



Planning

Appeal Statement

Client:

Brighter Living

515 Reading Road,

Winnersh, RG41 5EX

Appeal against the refusal of application ref. 252236

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01 Introduction

- 1.1 This statement is submitted following the decision of Wokingham Borough Council to refuse a certificate of lawfulness for application for a certificate of lawfulness to demonstrate that no development is occurring in the change of use from a dwelling to a children's home. The application was registered on 18th September 2025 and considered under reference 252236. The application was refused under delegated powers on 11th August 2022. A copy of the officer's report (**Appendix 1**) and decision notice (**Appendix 2**) are included with the appeal documents.
- 1.2 This statement will focus upon matters raised within the decision notice for the appeal scheme.

02 Site Location & Description

- 1.3 The site comprises an existing residential house, a residential garden, and a hardstanding driveway area adjacent to Reading Road. All bedrooms are equipped with ensuite facilities.
- 1.4 The site is situated in Winnersh, 20 metres from the Bearwood Path bus stop, which provides convenient access to Bracknell Forest. It is also located 650 metres from Winnersh Triangle Station and 1 kilometre from Winnersh Station, offering multiple sustainable transport options for staff.

- 1.5 A variety of public services and local amenities are within walking distance of the site, including A&B Food & Wine (approximately 170 metres to the east along Reading Road), The Forest School (1.1 kilometres to the east), Showcase Cinema (1 kilometre to the west), Sainsbury's Supermarket (1 kilometre to the east), and Dinton Pastures Country Park (1.2 kilometres away).

Background and Context

- 2.1 Whilst we acknowledge certificate of lawfulness applications seek to focus on a point in time, it is important to understand the context for why the appellant initially submitted this application.
- 2.2 The appellant is a registered children's services provider with extensive knowledge and experience in providing support and homes for children from disadvantaged backgrounds, many of whom come from broken homes.

- 2.3 Lack of supply is a national issue and demonstrates the overwhelming need for children's homes is not being met. **Appendix 3** details an OFSTED report entitled – *'How local authorities plan for sufficiency of accommodation that meets the needs of children in care and care leavers'* and has shown that local planning authorities have a number of difficulties in meet their sufficiency needs.
- 2.4 This lack of secure provision for children nationally means that alternative places need to be found for children with complex needs.
- 2.5 The proposal would help to increase the availability of places for children and allow them to remain within the Council and not have to be re-located.
- 2.6 Therefore, whilst this is not strictly a consideration for the determination of this certificate of lawfulness appeal, the appellant wanted to provide the full background for the level of need of this type of accommodation and issues with its delivery.

- 2.7 In terms of the planning history of this site, the applicant initially sought an application for a certificate of lawfulness under application ref. 251112 which sought to confirm the property could be used as a children's home. This was refused on 7th July 2025 (Decision Notice, Officer Report and Application documents included in **Appendix 4**).
- 2.8 Following this, the Appellant prepared a re-submission application which is the focus of this appeal. This included seeking a legal opinion from Megan Thomas KC (**Appendix 5**) and the amendment to certain elements of how the home would operate eg/ switch-over times.
- 2.9 This statement will set out how the Council's refusal of this application is considered unjustified and how the appeal should be allowed.

03 The Appellant's Case

- 3.1 The Council's refusal reason reads as follows:

- 1 The proposed use of dwelling as a children's care home as described constitutes development requiring planning permission as it would result in material change of use from Use Class C3 to C2. The description provided in the supporting Planning Statement falls within a C2 Use Class. The use as

described would not form a single householder and therefore would be a C2 Use Class. The proposed use would result in a material change to the character of the use of the site. C2 and C3 uses draw upon different planning policies; strategic assessments and can attract different material weight: they are materially different uses with different material planning consequences. The certificate is therefore recommended for refusal.

3.2 ***The Assessment Process:*** The North Devon Case outlines the framework to follow when assessing these types of application. This case outlines that when looking at whether a children's home certificate can be issued, it is a two-step assessment process – 1) Is the proposal development? ie. does it fall within C3 use class and; 2) If it is considered to fall within C2 use class, is it a material change of use i.e/ does it operate in a tangibly different manner to a C3 dwellinghouse.

