusion

4.1. It is maintained that there is little difference in planning terms between the proposed use and the current use as a C3a dwelling. 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 a typical residential household.

4.2. 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 'halfway' house or provide overnight emergency lodgings for example. However, in any event, the courts have provided some assistance in determining the significance of there being a commercial factor to a residential use or an arrangement where the occupants have generally only a limited period of stay.

4.3. Following *Gravesham BC v Secretary of State for the Environment* [1982], the court accepted that the distinctive characteristic of a dwelling house was its ability to afford to those who used it the facilities required for day-day private domestic existence. It did not lose that characteristic if it was occupied for only part of the year, or at infrequent intervals, or by a series of different persons or if it was under commercial management.

4.4. Comings and goings would be no greater than occur at present, hence there would be no undue disturbance to any neighbours. The local authority is therefore respectfully requested to support the application to allow this much needed facility to be established.