



SUPPORTING STATEMENT

Application for a Certificate of Lawful Proposed Use
of property as a children's home (within Class C2) for
one child

At 9 Tilston Road, Westvale, Kirkby, L32 0UH

On Behalf of
Future Care NW Ltd
May 2025

LANDOR Planning
Consultants Ltd

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1.0 INTRODUCTION

- 1.1 This Supporting Statement is prepared for an application for seeking a Certificate of Lawful Proposed Use or Development (CLOPUD) for use of a property as a children's home (within Use Class C2) for one child. The application is submitted on behalf of Future Care NW Limited in respect of 9 Tilston Road, Westvale, Kirkby L32 0U.
- 1.2 The purpose of this Supporting Statement is to demonstrate as a matter of fact and degree that the proposed use does not give rise to such materially different planning circumstances or a definable change in character amounting to a material change of use. In essence, express planning permission is not required as the use of the dwelling under Class C2 would be lawful.
- 1.3 The application is supported by the following information:
 - Location Plan
 - Block Plan
 - Existing and Proposed Ground and First Floor Plan
 - Management Plan/Statement of Purpose
 - Staff Rota

2.0 LOCATION AND SITE DESCRIPTION

- 2.1 Tilston Road is located in Westvale, Kirkby which is a post war housing estate located to the west of Kirby Town Centre.
- 2.2 No 9 Tilston Road is located on the north side of Tilston Road and is a mid-terrace property which, in common with the rest of the terrace, is a two-storey dwelling with rendered elevations and a pitch roof.
- 2.3 The submitted floor plans confirm that the property is arranged in order to provide conventional domestic residential accommodation that includes a kitchen, living/dining room, study on the ground floor with three bedrooms, bathroom and separate WC on the first floor. The property has a front and rear garden. As a three-bedroom house it provides suitable accommodation for at least two adults and 2 children. While there is no in-curtilage car parking provision, there are no car parking restrictions in Tilston Road. The occupiers, of the terraced houses in this location, if car owners utilise the street for car parking.
- 2.2 Tilston Road is located in an established residential area of Westvale which is approximately 1.5km to the west of Kirkby. Kirkby town centre. The property is within easy walking distance of public transport, schools and local services, and therefore is in a highly sustainable location.
- 2.3 The lawful use of the property is a dwellinghouse (Class C3). A search of the online planning register confirms no planning history indicating any previous change of use. Based on the above evidence, there can be no doubt that the lawful use falls within Class C3 as a dwellinghouse

3.0 THE PROPOSED USE

- 3.1 The application for a CLOPUD is to use the property as a children's home for a maximum of one child and two carers under Class C2 of the Use Classes Order 1987 (as amended).
- 3.2 The application is supported by a Management Plan/Statement of Purpose Document. In addition, a Staff Rota is provided. These documents collectively confirm that the use will be as a children's care home in which no more than one child will be resident at any one time with two staff carers. The only child residing at the premises shall be aged 7-18 years and will be in full time compulsory education. The only times when there would more staff (3 in total) is during the shift handover which shall take place between 11.30am and 12.30pm daily and any ad hoc visit from the Manager.
- 3.3 Staff Carers are pooled from six staff who shall undertake shifts in a rota of 2 days on/four days off. The Staff Rota confirms that changeover is scheduled to occur in between the hours of 11.30am and 12.30pm.
- 3.4 A manager will make occasional ad hoc visits to the property in accordance with Ofsted standards on weekdays between 0900 -1700 hours.
- 3.5 For the vast majority of time there would be a maximum of three persons present on the site (one child and two adults). Comings and goings from the property will be associated with attendance at school, staff handover times, social and recreational outings like any other family group. In accordance with Ofsted regulations no visitors are allowed at the property unless by prior appointment.

4.0 LEGISLATIVE TEST AND ASSESSMENT

- 4.1 The Town and Country Planning (Use Classes) Order 1987 (as amended) categorises different types of property and land into classes. Change between uses within the same class does not constitute development and therefore does not require planning permission.
- 4.2 However it is also the case that not all changes between use classes are necessarily development within the meaning of Section 55(1) of the Town and Country Planning Act 1990. The key issue is whether the change is material.
- 4.3 As held in North Devon District Council vs FSS and Southern Childcare Ltd [2003] EWHC 157 (Admin); [2003] JPL 1191 a change from C3(a) to C2 will not always be material. It will be a matter of fact and degree, depending upon the circumstances of the case in question.

