



Planning

Planning Statement

Client:

Brighter Homes

515 Reading Road,

Winnersh, RG41 5EX

Certificate to demonstrate that no development is occurring in the change of use from dwelling to childrens home.

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1. Introduction

- 1.1 This statement is produced to support an application for a Certificate of Lawfulness at 515 Reading Road, Winnersh, RG41 5EX ('the site') on behalf of Brighter Homes ('the applicant').
- 1.2 The Certificate seeks to establish that a material change of use is not occurring from the lawful use of the site as a dwellinghouse, and that no material change of use would occur thereby negating the need for planning permission.
- 1.3 The proposal is for **a maximum of 4 children** under the ward of the Local Authority to live at the property. In addition, there will be **a maximum of 5 members of staff** in the property at any one time including a manager between 09:00 – 17:00.
- 1.4 In addition to this planning statement, the application is accompanied by the appropriate application forms and ownership certificate, duly signed and completed, as well as a Location Plan, outlining the extent of the site.
- 1.5 The relevant application fee will be submitted by the applicant separately.

2. The Applicant

- 2.1 Brighter Homes is a new organisation specialising in specialist residential children's homes. It is part of the Brighter Living Care group, a CQC-registered provider of adult social care.
- 2.2 Based in Winnersh Triangle, the organisation was recently shortlisted for Gold Tier Provider status by Wokingham Borough Council. The organisation offers personalised support to help individuals live more independent and fulfilling lives, regardless of their needs.
- 2.3 The organisation specialises in supporting individuals with learning disabilities and autism, working closely with local authorities across the region and collaborating with the majority of NHS Integrated Care Boards (ICBs) in the surrounding areas.

3. Site Location and Description

- 3.1 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.
- 3.2 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.
- 3.3 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).

4. Development Proposals and Contextual Information

- 4.1 The site relates to an existing dwelling house which is in Class C3 use. The proposal is for a maximum of 4 children under the ward of the Local Authority to live at the property.
- 4.2 Whilst the duration of the stay for children will vary as this will depend on the needs of the individual child, it is anticipated that the property would be the long-term home for the children with a minimum stay of one year. The property would be the children's primary living accommodation for the duration of their stay.
- 4.3 In terms of staffing, changeover times would be 7.00am, 2.30pm and 9.30pm with typically one carer carrying out a night shift from 9.30pm to 7am.
- 4.4 The shift pattern identified meets Ofsted regulations for children's homes and working time regulations for the care sector. The rota pattern is very common across children's homes to ensure a consistent group of staff and limited change as per the average family setting.
- 4.5 There is ample off-road car parking at the property, with **5 spaces** provided on site. One of these spaces will be used for the house vehicle.

- 4.6 The following table further compares the **daily movement patterns** on site (existing and proposed):

<i>Existing movements</i>	<i>Proposed movements</i>
<i>School runs- x2 (at 8am and 3pm)</i> <i>Shopping trips – 2 per week</i> <i>Work travel - x2 (at 8am and 6pm)</i> <i>Shopping/online deliveries – x1 (at 1pm)</i> <i>Visiting friends / having friends visit – 4pm</i>	<i>School runs – x2 (at 8am and 3pm)</i> <i>Shopping trips – 1 per week</i> <i>Adult/shift changeovers – as detailed elsewhere in this statement</i> <i>Shopping/online deliveries – x1 (at 1pm)</i> <i>Visiting friends / having friends visit – 4pm</i> <i>Social Worker visits – 6 weeks on average – they do not necessarily need to visit the home in order to undertake their work</i> <i>OFSTED – Every 6 months on average – during day time hours eg/ 9:00 – 17:00</i>

Fig 1: Daily movement patterns

- 4.7 No external changes are required to the property.
- 4.8 The property will provide a much-needed family style home for vulnerable children who are unable to live with their families. It will further provider very much needed places for local children.
- 4.9 During the preparation of this application, a review of similar applications was undertaken and the following application was noted:
- 23 Almond Close, Barkham, Wokingham, RG41 4UU – This was approved on the 31st May 2024 (Planning Reference: 240778). **(Appendix 12)**
- 4.10 It should be noted that several additional Certificate of Lawfulness applications have been approved by other Councils, representing a

nationally consistent approach, and these add further weight to the proposal. Due to the nature of this application and in the interests of consistent decision making, these are relevant material considerations in the determination of this application. These examples include:

