

# Planning Statement

1 Albion Terrace, Burnley



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Revision Record					
Rev	Description	Date	Author	Checked	Approved
0	DRAFT	19.09.23	AD	GS	GS
1	FINAL	07.11.23	AD	GS	GS

# 1. Introduction

## Purpose of Statement

- 1.1 This Planning Statement has been prepared on behalf of Barracare Limited to accompany an application for a Lawful Development Certificate ('LDC'), relating to the use of an existing 5-bed dwellinghouse (Use Class C3) as a children's home for up to four young persons, with care to be provided by 2-3 staff on a rota-basis (Use Class C2).
- 1.2 The accompanying application seeks to establish that a material change of use would not occur from the proposed use of the property as a children's home, and to confirm that submission of a planning application is not required.
- 1.3 This confirmation will allow our client to apply for the necessary Ofsted registration.
- 1.4 This statement subsequently demonstrates that a 'material' change of use requiring planning permission will not occur, having regard to key case law.

## Structure of Statement

- 1.5 This Planning Statement is structured as follows:
  - **Section 2** which analyses the context of the site and its surroundings;
  - **Section 3** which describes the proposals;
  - **Section 4** which assesses the key planning considerations of the proposals; and
  - **Section 5** which summarises the conclusions on the overall findings of the statement.

## 2. Site and Surroundings

2.1 The proposals relate to an existing five-bedroom residential property located at 1 Albion Terrace, Burnley. The property's lawful use is as dwellinghouse (Use Class C3), however, the property is currently unoccupied.



2.2 The site is bound by other terraced residential properties to the east, south and west, with a railway line located to the north.

2.3 The home currently comprises a basement, and a ground floor which accommodates a kitchen, two reception rooms, a store room and a hallway. The first floor accommodates four bedrooms, toilet room, shower room and landing area. The loft of the building has also been converted into a loft room. The property also benefits from a rear yard in which the young people will be able to relax and enjoy an outdoor space.



**Figure 2: Existing Layout of 1 Albion Terrace**

## Planning History

- 2.4 From review of the Council's Public Access there are no previous planning applications that relate to the property.

## 3. The Proposal

### Background

- 3.1 The children's home will be operated by Barracare Limited who provide residential care services for children unable to live with their natural parents due to a variety of reasons. These children are consequently brought into the care of local authority social services, requiring accommodation.
- 3.2 Following the success of the Company's existing children's home in Lancashire (rated 'Good' in Ofsted inspections for three years running), the Team is seeking to increase its capacity to provide care and accommodation for a further four children. The Director of the Company and the proposed Manager of Albion House have substantial combined experience in providing a quality care service to children in need.
- 3.3 Their mission is to provide the children in care with a safe and nurturing environment where they can reside comfortably and build a platform to grow and develop into young adults. The management and staff team works tirelessly to understand, plan and then encourage the development needs of the children in their care.
- 3.4 Their belief is that each child is an individual and is entitled to respect, courtesy and full recognition of their rights. In partnership with each child's placing Local Authority and partners from the wider system, they work with the children in their care at a realistic pace and in an age-appropriate manner, encouraging personal growth and emotional development.

- 3.5 The views, wishes and feelings of each child are taken into account at every stage of their development planning; each child is an individual and is therefore treated as such. The welfare of children in their care is of paramount importance. The Barracare team has the proven expertise and experience to ensure this priority is met.

### **The Proposals**

- 3.6 The proposals comprise the use of the property as a children's home, which will accommodate up to four young people and 2-3 staff working on a rota basis, with a maximum of two carer's staying overnight. As part of this, our client will refurbish the property, and convert one of the larger bedrooms into two bedrooms, resulting in six bedrooms total.
- 3.7 The property in its proposed use as a children's home is intended to operate similar to any other family home, with minimal difference in activity levels. With regard to parking and accessibility, the property (if occupied) would likely be associated with two cars, able to park adjacent to the property.

## 4. Planning Assessment

4.1 The assessment of whether a planning application is required comes down to whether:

- there is a change of use; and
- whether that change of use is considered 'material'.

4.2 In establishing these two considerations, it is important to distinguish the difference between the Use Classes C2 and C3 hereby referenced as part of this application as set down in the Town and Country (Use Classes) Order 1987 (as amended).

4.3 Use Class C2 is defined as '*provision of residential accommodation and care to people in need of care (other than a use within Class C3)*'.

