



PLANNING STATEMENT

30 NURSERY STREET, TOTTENHAM, LONDON N17 8AP

**CERTIFICATE OF LAWFULNESS CONCERNING PROPOSED CHANGE OF USE FROM
DWELLINGHOUSE (USE CLASS C3) TO USE AS CHILDREN'S CARE HOME (USE CLASS
C2) FOR CARE OF UP TO TWO CHILDREN AGED 11 TO 18**

FOR MONTAGE SERVICES LIMITED

NOVEMBER 2022

CONTENTS

CHAPTERS

- 1.0 INTRODUCTION
- 2.0 THE SITE
- 3.0 THE PROPOSED DEVELOPMENT
- 4.0 PLANNING JUSTIFICATION
- 5.0 SUMMARY AND CONCLUSIONS

APPENDICES

- Appendix 1 – Photographs of the Site
- Appendix 2 – Existing Accommodation Plan/Layout
- Appendix 3 – Council Tax Banding

1.0 INTRODUCTION

- 1.1 This Statement accompanies an application for a Certificate of Lawful Development, submitted on behalf of Montage Services Ltd.
- 1.2 The application is made pursuant to Section 192 of The Town and Country Planning Act 1990. It seeks the grant of a Certificate of Lawfulness to confirm that the applicant's proposed use of the property as a children's care home (for two children aged 11-18) would be lawful, such that it would not comprise a material change of use from the current lawful use as a dwellinghouse. Subject to the certificate application being approved, the proposed children's care home operation could take place without the need for planning permission.
- 1.3 The site and its context are detailed at Chapter 2 which will confirm the current use of the property as a dwellinghouse.
- 1.4 The proposed development (which is 'use' only – no building works) is described at Chapter 3. It explains how the children's care home would operate.
- 1.5 A planning justification for the application is given in Chapter 4 and will demonstrate that planning permission is not required for the proposed use and as such a certificate should be granted.
- 1.6 This statement should be read in conjunction with the other accompanying documents.

2.0 THE SITE

- 2.1 The site comprises a dwellinghouse including its curtilage area, located at 30 Nursery Street, Tottenham. Reference should be paid to the submitted 1:1250 scale Location Plan which outlines the application site in red.
- 2.2 The site area includes the dwelling, a small hard surface frontage with wall enclosure (used for bin storage) and a rear enclosed amenity area backing on to a communal alleyway.
- 2.3 The property is a mid-terraced two storey house and benefits from a rear extension. The dwelling sits in a street of other terraced houses lining both sides of Nursery Street. Photographs of the house and its context in this residential street are provided at Appendix 1.
- 2.4 Internally the accommodation includes: a ground floor hallway, lounge, kitchen, conservatory and bathroom; three bedrooms on the first floor, bathroom and landing. Internal accommodation is shown on the photos at Appendix 1 and the Existing Accommodation/Layout at Appendix 2.
- 2.5 There are two double bedrooms, a third bedroom suitable for bunk beds and family bathroom. There is large reception room and rear amenity area with decking and seating. The property is therefore appropriate for family use.
- 2.6 At the time of preparing this statement it was understood that the property was rented to tenants, comprising a large family of adults and children.
- 2.7 The status of the property as a dwelling is evidenced by reference to the fact that it is banded to pay Council Tax. It lies in Council Tax Band C, as confirmed by an on-line check of LB Haringey Council's records (see Appendix 3).
- 2.8 Given the information provided it is asserted, on the balance of probabilities, that the property falls with Use Class C3 (Dwellinghouses) of the Use Classes Order (see next chapter for definition of Use Class C3).
- 2.9 There is no car parking available within the curtilage of the property. However, parking is available on the street (and immediately adjacent the site) free of charge and at all times, except during event days/times when a permit is required.
- 2.10 Public transport is also available within walking distance. The nearest railway station is White Hart Lane, which is located circa 200m NE of the site. Bus services are available in High Road (located circa 300m to the east), Creighton Road and White Hart Lane (circa 300m north) and the A10/Bruce Grove (circa 500m south). Information from Transport from London indicates the site lies in PTAL Level 3, where there is a maximum 8 minute walking time to the nearest bus and maximum 12 minutes walking time to a London Underground station and a National Rail railway station.