- 22/01048/LDPU – 254 Old Worting Road, Basingstoke, RG22 6PD (**Appendix 1**)
- 22/02240/LDPU – 38 Impstone Road, Pamber Heath, RG26 3EQ (**Appendix 2**)
- 20/02131/LDPU – Silver Birches, Pamber Heath, RG26 3EB (**Appendix 3**)
- 22/00631/LDPU – Cap D’or, Bramley, RG26 5BW (**Appendix 4**)
- 23/00575/LDPU – Willowbrae, The Glen, Pamber Heath, Hampshire, RG26 3DY (**Appendix 5**)
- 7 – 2023 – 11369 – A – 40 Ensbury Park Road, Bournemouth, BH9 2SJ (**Appendix 6**)
- CAPP/21/01633/K – 12 Taverner Close, Poole, BH15 1UW (**Appendix 7**)
- APP/21/00893/K – 99 Labrador Drive, Poole, BH15 1UY (**Appendix 8**)
- 7-2019-3152-J – 33 Mayfield Road, Bournemouth, BH9 1TQ (**Appendix 9**)

5. Assessment of Proposal

5.1 Section 55(1) of the Town and Country Planning Act 1990 defines the meaning of 'development'. Included within this definition is a material change in the use of any buildings or other land. Section 55(2) sets out what operations or uses of land which shall not be taken to involve the development of the land. These include:

- *(f) In the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same use class. (emphasis added)*

5.2 The definition of Class C3 in the Town and Country Planning (Use Classes) Order as amended reads:

- *Use as a dwelling house (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; or*
 - *(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).*

5.3 The North Devon District Council v First Secretary of State and Southern Childcare [2003] goes on to state that the definition of a household is not exclusively related to the number of people.

5.4 The consideration is therefore turned to whether the proposal comes under Class C3 (notably (b)) or a change of use has occurred, in particular to Class C2 (residential institution) which is:

- *Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).*
- *Use as a hospital or nursing home.*
- *Use as a residential school, college or training centre.*

5.5 North Devon District Council v First Secretary of State and Southern Childcare [2003] explored the definition of a household (it concluded that this is not exclusively related to the number of people). Therefore, consideration as to whether residents make up a single household will depend on the specific facts of each case.

5.6 Case law and appeal decisions demonstrate the idea of living together as a single household is determined by several of the criteria below:

- *Living conditions – general layout of the dwelling house is that of a conventional residential dwelling for private domestic use.*
- *Communal use of areas such as a living room, kitchen, bathrooms /shared utilities amongst the residents;*
- *Carrying out of household duties together such as cooking, cleaning, shopping / an agreed rota;*
- *The residents are capable of running the house as a conventional residential dwelling;*
- *The nature of the relationship between the residents (a material consideration but it is not determinative);*

- 5.7 The North Devon Case Law outlines there also needs to be an assessment of whether a material change of use would occur from the existing situation. As such, this is a two-stage assessment process. In particular this would assess whether the change of use was material taking into account the activity of the site compared with the use as a dwellinghouse.
- 5.8 Furthermore, in an appeal in Brecon Beacons National Park (reference APP/P9502/X/12/2205394, decision date 18/02/2014) (**Appendix 10**), it was found that the change of use from a family dwelling to a community home for 5 young persons would not be material at that, as such, it would not require planning permission. The Inspector concluded at paragraph 19 that the proposal would display many features of a family dwelling, for example it was intended that staff would seek to provide a stable family environment for those in care, and that the overall number of children was small, and that the coming and going of staff and family would not materially impact on the surrounding area.
- 5.9 The age of the children would be between 11-17 in this proposal.
- 5.10 A further material consideration for the determination of this application is the recent written ministerial statement from Rachel Maclean, Minister of State for Housing and Planning, dated May 2023 (**Appendix 11**). This states that:

*"Planning permission will not be required in all cases of development of children's homes, including for 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, the facts of the case, the*

specific use is or would be lawful. Where a Certificate is issued, a planning required for the matters specified in the certificate.”

- 5.11 The proposal is to all intents and purposes, a family home. The children will live in the house under the care of surrogate parents, eat meals together, share the living rooms, bathrooms and sleep under the same roof.
- 5.12 It is our view that it would be unreasonable to treat this family sized unit any differently, simply on the basis that the children are unable to reside with their birth parents, normally as a result of circumstances beyond their control.
- 5.13 In respect of the above, we consider that a material change of use is not occurring from the lawful use of the site as a dwellinghouse.
- 5.14 The nature of the proposals (including the duration of the stay), and the number of people on site (and resultant activity and movements) would not be materially different from the lawful use of the site as a dwellinghouse.
- 5.15 The proposal will operate in a very similar way to a normal family home, functioning as a single household, with careers undertaking typical tasks such as cooking and cleaning associated with a typical dwellinghouse.
- 5.16 Therefore, based on the characteristics of the proposals and informed by relevant case law and appeal decisions, we consider that the proposal would not amount to a material change of use from the lawful use of the site as a dwellinghouse.