In line with this judgement, the proposed use as described in Section 2 of this Statement is not materially different to the lawful use of the property as a dwellinghouse. The applicant highlights a number of factors that inform that conclusion.

- i) There is no limit on the size of a family unit that can occupy a dwellinghouse within Planning Use Class C3. In this case, the subject property is a three-bedroom, mid terrace house that can comfortably occupied by a household consisting of four or more occupants, less than proposed.
- ii) The Town and Country Planning (Use Classes) Order 1987 (as amended) splits Planning Use Class C3- Dwellinghouses into three subsections. Under Class C3(b) the property could also be lawfully occupied, not requiring planning permission by up to six residents living together as a single household where care is provided for residents;
- iii) The lawful use of a dwellinghouse in Class C3 of the Use Classes Order is broad in scope and could bring with it considerable associated activity and ancillary use or vehicle movement. The character of the proposed use would be akin to a 'small family' comprising one child supervised and cared for by two adult guardians;
- iv) Movement to and from the property including daily staff handovers, occasional visits for professionals, journeys between home and school, shopping and other social excursions are consistent with the level of activity arising from a family dwelling;
- v) Given its urban location, the likelihood is that carers will use public transport, walk, or cycle to the premises, as opposed to relying on private car travel. However, in the event that staff chose to travel by car, then the parking demand would be no greater than would be typical for most three bed, mid terrace houses with any potential increase limited to a 1-hour at midday during staff hand over periods. In general, it is anticipated there would be two cars associated with the use which is the same as expected for the existing C3 use. It is also the case that the property is roughly equidistant from Birbeck Road and Simonswood Lane where there are no parking restrictions in place. Moreover, if private cars are the preferred method of transport, no cars will be parked in front of the property and therefore any persons arriving or departing by private car would not be discernible. In addition, the property is situated in an area which is particularly well served by public transport; and
- vi) Finally, no physical alterations or other changes to the property are required.

5.0 PRECEDENT CASES

- 5.1 The applicant refers the decision maker to an Appeal Decision for a Lawful Development Certificate (LDC) issued under reference APP/M4320/X22/3300634 dated 13 December 2022 for

change of use of a dwelling house (Class C3) to a children's home (Class C2). A copy of the appeal decision is included as Appendix 1. This appeal related to a mid-terrace, four-bedroom house in Waterloo, Liverpool (Sefton Council) in which no more than two children would be resident at any one time along with two staff carers. The appeal was upheld.

- 5.2 The Inspector concluded that, as a matter of fact and degree, the scale of the proposed use would not reach the point where it would give rise to such materially different planning circumstances that it would result in such a change in the definable character of the use, nor amount to a material change of use. No express planning permission would be required for the proposed use, and it would have been lawful from the date the application was submitted to the Local Planning Authority. Appendix 2 confirms that the Inspector also allowed a full award for costs against the LPA for unreasonable behaviour in refusing the application for an LDC in the first place.
- 5.3 Appendix 3 includes a copy of a Certificate of Lawfulness for Residential Dwelling (Use Class C3) to Children's Care Home (Use Class C2) for maximum of 1 No. Child recently issued by Knowsley Council on 27 March 2025 in respect of 8, Beldale Park, Kirkby Park, Kirkby, L32 2DE. It confirms that the proposal constitutes a lawful development for which planning permission is not required.
- 5.3 The applicant considers that this latter decision provides a precedent case within this local authority area and includes a copy of the Delegated Planning report at Appendix 4. As in the case for this application for a Certificate of Lawful Development:
- The proposal is to use a residential dwelling as a residential care home for one child;
 - The child in care will be living at the home with 24 hours support system network with 2 staff working on site at any one time with a manager working between 0900 and 1700 hours.
- 5.4 The Delegated Planning Report identifies that the presence of just one child is a factor in favour of the change not being material. It also notes that the presence of a manager on site can be a factor which increase the chances of there being a material change, but it is not a decisive factor in itself. It confirms that the presence of two adults and one child permanently at the premises would result in less persons than that of a typical use resulting in considerably more movement to and from the property than the use under consideration. It concludes for all these reasons that a change of use would take place, but this change is not material.

6.0 CONCLUSION

- 6.1 The applicant considers that there is no material difference between the proposed use of the property as a home for one child resident at any one time along with two staff carers than a typical Class C3 dwellinghouse. As such planning permission is not required. The proposed use is lawful and can commence with immediate effect.

- 6.2 Accordingly the Local Planning Authority is invited to issue a Certificate of Lawful Development under Section 192 of the Town and Country Planning Act 1990.