3.3 As such, there are two mechanisms for how a certificate can be issued. The Council's officer report outlines how they consider the proposal to fall within C2 use class and also be a material change of use.

3.4 The Appellant is agreeable to accepting that the proposal falls within C2 use class and so this can be considered a point of common ground.

However, the Council's assessment on whether a material change of use has occurred is incorrect. This will be discussed in further detail below.

- 3.5 ***Whether a material change of use has occurred:*** When discussing this within their Officer Report, the Council make reference to a number of appeal decisions that they say, add further veracity to their position that a material change of use has occurred. These will be discussed in turn below.
- 3.6 Whilst these decisions are referenced, their specific relevance in relation to the Appeal scheme are then not discussed given they relate to various different appeal cases outside of certificate of lawfulness applications for children's homes where there is an overarching legal framework.
- 3.7 Appeal decision refs. APP/K5600/X/16/3146855 and APP/K5600/W/16/3146856 (**Appendix 6**) are discussed by the Council. This discussed a scheme whereby a property comprising of 4 no. self-contained flats was proposed to be amalgamated into 1 no. dwellinghouse. As the amalgamation only affected the interior, the question put before the Inspector was whether this amounted to a material change of use.
- 3.8 The Council's reliance on the Pembridge Place decision is misplaced, as the principles in that case arose in a wholly different factual and policy context.

- 3.9 The Pembridge case concerned the amalgamation of four self-contained flats into a single dwelling, resulting in an undisputed and quantifiable loss of multiple housing units in a borough with acute housing pressure, where strategic policies explicitly sought to resist such losses.
- 3.10 The Inspector's conclusion that this amounted to a material change of use rested almost entirely on the strategic consequences of removing several dwellings and the cumulative erosion of the housing stock.
- 3.11 In relation to the appeal scheme which is the focus of this statement, the site would remain in residential occupation albeit exclusively for occupation by children – this has been supported elsewhere (**Appendix 7**).
- 3.12 The domestic scale, long-term occupation and operational characteristics of the proposed children's home are materially different from the institutional amalgamation context in Pembridge. As such, the decision offers no meaningful parallel or support for treating this small-scale, residential-type C2 use as a material change of use, and the Council's analogy should be given little or no weight.
- 3.13 (R (oao) The Royal Borough of Kensington and Chelsea v (1) SSCLG (2) David Reis (3) Gianna Tong [2016] EWHC 1785 (Admin)) is also discussed by the Council.

3.14 That case concerned the loss of **several** self-contained dwellings in a borough facing acute housing pressures, where the High Court accepted that the strategic consequences of losing multiple units could render amalgamation a material change of use.

3.15 No such circumstances arise here. The present proposal involves no loss of any dwellings, maintains continuous residential occupation, and frustrates no equivalent housing policy – especially given NPPF Paragraph 63 discusses homes need to be provided for all groups, including looked after children.

3.16 The judgment did not establish that **every** shift between residential Use Classes is material; it simply confirmed that materiality is a fact-and-degree assessment based on whether the character of the use changes and whether any genuine planning purpose is undermined.

3.17 In this case, the domestic, small-scale and long-term nature of the children's home means the character of use remains that of a residence, and no strategic planning purpose is harmed. Accordingly, the RBKC judgment provides no meaningful support for the Council's position.

3.18 The Council's officer report moves on to discuss appeal decision. APP/X0360/W/24/3341373 (**Appendix 8**) which related to the loss of 2 no. houses for a commercial development. As detailed elsewhere, the proposal

would not 'lose' any residential plots – the proposal would remain within a residential use class.

3.19 Following this, the Council go on to discuss the Appellant's Legal Opinion (**Appendix 5**). It is important to note that as part of the Appellant's application statement (**Appendix 9**) – the opinion of the Council's legal team was requested.

