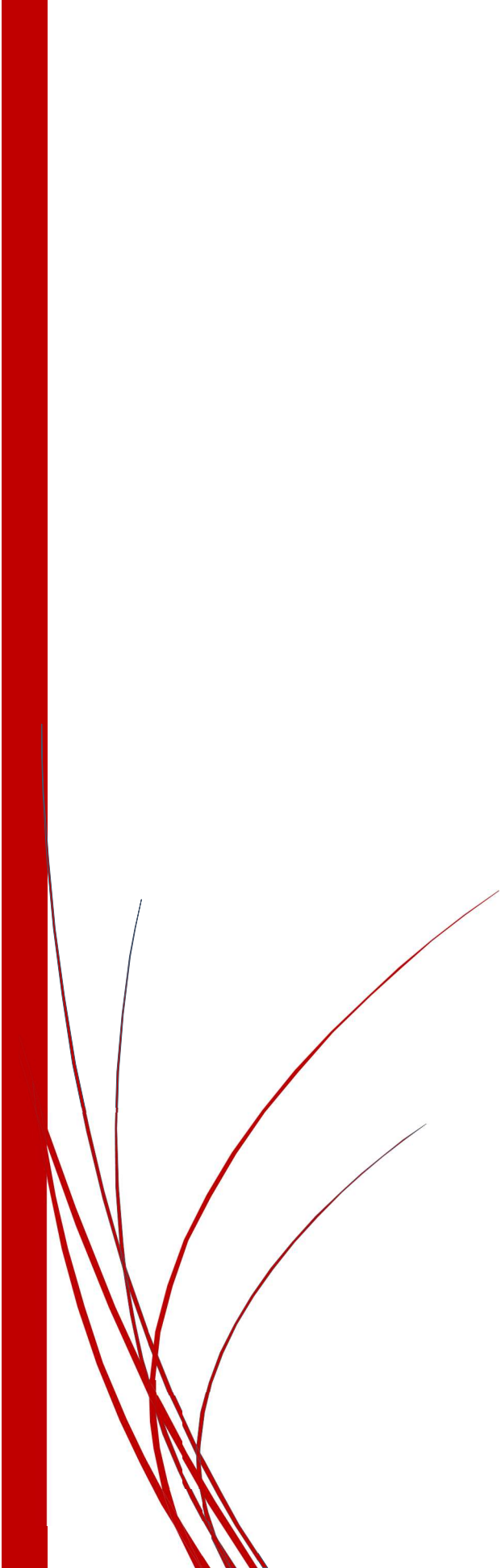




## Planning Statement

48 Holland Road, Halewood,  
L26 1UF

August 2022

*Scalia Planning*

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## 1. Introduction

- 1.1. Scalia Planning, the 'Agent', has been instructed by My3 Ltd, the 'Applicant', to submit an application for a lawful development certificate for proposed use in respect of 48 Holland Road, Halewood, L26 1UF, the 'Site'.
- 1.2. The description of the proposed use is as follows:

*'The use of the dwellinghouse for occupation by up to two young people up to the age of 18 with care provided on a rota basis.'*
- 1.3. This Statement has been prepared to demonstrate that the use would not constitute a material change of use comprising 'development' and as such is considered lawful without the requirement for express planning permission for a change of use.
- 1.4. The application package comprises this Statement and the following:
  - Application Forms and Certification; and
  - Location Plan.

## 2. Site Description and Context

- 2.1. The Site comprises the property at 48 Holland Road, Halewood, L26 1UF. The property is currently developed as a four-bedroom end of terrace house with private amenity areas to the front, side and rear. Internally the property comprises two reception rooms, a kitchen/diner and large conservatory at ground floor with four bedrooms, bathroom and separate wc at first floor.
- 2.2. The Site is located within a primarily residential area, with easy access to local facilities and services such as Halewood Youth In Community Centre, New Hutte Neighbourhood Centre, Halewood Doorstep Green. The property is in walking distance of local bus services along Torrington Drive, providing access to the wider area in the directions of central Halewood, Speke, Liverpool John Lennon Airport and Huyton, as well as providing access to shopping centres and wider amenities.
- 2.3. The Site is in Flood Zone 1 and therefore there is no anticipated risk of flooding from either tidal, fluvial or groundwater sources.
- 2.4. There are no listed buildings, conservation areas or other heritage assets within or in proximity to the Site.

### Planning History

- 2.5. There is no planning history relevant to the Site.