4.4 Use Class C3 defines various sub-categories of use as a dwellinghouse, as follows:

*'Use as a dwellinghouse (whether or not as a sole or main residence) by:*

- a. a single person or by people to be regarded as forming a single household;*
- b. not more than six residents living together as a single household (where care is provided for residents);*
- c. not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).'*

4.5 A standard residential house would typically fall under Use Class C3(a) listed above, which is the current use of the application property. However, if the property is to be used as a



children's care home, it would need to be in accordance with Use Class C3(b) above otherwise it would constitute Use Class C2.

- 4.6 The proposals relate to the use of the property as a children's home which will be occupied by four young persons between the ages of 5-17 living together with an element of 'care' provided to the residents. In some situations (depending on the type and level of care), this is considered to fall within Use Class C3(b) as it would not exceed the permitted six residents. However, the key question in determining whether the proposed occupation of the property would fall within Class C3(b) is whether the children residing in the property could be defined as living together 'as a single household', which is addressed in the relevant case law below.
- 4.7 In *North Devon District Council v First Secretary of State* [2003], it was held that children were not capable of forming a single household in the absence of a live-in carer on the basis that children are not generally capable of running a household themselves. The proposals involved occupation of the property by two children with care provided by staff working on a rota basis rather than a live-in carer and, in this context, it is acknowledged that the proposed use is likely to fall into Use Class C2 as opposed to C3.
- 4.8 Notwithstanding this, such a change (Use Class C3 to C2) would not automatically trigger a requirement for planning permission and the question comes down to whether a change of use from C3 to C2 amounts to a '*material*' change of use. The purpose of this application is to demonstrate this case.
- 4.9 Planning Practice Guidance Paragraph: 011 Reference ID: 13-011-20140306) advises that:

*'A change of use of land or buildings requires planning permission if it constitutes a material change of use. There is no statutory definition of 'material change of use'; however, it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree and this will be determined on the individual merits of a case.'*

- 4.10 As such, if a '*material*' change of use has not occurred, then planning permission is not required, which is the focus of this application submission.
- 4.11 Previous appeal decisions in this regard have established this principle including appeal case APP/D4635/X/06/2013826 allowed on 29/08/2006 relating to the use of a residential unit as a children's care home with rota-basis care provision. The Inspector clarified that the proposed use would not be '*materially different*' from the property's lawful residential use, further concluding that '*the use being proposed would not be of a materially different character to the lawful use of the property as a 3 bedroomed dwellinghouse.*' This decision considered the level of activity at the site to not be materially different from that of a residential home.
- 4.12 The North Devon District Council v First Secretary of State [2003] case which led the principle of the use falling into Use Class C2 as opposed to C3, also established that the change was not material.
- 4.13 In context with our client's proposals, it is our view that, similarly, there is no material difference in the day-to-day activity and functionality of the proposed children's home, compared to what may occur in a C3 residential use, whether that be a C3(a), C3(b) or C3(c) use.

- 4.14 The proposed children's home, in terms of its layout, facilities and character would, in reality, be very similar to a property being occupied by a nuclear family of two parents and their children. The model of this proposed residential children's home is that of a 'normal' family home, per the regulations and quality care standards that govern the sector.
- 4.15 There will be no discernible difference between levels of noise, activity and general comings and goings associated with the proposed occupants of the property than would be the case with a single household occupying the property under Use Class C3. Children would be taken to school and other activities by their carers (staff members), who would essentially use the property in a similar manner to that of a nuclear family unit to maintain a safe and stable home environment for the children in their care.
- 4.16 The only difference between the proposed occupation of the property and its current C3 use would be the arrangement of care provision. The property would house a maximum of four children, with 2-3 members of staff present on a rota-basis at all times (maximum of two full-time staff members sleeping-in overnight). Given the proposals only include two bedrooms for staff members, this naturally limits the number of overnight occupants to six (four children). Shift rotation would be minimised to aid continuity of care for children in residence.
- 4.17 It is acknowledged that there may be some degree of additional activity at the property at shift changeover times, however, given the limited scale of the use and associated staff numbers, this is not be materially different nor distinguishable to normal day-to-day activities one would expect to encounter with occupation as a C3 Use, such as deliveries, visits by friends / family etc. or, in the case of such a property occupied by elderly / disabled residents, visitors providing regular daily care provision.