3.0 THE PROPOSED DEVELOPMENT

3.1 The property is proposed to be used as a children's care home for up to two children aged 11 to 18.

3.2 A supporting statement from the applicant reads as follows:

Montage Services create children's homes that aim to provide a safe and nurturing environment for young people aged 11 to 18 years old who have struggled to maintain stable relationships and placements in care. These young people are said to have emotional behavioural difficulties. This can cover many needs such as Autism, ADHD, self-harm, missing from care and other behaviour deemed to be challenging that the young people need support to manage.

Our ethos is that no child is unreachable. We believe that all young people are mouldable and we create opportunities and give support to make this positive. The young people in our care have often been moulded in a negative way through their negative life experiences of different forms of abuse and/or neglect from their care givers.

There is a massive disparity between the places to home children in care and the number of children in care from London. It is said to be around 12% of young people in care are from London, but only 4% of places are in London. This often means young people from London are moved to areas far away from their homes, in areas they are not used to. We want to create London Homes for London's young people to decrease this disparity.

Our home will run with at least two trained staff to support up to two young people. This will be the case for 24 hours a day, 7 days a week. The staffing ratios will depend on the needs of the young people in our care. There will always be at least two skilled members of staff present at all times, but this may increase if we feel it is needed to support the young people. Children's homes are often bigger with multi occupancy, but we believe a smaller home creates a more homely environment and ensures the young people get more child centred care.

As well as the care staff, there will be an Ofsted Registered Manager and Responsible Individual with oversight of the home. Both have many years' experience of managing children's homes. This will ensure all works are in line with government policy. Ofsted will inspect the home at regular intervals to ensure the care Montage Services are delivering is safe with the child at the centre of it.

All staff receive regular training which focuses on supporting them to be able to meet the needs of the young people in our care. This includes behaviour management training and a QCF in Residential Childcare.

3.3 There would be a maximum of two young persons living at the property and these will be cared for by two qualified support staff members at all times. The staffing/cared for child ratio is 2:1 where only one child is cared for. This ratio does not include the manager. If another child is accepted for the second registered bedroom, the staffing ratio will change to 2:2 – ie 'still' two qualified care staff. One of these two qualified support staff will be a senior support worker, who will be responsible for overseeing handovers and leading the home and shifts in the manager's absence.

- 3.4 The manager overseeing the home is also qualified but not included on the rota or staffing ratios. They will work flexibly and complete spot checks for audits but their hours will not be routine or set in stone, as their work will split, being shared with another care home in the area which they manage, plus spending time in the company's office.
- 3.5 Given the explanation of the proposed operation, it is clear that as a maximum (which assumes two children are cared for) there would be two young persons 'living' at the property with up to five persons in the property at any one time, excluding any other visitors. Note that currently, there are more than 5 persons living in the property as part of the dwellinghouse use.
- 3.6 Care for the children would operate via two no. twelve hour shifts, plus thirty minute handover. The morning shift handover would start at 7.30am and the evening shift handover would start at 7.30pm.
- 3.7 The proposal will therefore create employment. The applicant intends to source staff from the local area, creating local employment opportunities. The applicant may rent/lease car parking spaces locally if needed for staff members or seek permit parking on the street for the home's registered vehicle. It is anticipated that the home will have access to a blue badge for the homes' vehicle. Being local, staff may alternatively be able to travel to the property on foot, by bicycle or via public transport.
- 3.8 No physical works are proposed to the internal rooms. One of the existing bedrooms would be utilised as a supervisor's office. It is only the use which is proposed to alter. No external alterations or works are required to the property.
- 3.9 Any visitors, which are expected to be *strictly limited*, would be in line with the young person's health and educational care plan (EHCP).
- 3.10 The property benefits from an enclosed front and rear curtilage areas which can or would provide cycle parking.
- 3.11 Refuse collection arrangements would be unaltered from existing. There would be no additional waste collection/storage requirements.
- 3.12 The applicants assert that the proposed use would fall within Use Class C2 (Residential Institutions) of the Town and Country Planning (Use Classes) Order, as amended ["The Order"]. The Order defines Class C2 Use as follows:
- C2 Residential institutions - Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres***
- 3.13 The Order, at Article 2, states the definition of "care" means personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in Use Class C2 also includes the personal care of children and medical care and treatment.
- 3.14 Use Class C2 therefore appears to apply to the proposed use.