3.20 There is no reference within the Officer report as to whether this took place. Given the complexity of this matter and case and a direct request from Appellant for this to take place, it would have been expected that this took place. The non-discussion within the officer report suggests it did not.

3.21 This is especially pertinent considering the legal opinion, which reviewed the Appellant's original application pack and the Council's original decision states that '*the refusal of the Certificate¹ by Wokingham Borough Council is based on a flawed and confused legal approach.*'

3.22 The legal opinion itself discusses what constitutes a material change of use. As set out in paragraphs 15–22 of the submitted legal opinion, demonstrates clearly that the proposed children's home would not give rise to a material change in the character of the existing residential use.

¹ CLUPD application refused on 7th July 2025

3.23 The lawful baseline is a large six-bedroom dwelling which could easily accommodate a sizeable family household—two adults, four children and potentially an additional adult—generating frequent comings and goings, multiple vehicles, visitors, school runs, social activities, domestic deliveries and general noise associated with busy family life.

3.24 When assessed against this realistic C3 baseline, the operational profile of the proposed children's home falls squarely within the same residential envelope. The presence of four children and two carers at any one time is comparable to a conventional family household. Staff changeovers at 7.00am, 2.30pm and 9.30pm would mirror movements associated with adults leaving for work or returning home at similar times.

3.25 Occasional OFSTED or social worker visits occur no more frequently than those of relatives, tradespeople or friends in a typical domestic setting. Parking demand would not exceed that of a large household, owing to the five on-site spaces, availability of sustainable travel options, and the use of a dedicated house vehicle.

3.26 Likewise, the everyday residential outputs of the use—noise from a household with children, cooking smells, indoor lighting and garden activity—would be indistinguishable from those arising under the permitted use. Taken together, the pattern, scale and nature of activity remain wholly

characteristic of ordinary residential occupation, with no intensification or institutionalisation of the site.

3.27 The overall planning character of the land continues to be residential, and the proposed operation falls comfortably within the established parameters of the existing C3 use. It follows that no material change of use would occur and therefore no development requiring planning permission arises.

3.28 When discussing the movements table detailed in the Appellant's PDAS, the Officer report states that *'While it is reasonable to look at how daily activities compare, the Council does not consider that the information provided is detailed enough to prove there would be no change in use. The table describes general activities such as school runs, shopping trips, and visits, but it does not show how many staff vehicles would be arriving and leaving at each shift change, what forms of transport staff would use, or how long these movements would overlap during handovers. These details matter, because what distinguishes a care home from a private dwelling is not just how many trips happen overall, but the pattern and timing of those trips.'*

Staff changeovers at around 7:00 am, 2:30 pm, and 9:30 pm could lead to several vehicles arriving and leaving within a short period. If two staff members were to be replaced at the same time, that could involve up to 4 cars manoeuvring and parking at and around the site at every shift change,

7 days a week. There would also be visits from various professionals from time to time, including some meetings, which would have the potential for multiple vehicle movement and parking, which is quite different from the more spread-out comings and goings typical of a family household.'

3.29 There are several points to reflect on in relation to this, firstly – a certificate of lawfulness is always a snapshot in time. Given the children's home is not currently operating, detailed information on the home itself is not available.

3.30 Expected timings etc have been set out in the movements table as the Council reference. The Council then go on to state that is the distinguishing feature of a care home compared to a typical dwelling is the pattern and timing of the movements.

3.31 The existing property is a C3 dwelling that has no restrictions on the number of movements, pattern or timing of movements. In contrast to the Council's claims, the proposed development actually provides greater certainty in terms of movements etc.

3.32 Also, the Council's use of language such as 'typical household' is vague and generalised, with no further information given on this.

3.33 Given mixed nature of households across the UK, it is quite possible that a multigenerational household with different members of the family at

different ages, with different professions/roles could generate equal to if not more than the proposed children's home in terms of movements (both pattern and nature).

3.34 The Council's assertion that the proposed use would "not operate like a normal dwelling" rests on a misplaced interpretation of both the factual evidence and the legal test for material change of use.