- 4.18 There is no clear indication of obstructive parking in the area, and due to the property's location and conventionally similar use, there is unlikely to be any discernible contribution to traffic levels. The property in its current use could already be reasonably associated with regular use by two vehicles, which may be even less in the event of its proposed operation as a children's home.
- 4.19 An appeal at The Cottage, Stonebridge Green Road, Egerton (APP/E2205/X/16/3161037) allowed in 2017, furthers this consideration. The case relates to a Certificate of Lawfulness in respect of the use of a 4-bedroom dwelling to a proposed care home providing care for three children by two adult carers. The Inspector acknowledged that the use would fall within Class C2 but that the level of vehicle movements to and from the property would not be significantly more than if it were used as a family house.
- 4.20 In this context, it is not considered that the proposed use of the property as a children's home (Use Class C2) would give rise to a 'material' change of use and, accordingly, planning permission is not required. This conclusion has been supported elsewhere by other Local Planning Authorities, going by our experience with similar proposals in other Local Authority areas. Moreover, several applications within the Burnley Council local authority area have also been approved in similar circumstances, some of which are listed below:
1. **CEA/2023/0422** | Certificate of Lawfulness of Proposed Use for the use of an existing residential property (Class C3(a)) as a children's home for two children under Class C2. Approved on 11 August 2023.
  2. **CEA/2022/0678** | Change of use of single dwellinghouse (Class C3(a)) to Class - C3(b) use of house by unrelated individuals as a single household of no more than 6 individuals providing an element of care. Certificate issued on 30 January 2023.

3. **CEA/2021/0076** | Certificate Lawful Proposed Use of Dwelling House (Class C3) as a Residential Institution (Class C2) caring for one child. Certificate issued on 08 March 2021.
  4. **CEA/2019/0410** | Certificate of Lawfulness for a proposed use as a home (for less than six persons) with care provided. Certificate issued on 06 September 2019.
- 4.21 Within the granted application [4] the proposed change of use to a children's care home was not considered a material change of use. Within the decision for application [3] the Case Officer also concluded that no material change of use would take place:
- 'The likely levels of disturbance arising from residents and traffic generation, and other material case law considerations, it is considered that, on the balance of probability, the proposal would not result a change of circumstances materially different to those that currently exist.'*
- 4.22 Within the Officer Report for application [1] the Officer acknowledged that the character of the proposed use was different in that whilst two children may live at the property, those providing care would not and the property would therefore be both a home and a workplace. Notwithstanding this, they recognised that to use this as a reason to not issue a s.192 Certificate could be considered contrary to advice retained within the PPG which states:
- 'There is no statutory definition of 'material change of use'; however, it is linked to the significance of a change and the resulting impact on the use of land and buildings.'*
- 4.23 It was noted that the '*resulting impact on the use of land and buildings*' was minor, and that the proposed C2 use was not a material change that required planning permission. This was on basis of it being a C2 use where the proposed number of children was fewer than the

number of bedrooms available. The proposed use in the case of this application would be for four children in a five-bedroom property (six-bedroom following the proposed refurbishment works) and would be acceptable under this point.

- 4.24 Finally, the Officer Report for Application [2] also acknowledged that that numbers of visitors would not differ materially from the number of visitors reasonably expected to a family home.
- 4.25 In this context, the proposed children's home use would fall within Use Class C2, however, in a similar manner to those cases outlined above, the nature and levels of activity associated with the proposed use would not be materially different to that of a conventional household for the reasons outlined above.
- 4.26 On this basis, it is evident that the applicant's proposed use of the property as a children's home (Use Class C2) would not give rise to a material change of use requiring planning permission.
- 4.27 Overall, the proposals are of a conventional scale, and are unlikely to depart from levels of noise, activity and general 'comings and goings' associated with typical C3 occupation and use, even more so a single household (up to six people) occupying the property.

## 5. Summary

5.1 Overall, for the reasons set out within this statement, and having regard to previous case law and LDC applications, it is considered that, whilst the proposed use would result in a change of use from C2 to C3, this change of use would not be material and therefore does not require planning permission. This is on the basis that:

- There would be no more than 6 people living in the property at any one time;
- The property can accommodate any vehicles and a standard domestic property could generate similar numbers of vehicles;
- Other service providers including Ofsted or Social workers. or managers etc. may visit the property but this would only be for short periods of time akin to family or friends visits associated with a usual residential property;
- Rooms within the property are shared and there are no separate units of accommodation; and
- Children may have particular needs and may have challenging issues, however, this would not necessarily cause any greater disturbance than any other household with a variety of ages or issues.

5.2 We trust that the LPA will now be in a position to issue an LDC to this effect at the earliest convenience, confirming that the works do not constitute a material change and the proposals would not be considered development pursuant to Section 55 of the Town and Country Planning Act 1990. Doing so will enable the applicant to begin providing vital and much needed children's accommodation and care services within the local area.