- 3.15 This assumes the proposed use does not fall within Use Class C3 (Dwellinghouses) as set out below:
C3 Dwellinghouses - *This class is formed of three parts*
- *C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child*
 - *C3(b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems*
 - *C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger*
- 3.16 Based on the above (and earlier comments in this Statement), it is clear that the *existing use* of the property falls within overarching Use Class C3, noting Use Class C3(a) covers use by a single person or a family (the dwelling is currently occupied by a family).
- 3.17 It appears that the proposed use would be less likely to fall within the Use Class C3. It is noted that Use Class C3(b) covers up to six people *living together as a single household* and receiving care. Due to the visiting nature of care staff on shift plus the visiting manager, the use would likely not comprise the 'living together as part of a single household'.
- 3.18 Based on the nature of the proposed use, which includes 'personal care for children' (sic), with care staff on shifts, plus a manager, it is subscribed that the proposed use would likely fall within Use Class C2 (Residential Institutions).

4.0 PLANNING JUSTIFICATION

Town and Country Planning Act

- 4.1 Section 192 (1) of the Act provides the primary legislative mechanism for making an application for a Certificate of Lawfulness of Proposed Use or Development.
- 4.2 Section 192 (2) provides if, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
- 4.3 Such Certificate is now sought by the applicant.
- 4.4 Also relevant to this application is Section 55 of the Act which (inter alia) clarifies the ‘*Meaning of Development*’ as follows:

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

- 4.5 The term ‘material’ in the context of the proposed change of use is a critical element of this application.

PPG Advice

- 4.6 The PPG (the Government’s Planning Practice Guidance) gives advice on dealing with applications for lawful development certificates, which follows on from Court Judgements. It states, inter alia:

In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.

Paragraph: 006 Reference ID: 17c-006-20140306

- 4.7 In this case the applicant has provided adequate information of the existing use and proposed use such that it is clear what is involved.
- 4.8 The PPG also answers, “*How is an application for a lawful development certificate determined?*”

A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

In determining an application for a prospective development under section 192 a local planning authority needs to ask “if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?”

A local planning authority may choose to issue a lawful development certificate for a different description from that applied for, as an alternative to refusing a certificate altogether. It is, however, advisable to seek the applicant’s agreement to any amendment before issuing the certificate. A refusal is not necessarily conclusive that something is not lawful, it may mean that to date insufficient evidence has been presented.

Paragraph: 009 Reference ID: 17c-009-20140306

- 4.9 The following assessment is now made to assist consideration as to whether the proposals involve (or do not involve) a ‘material’ change of use (sic).

Assessment

- 4.10 This Statement has reasonably evidenced that the extant use of the subject property is a dwelling house under Use Class C3 of the Use Classes Order. It has also evidenced that the proposed use as a care home for two children aged 11 to 18 would fall within Use Class C2.
- 4.11 Accordingly, the proposals involve a change of use. Whether a ‘material’ change of use of the land would occur though is a matter of ‘*fact and degree*’ for the relevant decision taker to consider.
- 4.12 It is the applicant’s submission that the proposals would not constitute a ‘material’ change of use and accordingly they would not be defined as ‘Development’ under s.55 of the Town and Country Planning Act (sic). It is only where ‘Development’ is involved that planning permission would be required. Accordingly, as the application proposal does not involve ‘Development’ then the change of use does not require planning permission and as such can be confirmed as lawful.
- 4.13 The applicants assert that the proposed activity within and relating to the use of the premises would *not be noticeably different* from the extant use as a dwelling house. The proposed use as children’s care home provides the living element with a *maximum* of up to two children in care residing at the property, supported by two care staff members at all times, plus a visiting manager.
- 4.14 The children in care will be under supervision. Whether one or (as a maximum) two children are cared for at the property, there will always be two care workers in attendance, plus a visiting manager. Therefore, the *maximum* number of persons normally using/occupying at the property would be five. This degree of usage can be compared to the current/extant occupation as a dwellinghouse which has three bedrooms.
- 4.15 The current tenancy is understood to include a large family of more than 5 persons and therefore is greater in number than the proposed numbers of occupants.
- 4.16 The property’s occupation in connection with a dwelling house would reasonably infer the occurrence of various comings and goings, to and from the property (by whatever transport mode) on a daily basis in connection with its extant use as a Use Class C3 dwellinghouse. This may be by any occupants themselves eg going to/coming from work, school/nursery, the shops, leisure facilities, health

appointments and friends/family liaisons, etc,. This activity would reasonably generate several pedestrian and vehicular trips per day. There is also reasonably likely to be activity and movement generated via visitors to and from the property eg friends, family, deliveries, etc.

