PLANNING STATEMENT

8 Prior Croft, Bolton-upon-Dearne S63 8BF

Proposed Change of Use to Children's Residential Care Home (C2)

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1. Introduction

1.1 This Design and Access 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 the village of Bolton-upon-Dearne. The majority of surrounding houses could be characterised as family housing.

2. Description of the Proposal

2.1 The proposal would provide medium to long term accommodation for up to two 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. . 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 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:

- 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

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.

2.3 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.

2.4 It is important to note that the suitability of the property must be fully assessed in order to match the types of residents that could reside there, and this is 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, **children from within the Metropolitan Borough of Barnsley would be prioritised** when considering placements at this property.

2.5 **No increase in the physical size of the property is proposed, whether this be in floor area or number of bedrooms**. The property contains four bedrooms at present. Two of these bedrooms would be used to accommodate Child residents and the other bedrooms would be used as a staff office and staff rest area respectively. The layout would still however very much represent that of a normal domestic dwelling.

2.6 With a home to accommodate two children, staffing levels are expected to consist at any one time of two full time staff during the daytime, and between one and two staff on site during the night time (where one member may be on a 'sleep-in' shift). Precedent case law has determined that staffing ratios of 1:1 are reasonable to assume, but this also represents no material change from the 'typical' non-extended family living in a C3 dwelling. Staff would work in shifts and additional staff would be present upon site for shift changeovers which would be staggered (i.e. **not** occurring at the same time) and therefore amount to one additional staff member for up to 30 minutes at a time. Examples of these shift patterns are included within Appendix A. The home manager would also attend the property on a part time basis but would be floating over multiple homes within the area.

2.7 The management team for the property has already been identified and is highly experienced in the Children's residential care. It is also a very tightly regulated sector 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 Principle of Development

3.1 Planning case law would suggest that whilst a change of use from C3 to C2 would occur (as the child placed at the property will require care by **non-resident** staff members on a shift pattern), the question of whether the development constitutes a 'development' and a material change requiring planning permission is however a separate 'matter of fact and degree', as discussed in the case of North Devon DC v FSS and Southern Childcare Ltd [2003].

3.2 Grounds for judging 'material' differences between a C3(a) dwelling house and a C2 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.**

3.3 Community safeguarding and perceived risk of anti-social behaviour is sometimes raised when considering this type of application. 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. 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.

3.4 Included within the 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.

<u>Comings and Goings</u>

3.5 The application site's 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 four 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 three 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 five vehicles owned by the household.

3.6 Up to two staff on 48 hour shifts staggered by 24hrs, would create two staff changeover event (with potentially one additional car) per 48 hrs. Staff changeover would not be expected to last more than 30 minutes and would take place at around 10am to avoid peak times for vehicle movements.

3.7 Access to education could be enabled by a variety of methods, as is true for children of a 'family' household occupying a C3(a) dwelling. This may be home schooling (led online) or alternatively the carers would transport resident children to school or alternative education provision on a daily or part-time basis, as well as transport them to activities and undertake shopping etc, all functioning as a typical household would.

3.8 Visitors undertaking statutory inspections would also occasionally come to the property - A 'Regulation 44' (quality assurance) visit must take place **monthly** according to Ofsted regulations, and social workers must undertake statutory visits **every 6 weeks** (although the latter may also take place at school or another location). Frequency and duration of visitors would be no different to those received at a normal dwelling. Therapy would generally take place off-site, as would any staff meetings or training.

3.9 Considering all of the above, it can reasonably be determined that vehicle movements of solely staff and the relatively few visitors for a C2 use would not necessarily be higher and would therefore not present any undue disturbance to neighbours. Such a conclusion is ratified by case law precedent including APP/C5690/X/22/3299351, a similar application predicated on a similar number of children and staff, where the inspector stated:

"*I do not consider that the number of such movements is likely to be significantly more than those undertaken by a family and certainly not enough to result in an intensification of use that would give rise to planning concerns.*"

3.10 In terms of length of residency, the aim of any care provider would be a stable, long-term stay, however there are multiple exit scenarios such as transitions into foster-care, return to biological parents or moving on post-18. There is in fact more incentive for all occupants of a C2 home (staff and children) to work towards permanency of residence than say a C3 dwelling let on a short term assured tenancy with a potential tenant churn every 6 months. The house would **not** be registered as a 'short-break' home with Ofsted.

Noise

3.11 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 C2 use 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.

3.12 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.

3.13 In order to preserve the residential amenity of neighbours, a noise management plan would be produced to consider and mitigate the impacts of noise generated at the property. The property will have more controls and policies regarding noise than a C3 dwelling would be subject to, and the plan can be submitted to the Local Authority on request or a conditioned as part of a consent.

Perception of Anti-Social Behaviour / Fear of Crime

3.14 Community safeguarding and perceived risk of anti-social behaviour is sometimes raised as an objection when considering this type of application. Whilst this is a material consideration, It is considered that objections made on these grounds can only be considered as subjective perceptions which could be based on inaccurate negative stereotype that has no statistical basis. Children in care are predominantly there due to circumstance beyond their control, including being victims of abuse and neglect, and not because they are the perpetrators of crime or anti-social behaviour.