### 3. Proposed Use

- 3.1. The Application proposes to use the Site as a residential care home for up to two young people between the ages of 7 and 17. There are no physical works proposed that would require the grant of planning permission.
- 3.2. The Application has been submitted on behalf of My3 Ltd who are an established, reputable provider of residential care for young people. My3 are registered with Ofsted and provide personalised care for young people with learning disabilities, helping support them and prepare them to return home or to live independently as an adult.
- 3.3. The Applicant would operate the property as a residential care home, providing a safe, caring and secure home environment. The home would be registered for up to two young people and would have two full time members of staff working on a 48-hour shift pattern from 10am each shift change day. The staff would work on a rota basis, typically with three teams supporting the residents with shifts set to ensure that the operation of the home did not impact on residential amenity but also to provide continuity and routine for the young people in residence as well as to engender familiarity with surrounding neighbours.
- 3.4. The type of home proposed by the Applicant operates in a manner akin to any traditional family home. Typically, the young people would attend a local school during the day - either walking there, being transported by the home's staff, or using public transport subject to each individual's needs and where the school was located. Whilst at school the staff would undertake their administrative duties as well as household duties such as cleaning the property, food shopping, taking the residents to any appointments, or attending meetings on behalf of the residents such as looked after children's reviews, meeting with parents etc. After school the residents would either be collected and transported home or they would use public transport/walk to return. They would be encouraged to engage in extra curricula activities such as after school clubs and social/sporting clubs in the evenings and at weekends.
- 3.5. The residents and their care staff would interact like a traditional family unit, eating meals together and undertaking other activities. The care staff would sleep on the premises during their shift. During evenings, weekends and the school holidays the residents would either be engaged in extra curricula activities or homework, or the staff would engage them with hobbies, trips to the cinema, park or going out for a meal etc.
- 3.6. The day to day running and management of the home would be in line with the National Minimum Standards and Regulations as issued by the Secretary of State for Health under the Care Standards Act (2000). A Health and Safety check has already been undertaken in respect of the property which confirms that there are no structural changes or modifications required in order for the building to be compliant with both the Children's Homes Regulations and Ofsted Registration.

### Appropriateness of Use

- 3.7. The proposed use would not cause undue noise or disturbance that might affect neighbouring residential amenity, there would be no greater level of activity associated with the comings and goings from the property than would otherwise be expected if occupied as a traditional family home with working parents and children going to school.
- 3.8. As has been accepted in many cases relating to similar scenarios, and as clearly and succinctly referred to in *North Devon District Council v First Secretary of State* [2004] 1 P. & C. R. 38 *'carers will come and leave at the beginning and end of their shifts but otherwise the building is to all intents and purposes used as any other family house would be with two children there: shopping trips are needed; children have to be taken to school; the children assist to an extent in the preparation of meals and so on'*. In that instance, the question related to whether the use fell within Class C3 or C2 and, even if it fell within C2, whether the use would constitute a *material* change of use. An application had been made for a certificate of lawfulness which was refused by the Council yet allowed on appeal. The Council challenged the appeal decision, with the High Court subsequently dismissing the appeal albeit concluding that the operations did fall within Class C2 although there was no material change of use and as such *'the use [of the property] for up to two children, with care provided by up two non-resident staff at these premises ... is, in the circumstances, a lawful use'*.
- 3.9. A similar case was considered at appeal in March 2021, ref APP/P1045/X/20/3263178, whereby the Inspector similarly confirmed that *'a change of use to a different use class only requires planning permission if it is material in planning terms. In this case, the appellant accepts that the proposed use is within Class C2 but contends that the nature of the use as detailed in the application would not be materially different than a typical household in Class C3. That is the basis on which I have determined this appeal and in order to establish whether or not there would be a material difference a comparison between the existing and proposed uses must be carefully considered'*. The Inspector goes on to state that *'The property currently comprises of a sitting room, living room, dining room, kitchen, WC and hall at ground floor level with four bedrooms, an additional bedroom/dressing room, WC and bathroom on the first floor. The house could quite easily accommodate a family with two adults and three or more children and therefore the proposed use for up to three children or young people and their carers would not be materially different from the authorised use as a single four or five bedroom family dwellinghouse. There would be some vehicle movements associated with carers coming to and going from the site on a daily basis in accordance with their shift patterns and there would be additional journeys linked to taking children and young people to school or college and taking them to other activities or appointments. The number of these movements is unlikely to be significantly more than the number that would be undertaken by a family and certainly not enough to result in a level of intensification in the use of the site that gives rise to concerns from a planning point of view. There is insufficient evidence before me to show that the use would be likely to result in greater levels of noise and disturbance than the existing authorised residential use'*. The Inspector concluded by allowing the appeal, confirming within the Certificate

of Lawfulness that *'The use, whilst falling within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), would not represent a material change from the authorised use of the site as a Class C3 dwellinghouse'*.

- 3.10. Chester & Cheshire West Council has also recently issued a decision for which Scalia Planning were the agents which confirms the same (copy of the decision notice has been included at Appendix A).
- 3.11. As noted in the cases referred to above and accepted by the Courts, a change of use from class C3 to C2 will not generally be considered *material* if it doesn't change the nature of the daily use or character of the property. Clearly such a consideration needs to be assessed on a case by case basis and will be a matter of fact and degree in each instance, however, in this instance, the proposal relates to only two children/young people living together with their associated carers working on a 48 hour rota basis and a similar number/ratio of people are likely to reside at the property with a similar level or activity if it were to be used as a traditional dwelling house. There would not therefore be any intensification of use or any material difference to the nature in which the property were used or the resultant appearance of the property. By virtue of this, there would not be a *material* change of use.
- 3.12. The above fundamentally confirms that the proposed use would, by virtue of the associated activities and manner in which the home would operate, not constitute a material change of use and would be an appropriate use for an existing dwelling in a residential area.