- 4.17 The rear garden provides a small recreation area and can be used by its occupants for amenity purposes.
- 4.18 The extant activity and movement has to then be compared with what would likely occur as part of the proposed use. There would be two staff handovers each day, at 7.30am and 7.30pm. The activity associated with these handovers could reasonably equate or be similar to the times of day when adult occupiers of the dwelling may leave for work in the morning (and maybe drop off children at day care/nursery) and return home in the evening after work. Therefore the limited numbers of staff and activity associated with the shift 'handover' should not entail any materially greater noise or disturbance to other residents that is not already (or could be) encountered as a result of the extant use of the property.
- 4.19 There would be less occupancy of the property than currently exists (accepting occupant numbers can vary at any stage) and indeed the proposed use and numbers of occupants would be controlled by Ofsted. There are currently three bedrooms and one would be utilised as a manager's office (and used overnight). The existing small garden/amenity area could be used by the cared for children and care staff, in the same way as it may currently be used by a family occupying the dwelling.
- 4.20 Other 'comparative' activity, such as refuse bin storage and cycle storage, would not be materially different in nature or character.
- 4.21 Accordingly, such there would likely be no material intensification of use of the property in connection with the proposals. There is no reason to claim that the proposed use would have any materially greater impact on the amenity of any neighbouring or local occupiers in terms of privacy, noise, disturbance and amenity than already occurs.
- 4.22 Furthermore, it would be difficult if not impossible to deduce that a change to the residential character of the property and the locality more generally had occurred. The application only relates to the use of the premises by a similar number of occupiers as does/could occur. The application does not include any external alterations to the building. The proposal would not therefore have a material change on the character and appearance of the building, the streetscene or the surrounding area.
- 4.23 Accordingly, whilst it is subscribed that the application proposal would incur a change of use from Use Class C3 to Use Class C2, the nature and impacts of the proposed use would not be materially different from what lawfully exists or could occur. In these circumstances, there would be no 'material' change of use and in which case the proposal would not constitute 'Development' under the Town and Country Planning Act. Therefore, the applicants contend that the proposed use would not require planning permission and can be deemed lawful via the grant of a Certificate of Lawfulness.

5.0 SUMMARY AND CONCLUSIONS

- 5.1 The existing property is a dwellinghouse within Use Class C3. The proposal is to use the property as a children's care homes for the care of up to two children aged 11-18, which the applicants consider would fall within Use Class C2.
- 5.2 Following analysis in this Statement, it is subscribed that the nature and impacts of the proposed use (Use Class C2) would not be materially different from what lawfully exists or could occur in connection with the extant use as a dwellinghouse (Use Class C3). The proposal would not have a material change on the character and appearance of the building, the streetscene or the surrounding area.
- 5.3 In these circumstances, there would be no 'material' change of use and in which case the proposal would not constitute 'Development' under the Town and Country Planning Act.
- 5.4 Therefore, it is asserted that the proposed use would not require planning permission and accordingly this can be deemed lawful via the grant of a Certificate of Lawfulness, should the relevant decision maker agree.