3.35 The correct question under Section 55 of the Town and Country Planning Act is not whether some operational aspects differ from a stereotypical family model, but whether, as a matter of fact and degree, the character of the use of land would be materially different from the established lawful C3 use.

3.36 The legal opinion explains that this requires a comparison with the realistic baseline of what a six-bedroom dwelling could lawfully and reasonably accommodate, rather than a theoretical idealised family model. When this correct baseline is applied, the operational features relied upon by the Council do not come close to establishing a material change in character.

3.37 In terms of day-to-day activity, the presence of carers working on a rota does not create an institutional pattern of use. As the legal opinion explains, the proposed changeover times—7am, 2.30pm and 9.30pm — mirror entirely the comings and goings of a large modern family household, where

adults routinely depart early for work, return mid-afternoon, or arrive home later in the evening.

3.38 Carer arrivals and departures are therefore equivalent to the lawful residential baseline, not an intensification of it. Moreover, the staff complement at any one time - typically two carers plus, during working hours, a manager is materially comparable to a household of working adults and older children who may themselves generate vehicular movements and independent routines. The Council has presented no evidence that these movements generate any greater amenity impact or any demonstrable change in the character of the use.

3.39 The Council also argues that the home will be subject to professional oversight, including visits from social workers and periodic Ofsted inspections, and that this distinguishes it from a "self-contained lifestyle expected of a family home." This is factually and legally incorrect.

3.40 As set out in the legal opinion, social worker visits will occur approximately once every six weeks and Ofsted inspections around twice per year, a level of activity entirely comparable to visits by educational, healthcare or extended-family visitors to any household with four children.

3.41 The Council's suggestion that the children's learning difficulties or autism create "a significantly different operational profile" is directly contradicted

by the evidence. The legal opinion explains that there is no reason to conclude that children with such needs generate noise or disturbance beyond that which might arise from any vibrant family household, nor that any such behaviour would be so frequent or intense as to be material in planning terms.

3.42 Equally, there is a scenario where two parents could have a number of autistic children and live in a typical C3 dwellinghouse – or are the Council suggesting they need to apply for planning permission? Given there are over 700,000 people in the UK with autism according to the British Medical Association, the illogical nature of the Council’s decision making process in relation to this is put in sharp focus.

3.43 The Council’s assertions rely on generalisation and speculation, not site-specific evidence (which has been provided by the Appellant in the form of the legal opinion).

3.44 Furthermore, basing a materiality conclusion on assumptions about disabled children risks breaching the Public Sector Equality Duty, which prohibits decision-making grounded in stereotype rather than evidence.

3.45 Lastly, the Council discuss a number of appeal decisions that were listed in the legal opinion that were presented to show how PINS have dealt small

scale children's homes to make clear that scale and operation characteristics are the determinative factors.

3.46 These were Loyerton Farmhouse (**Appendix 10**), The Cottage (**Appendix 11**) and Ty Rhos Bach (**Appendix 12**). The summaries of these appeal decisions in relation to the appeal scheme are set out in the legal opinion and in the interests of brevity, will not be repeated here. However, alongside the measures outlined above, it is clear that the Council have fundamentally misunderstood the proposal and incorrectly determined that a material change of use has occurred.

3.47 **Other matters:** The Ministerial Statement on Planning for accommodation for looked after children (2023) (**Appendix 13**) is a relevant matter to consider in relation to this proposal. The statement sets out that 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. There is no reference to this within the Officer report despite this being part of the Appellant's submission despite Government guidance that planning permission will not always be required proposals such as the appeal scheme.