6. Legal Position and Further considerations since the determination of application ref. 251112

6.1 It is noted that a previous certificate of lawfulness was sought on the site under application ref. 251112.

6.2 The Council refused this application on the following grounds:

The proposed use of the existing dwelling as a residential care home for up to 4 children constitutes development requiring planning permission as it would result in a material change of use from Use Class C3 to C2. The description provided in the Planning Statement falls squarely within a C2 Use Class. The use as described would not form a single householder and therefore would be a C2 Use Class. This conclusion is supported by case law. 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.

6.3 A review of the Council's Officer Report, sets out a number of further points in respect of this:

- Lack of information related to the carers
- Lack of information on the children's ages
- The use that was described was considered to be a material change of use

6.4 The age of the children would be between 11-17. It was incorrect of the Council to state that this information was not provided given it is

included at Paragraph 5.8 of the statement that supported application ref. 251112.

- 6.5 Following the refusal of the previous application, the applicant has sought a legal opinion on the Council's previous refusal and it is their view that the Council's decision was not consistent with the relevant case law. This is included in **Appendix 13**.
- 6.6 For confirmation and clarity, the proposed development would operate in strict accordance with the legal opinion provided.
- 6.7 The details of the legal opinion will be discussed in further detail below. However, as part of determination of this application, it is requested that the Council's legal department review this submission prior to a decision being made by officers.
- 6.8 As has been outlined elsewhere in this statement, the relevant tests in relation to assessing children's homes under a certificate of lawfulness is a) whether it is development and b) whether it is a material change of use.
- 6.9 As noted above, part of the Council's assessment for the previous application was that the changeover times contributed to a material change of use.
- 6.10 This has subsequently been amended as part of this application and so rather than carers changing over at noon and midnight, the typical changeover times will be 7.00am, 2.30pm and 9.30pm, with typically one carer on night shift from 9.30pm to 7am.
- 6.11 As noted in the legal opinion, the Council's decision of the previous application was based on a flawed and confused legal approach. Once the baseline impacts of the lawful C3 use are compared with the

predicted impacts of the children's home activity, 'the clear conclusion is that the change of use will **not be a material one.**'

6.12 Operational details haven't been discussed elsewhere in this statement. However, to re-iterate the points made in the Applicant's legal opinion, the proposed development will operate as follows:

- The proposed home will care for four children with learning difficulties.
- The children will be looked after by carers working on specified shift patterns.
- The home is intended to replicate a typical family home. The children will eat meals together and share living spaces with the carers undertaking typical domestic tasks such as school runs, cleaning, cooking etc (this point also addresses the Council's queries around further information on the carers at the property).
- The property will have a dedicated house car.

6.13 The legal opinion goes on to discuss how this proposal is categorised in relation to the two step assessment process outlined by the North Devon Case.

6.14 The conclusion of this is that the proposed development does not fall within C3 use class as outlined by Paragraph 10. As per the North Devon Case, this does not mean a certificate cannot be granted. Rather, the relevant assessment process is then whether a material change of use has occurred.

6.15 Whether a material change of use has occurred or not is discussed at length in paragraph's 13 – 22 of the legal opinion. In the interests of

brevity, the entire discussion of this within the legal opinion will not be repeated here. In summary, the opinion assesses a number of points including existing vs proposed comparisons, in respect of matter such as visits to and from the site, parking, background of the children etc. The opinion concludes that the proposed operation would **not constitute a material change of use.** As such, the Council's assessment of the previous application was incorrect.

- 6.16 The opinion goes on to discuss further cases including appeal precedent relating to other schemes, further supporting the Applicant's position that a material change of use is not occurring.
- 6.17 Overall, the opinion concludes that *'no material change of use constituting development will occur when the six bedroomed, detached dwellinghouse at 515 Reading Road is used as a children's home for up to 4 children with learning difficulties and autism. The Council's decision was incorrect and a Certificate of Proposed Lawful Use for no.515 can be issued if a second application, as envisaged in this Opinion, is made.'*
- 6.18 The legal opinion has been prepared by an independent, professional legal advisor and must be given significant weight in the assessment of this application.