## 4. Conclusions

- 4.1. The proposed use of the Site is as a home for up to two young people aged 7 – 17 years of age, to be operated by an established, reputable provider of residential care for young people, who are registered with and regulated by Ofsted.
- 4.2. The proposed use would not result in any detrimental harm to the amenity of neighbouring occupiers with case law having determined that the nature of use proposed is akin to that of a traditional family home and as such can operate lawfully pursuant to the requested certification. The proposed use would in no way change the nature or form of the property and would not preclude the property from being used for more traditional residential occupation if and when the proposed use were to cease.
- 4.3. The home would provide a safe and nurturing environment for the young people to live whilst helping support them and prepare them to return home or to live independently as an adult.
- 4.4. The proposed use would not comprise a material change of use and as such we request that a certificate of lawfulness be granted without delay.

## Appendix A

## Lawful Development Certificate

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c/o Clare Bland  
Scalia Planning  
Yew Tree House  
Kirkby Lonsdale Road  
Over Kellet  
LA6 1DD  
UK

**Application Number:**  
**22/01070/LDC**

8 August 2022

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### Town and Country Planning Act 1990 Section 191 and 192 Town and Country Planning (Development Management Procedure) Order 2015

**Proposal:** Use of property as a home for up to 2 young people up to the age of 18 and two careers on a 48 hour shift basis

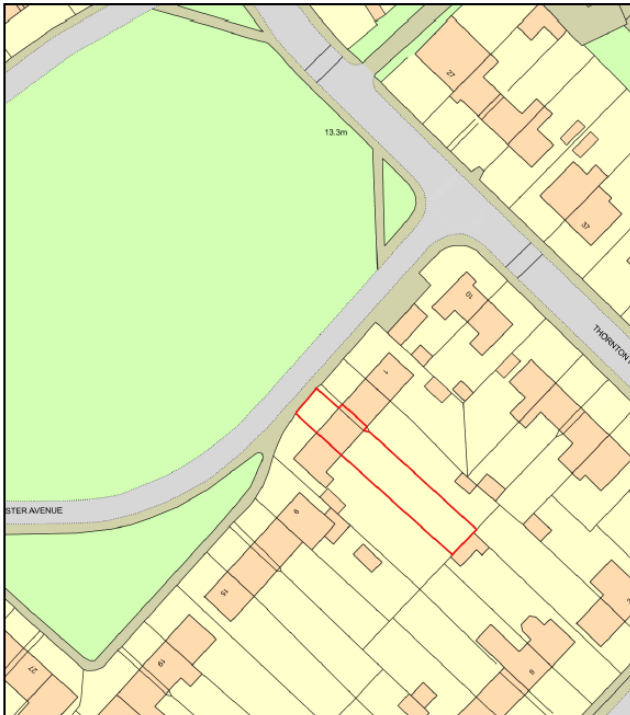
**Location:** 5 Winchester Avenue, Ellesmere Port, CH65 5DL



The Council hereby certify that on 18 March 2022, the use/operation(s) described in the First Schedule, in respect of the land specified in the Second Schedule, as detailed below, and edged red on the plan attached to this certificate, was/would be lawful within the meaning of section 191 or 192 (as applicable) of the Town and Country Planning Act 1990 for the following reason(s):

On the basis of the information provided, it is considered that the proposed use would not result a material change of use comprising 'development' as defined in Section 55 of the Town and Country Planning Act 1990. The local planning authority is therefore satisfied that the use would be lawful if instituted or begun at the time of the application.





## First Schedule:

Use of property as a home for up to 2 young people up to the age of 18 and two careers on a 48 hour shift basis

## Second Schedule:

5 Winchester Avenue, Ellesmere Port, CH65 5DL

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Signed:

Date: 8 August 2022

Head of Planning

Cheshire West and Chester Borough Council The Portal Wellington Road Ellesmere Port CH65 0BA

**Please read the notes on the following page, they will explain your rights and other important matters about this decision.**

## NOTES

This certificate is issued solely for the purpose of section 191 or 192 of the Town and Country Planning Act 1990.

It certifies that the lawfulness of the use/operations/matter specified in the First Schedule taking place on the land described in the Second Schedule on the relevant date.

Any use/operations/matter different from that/those described, or which relates to other land, may render the owner or occupier liable to enforcement action.

The effect of the certificate is also qualified by the proviso in section 192(4) of the 1990 Act, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

If you are aggrieved by the decision of the local planning authority you may appeal to the Secretary of State.

Appeals must be made within the specified time limit. Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000. If you intend to submit an appeal that you would like examined by **inquiry** then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

Any Environmental Statement submitted with the application, together with any related information, has been taken into account by the Council in arriving at this decision.

**Street Naming and Numbering** – It is a legal function of the Council to allocate property numbers and street names to new developments and conversions. This service is chargeable, please visit the Street Naming and Numbering page on our website and use the online form to submit an application. The charging scheme, guidance and contact details are also available on our Street Naming and Numbering web page.