APPENDIX 1

PHOTOGRAPHS OF THE SITE

30 Nursery Street – Street Scene - house identified by arrow



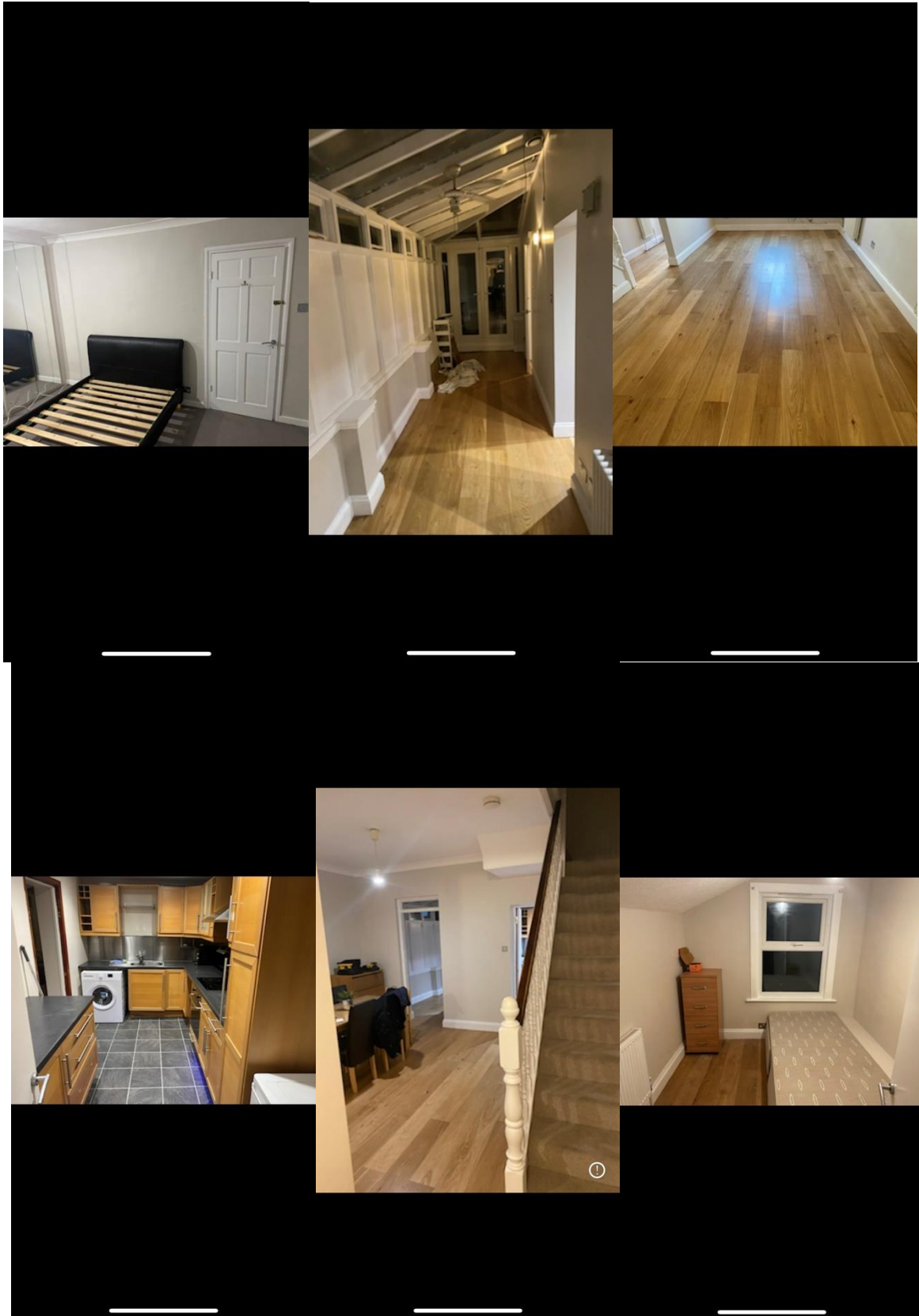


Front Elevation



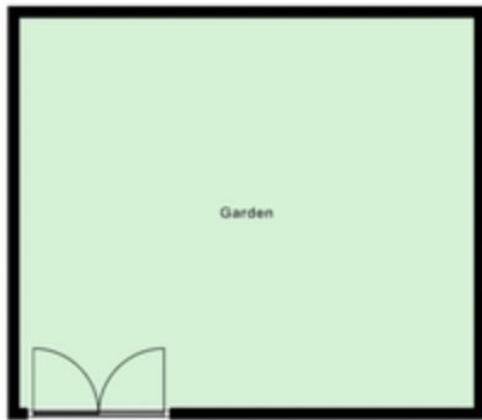
Rear Elevation and Amenity Area

Internal Accommodation



APPENDIX 2

EXISTING ACCOMMODATION PLAN/LAYOUT



Not to scale – indicative only

APPENDIX 3

COUNCIL TAX BANDING



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This property is in valuation band **C**

The full council tax charge for 2022/23 is **£1670.87**

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Source: LB Haringey Council's website Nov 2022