7. Conclusion

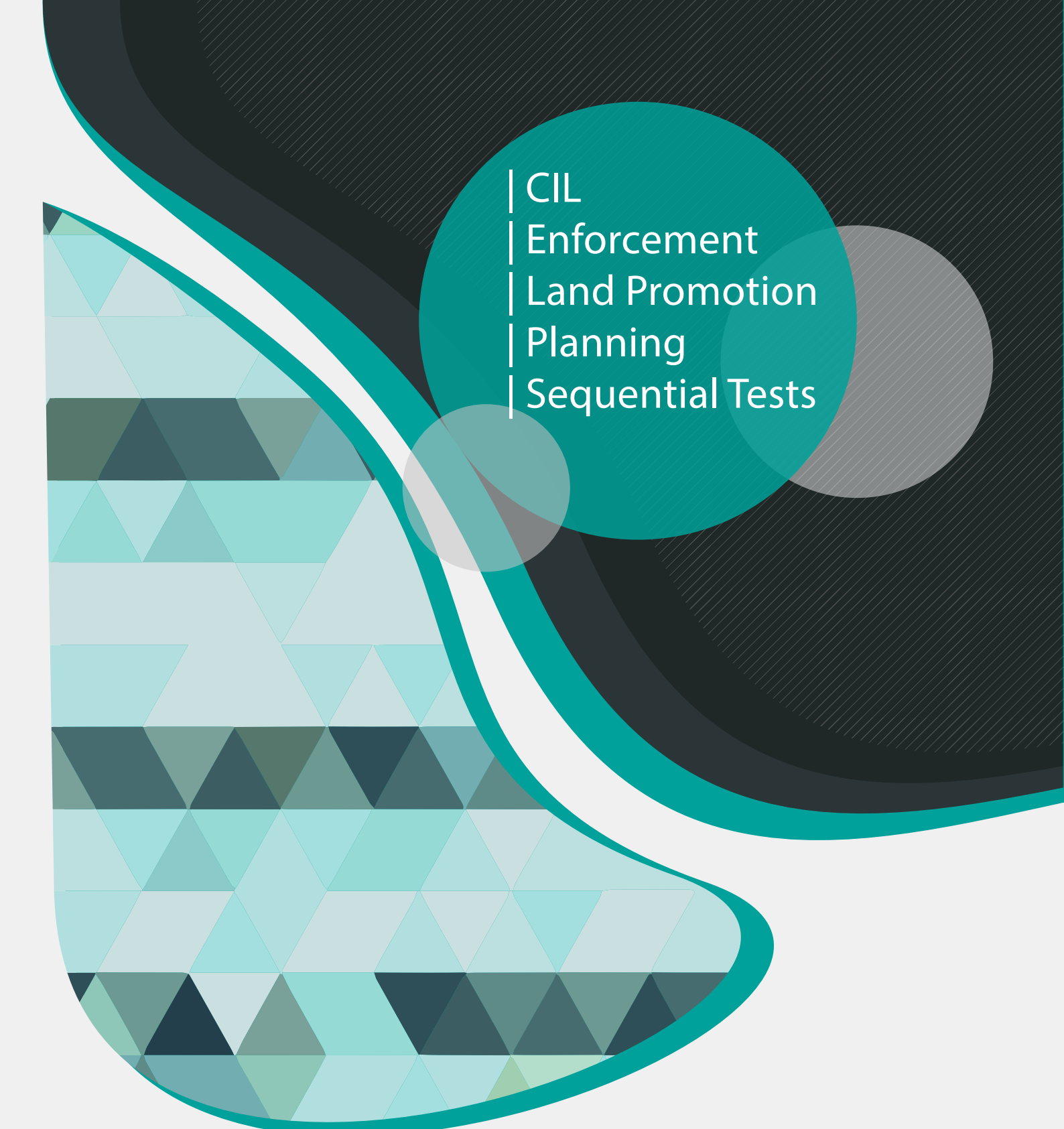
- 7.1 This statement has demonstrated that the proposal is considered to fall within C2 use class but not constitute a material change of use (as per the North Devon District Council v First Secretary of State and Southern Childcare [2003]). The applicant has provided further information as part of this application including a legal opinion that review the Council's previous refusal. This concluded that the Council's refusal of the application was unjustified.
- 7.2 Furthermore, relevant case law has been considered as part of this application and adds further weight to the proposed argument put forward as part of this application. This is in addition to recent Government guidance on this topic, which strongly supports the urgent provision of new children's homes.
- 7.3 For the reasons detailed above, it is respectfully requested that a certificate of lawfulness allowing the property to be used as a children's home be granted.

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