3.15 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.

3.16 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.

Conclusion

3.17 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'.

4 Relevant Planning Policy – National

4.1 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 provide 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.

4.2 On this basis, the proposal complies with paragraph 92 of the National Planning Policy Framework which states that ***"planning ... decisions should aim to achieve healthy, inclusive and safe places which promote social interaction ... are safe and accessible ... [and] enable and support healthy lifestyles, especially where this would address identified local health and well-being needs"*.**

4.3 Paragraph 63 also notes that when establishing need:
"…the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing; families with children; older people (including those who require retirement housing, housing-with-care and care homes)…"

4.4 To illustrate how non-impactful change of use to C2 would be, many Local Authorities in England and Wales allow the change of Use from C3 without the need for a planning application on the understanding that a 'material' change of use would not occur. 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."*[1]

[1] Looked-after Children: Accommodation - Hansard - UK Parliament 23rd May 2023

4.5 While there might be identifiable differences, between proposed and existing uses, these would not be 'material' or easily measurable and quantifiable against the rather flexible characteristics and impacts of a lawful dwelling house.

4.6 At the time of writing and following on from the discussion above, changes of use from C3 to C2 of this kind in the Barnsley Metropolitan area have historically been dealt with via the Lawful Development Certificate mechanism.

4.7 In recent appeal ref: APP/M4320/X/22/3300634[2] The CLD mechanism was deemed by the inspector as the appropriate mechanism for a similar Change of use to C2, involving a home for 2 children and 2 carers.

5 Transport/Access

5.1 In terms of transport links the proposal is just a 5 minute walk from the nearest bus stop on The Station Road which is served by regular buses to Barnsley and Rotheram town centres.

5.2 The property is also just 5 minutes walk from Bolton-upon-Dearne railway station which offers convenient access to the rail network and direct services to Leeds, Sheffield and York

5.3 Within a 12 minute walk from the site there is a small local centre with other amenities such as a supermarket, Post Office and a pharmacy, which will be important in teaching life skills and independence to residents as they grow older.

5.4 Parking for the house is located via a driveway and garage to the side of the property. Given the number of children to be placed here it is not anticipated that no more than two car spaces will be in use for the majority of the time. **The property can however accommodate an additional 5 cars ground opposite the property which is under the same title.** Street parking is unrestricted.

5.5 Precedent case law has determined that access to local infrastructure is in any case largely irrelevant in judging material differences between C3(a) and C2 uses. In appeal case APP/E2205/X/16/3161037, the inspector notes:

"I have noted the village location and the lack of facilities available for young people in the immediate area, but again, there would be nothing to stop the property being occupied by a family, to whom the same concerns would apply."

[2] Alternative Approach Ltd vs. Sefton Metropolitan Borough Council 18/11/22

6 Conclusion

4.1 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.

4.2 The proposal is consistent with other previous recent approvals granted by this Local Authority, for example application ref. 2023/0889 – 27 Primrose Way, Hoyland, Barnsley, S74 0HN.

4.3 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 available[3]. This is placing hundreds of our most vulnerable children at risk whilst planning controls fail to prioritise delivery of the urgently needed places.

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

Appendix A – Example Staffing Shift Rotas

6 Staff with separate 'waking night' shifts:

	Day1	Day 2	Day 3	Day 4	Day 5	Day 6
Employee 1	1000hrs-2200hrs	0730hrs-2230hrs				
Employee 2			1000hrs-2200hrs	0730hrs-2230hrs		
Employee 3					1000hrs-2200hrs	0730hrs-2230hrs
Employee 4		0730 hrs-2200hrs	1000hrs-2230hrs			
Employee 5				0730hrs-2200hrs	1000hrs-2230hrs	
Employee 6	0730hrs-2200hrs					1000hrs-2230hrs
Waking night 1	2200hrs-1000hrs	2200hrs - 1000hrs			2200hrs-1000hrs	2200hrs - 1000hrs
Waking night 2			2200hrs-1000hrs	2200hrs - 1000hrs		

6 Staff who would perform 'sleep-in' shifts:

	Day1	Day 2	Day 3	Day 4	Day 5	Day 6
Employee 1	1000hrs-2200hrs	0730hrs-2230hrs +Sleep-in	0730hrs – 1015hrs Handover /Finish			
Employee 2			1000hrs-2200hrs	0730hrs-2230hrs +Sleep-in	0730hrs - 1015hrs Handover/ Finish	
Employee 3	0730hrs - 1015hrs Handover/ Finish				1000hrs-2200hrs	0730hrs-2230hrs +Sleep-in
Employee 4	1000hrs-2230hrs +Sleep-in	0730 hrs-2200hrs				
Employee 5			1000hrs-2230hrs +Sleep-in	0730hrs-2200hrs		
Employee 6					1000hrs-2230hrs +Sleep-in	0730hrs-2200hrs