04 Conclusion

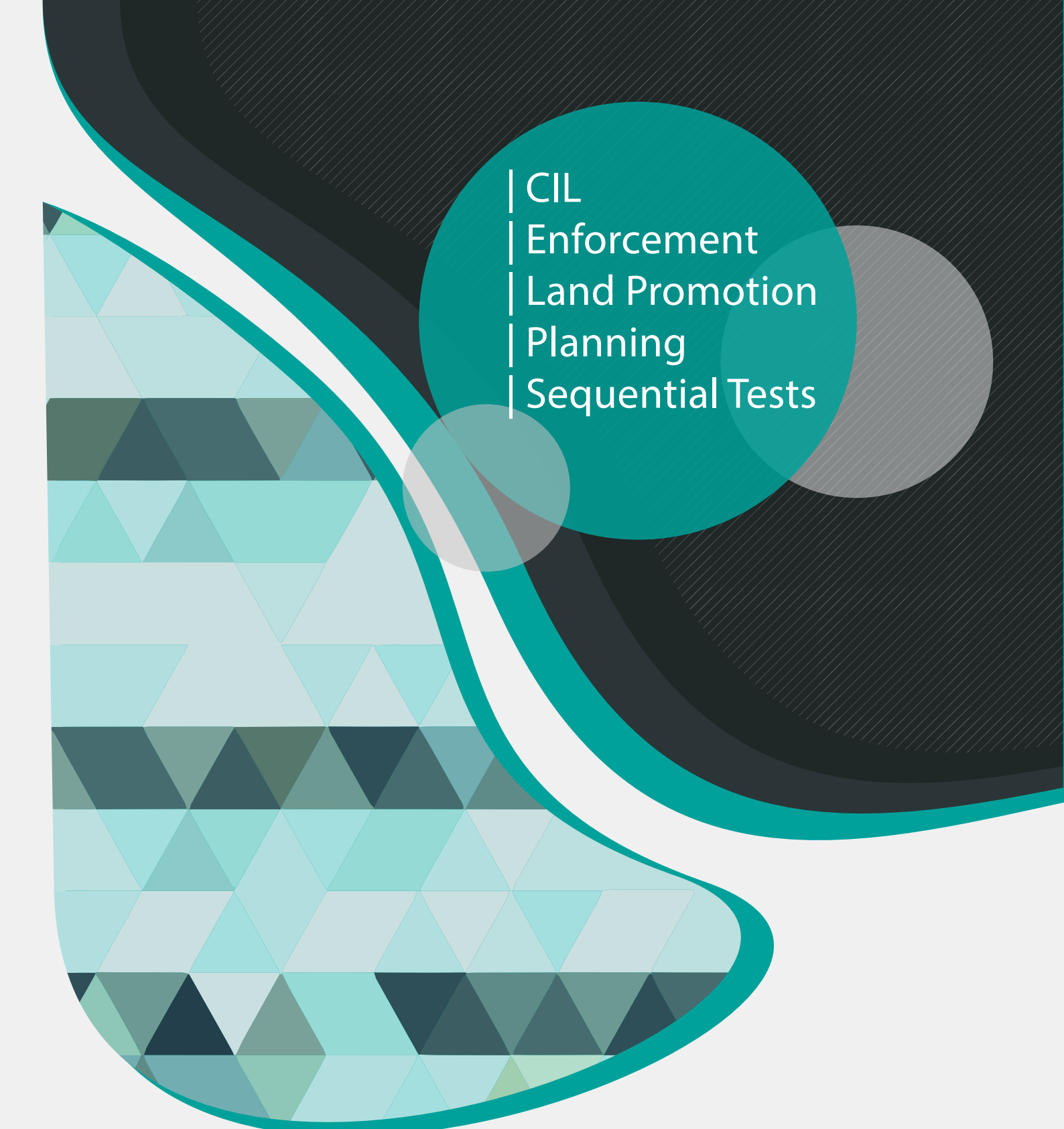
- 6.1 For reasons set out in this statement it is considered that the appeal proposal adheres to relevant legislation.
- 6.2 It is considered that the appeal scheme does not represent a material change of use. The proposed development would operate akin to a typical family home.
- 6.3 A family with autistic children with care support would not require a change of use application and alongside other points the Council have raised, it is clear the Council have fundamentally understood the appeal scheme.
- 6.4 Therefore, the Council's reason for refusing the proposed certificate of lawfulness is unjustified, and it is respectfully requested that the appeal be allowed.

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