



Planning

Planning Statement

Client:

Amicus Care Ltd

136 Wantage Road

Reading, RG30 2SF

The Certificate seeks to establish that the proposal falls within the lawful use of the site as a dwellinghouse (Use Class C3), and that no material change of use would occur thereby negating the need for planning permission. The certificate also seeks to confirm that the proposed loft conversion, erection of a rear dormer, and installation of rooflights accords with Schedule 2, Part 1, Classes B and C of the Town and Country Planning (General

Permitted Development) (England) Order 2015 (as amended).

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1. Introduction

- 1.1 This statement is produced to support an application for a Certificate of Lawfulness at ('the Site') on behalf of Amicus Care Ltd ('the Applicant').
- 1.2 The Certificate seeks to establish that the proposal falls within the lawful use of the site as a dwellinghouse (Use Class C3), and that no material change of use would occur thereby negating the need for planning permission. The Certificate also seeks to confirm that the proposed loft conversion (see paragraph 5.26 below), erection of a rear dormer, and installation of rooflights accord with Schedule 2, Part 1, Classes B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO').
- 1.3 The proposal is for 3 children under the ward of the Local Authority to live at the property initially. There will be an uplift in numbers following the proposed loft conversion and dormer extension which will be discussed in further detail below.
- 1.4 There may be occasions where an additional member of staff will be at the property (to the number referenced above) as part of handover periods (i.e. when there is a cross-over of staff) or in emergencies. However this will not be a regular occurrence.
- 1.5 Where an additional staff member is required, they will only be at the property for a short period of time and will not stay overnight. This is deemed to be akin to a visitor/family member attending a typical family property.
- 1.6 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.

- 1.7 The relevant application fee will be submitted by the applicant separately.

2 The Applicant

- 2.1 Amicus Care Ltd are a children's residential care provider, providing 24 hour care to 'looked after children' commissioned by local authorities.
- 2.2 The company provides specialist care to vulnerable children who have experienced trauma and have emotional behavioural difficulties.

3 Site Location and Description

- 3.1 The site consists of a two storey detached dwelling with a pitched roof with a single storey element projecting at the rear.
- 3.2 Wantage Road is largely residential, with similarly designed Victorian terraced rows and semi-detached pairs.
- 3.3 The application site is not listed and does not fall within a Conservation Area.

4 Development Proposals

- 4.1 The development proposal seeks to confirm that the use of the property as a children's home falls within C3 use class and is therefore not development. The statement subsequently sets out that due to the property falling within C3 use class, it is able to benefit from permitted development rights, allowing a loft conversion, dormer creation and installation of rooflights.
- 4.2 The site relates to an existing 4-bedroom dwellinghouse which is in Class C3 use. The proposed loft conversion would create 2 additional rooms.
- 4.3 The proposal is for 3 children under the ward of the Local Authority to live at the property initially. The proposed conversion works would then create two additional rooms and in doing so, facilitate an uplift to 1 member of staff and 5 number of children.
- 4.4 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.
- 4.5 The rotas are planned to ensure minimal changes for children and a consistent 'parenting' group. The staff changeover patterns will typically be 7 am – 3 pm, 3pm – 10 pm and 10pm – 7 am.
- 4.6 The rota pattern is very common in this scenario to ensure a consistent group of staff and limited change as per the average family setting.
- 4.7 The property will provide a much needed family-style home for vulnerable children who are unable to live with their families. It will further provide very much needed places for local children.

4.8 It should be noted that several similar Certificate of Lawfulness applications have been approved by Reading Borough Council and these form an important precedent. These include:

- 21307 – 2a Hartland Road, Reading, RG2 8BN (**Appendix 1**)
- 230152 – 6 Pentland Close, Reading, RG30 4QS (**Appendix 2**)

4.9 It should also be noted that several similar Certificate of Lawfulness applications have been approved by other Councils, representing a nationally consistent approach, and these add further weight to the proposal. These examples include:

- 22/01048/LDPU – 254 Old Worting Road, Basingstoke, RG22 6PD (**Appendix 3**)
- 22/02240/LDPU – 38 Impstone Road, Pamber Heath, RG26 3EQ (**Appendix 4**)
- 20/02131/LDPU – Silver Birches, Pamber Heath, RG26 3EB (**Appendix 5**)
- 22/00631/LDPU – Cap D’or, Bramley, RG26 5BW (**Appendix 6**)
- 23/00575/LPDU – Willowbrae, The Glen, Pamber Heath, Hampshire, RG26 3DY (**Appendix 7**)
- 7 – 2023 – 11369 – A – 40 Ensbury Park Road, Bournemouth, BH9 2SJ (**Appendix 8**)
- CAPP/21/01633/K – 12 Taverner Close, Poole, BH15 1UW (**Appendix 9**)
- APP/21/00893/K – 99 Labrador Drive, Poole, BH15 1UY (**Appendix 10**)
- 7-2019-3152-J – 33 Mayfield Road, Bournemouth, BH9 1TQ (**Appendix 11**)

5 Assessment of Proposal

Establishing the site falls within C3 use class and is therefore not development

- 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 In relation to the above, the development proposed would not involve more than six permanent occupants at any one time.
- 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] ('North Devon') explored the definition of a household, and 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 North Devon 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 a Class C3 use (dwellinghouse).

- 5.8 Furthermore, in an appeal in Brecon Beacons National Park (reference APP/P9502/X/12/2205394, decision date 18/02/2014) (**Appendix 12**), 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 This 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.
- 5.10 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.
- 5.11 In respect of the above, it is considered that the proposals fall within the lawful C3 use of the site. There will be no more than six household members present on site at any one time.
- 5.12 The nature of the proposals (including the duration of the stay), and the number of people on site (and resultant activity and vehicle movements) would not be materially different from the lawful use of the site as a dwellinghouse. The proposal will operate in a very similar way to a normal family home, functioning as a single household, with

carers undertaking typical tasks such as cooking and cleaning associated with a typical dwellinghouse.

- 5.13 There are strong public transport connections in close proximity to the home.
- 5.14 The planned staff rotas will reduce traffic to and from the home. Again, this will be similar to the average family home with trips to the shops, schools and activities. These movements are more often than not during non-peak hours and as such, we consider that the traffic movements associated with the proposal would actually have less overall impact on the locality for this reason.
- 5.15 As outlined above, there may be occasions where additional members of staff will be at the property such as during emergencies or during handover sessions. This is akin to a family member (who lives at another address) attending a property to provide assistance to an occupier, in a way that is not dissimilar to a family home (with visiting family etc).
- 5.16 Appeal ref. **APP/D4625/X/06/2013826 (Appendix 13)** discusses the presence of an additional adult at paragraph 4, stating that *'the additional presence of a home manager as a third adult would not be a material change of use by comparison to the former tenants who had family members from abroad staying with them for long periods of time and who employed a child carer.'*
- 5.17 The additional members of staff would not have the permanence of a child carer in regard to the amount of time they would spend at the property as they would only attend during certain time periods as detailed elsewhere in this statement. However, the point from this appeal holds true that additional individuals can form part of the wider 'family' for periods of time without a material change of use occurring.

- 5.18 This point has also been previously considered under appeal reference **APP/K2420/X/11/2155849 (Appendix 14)** for a similar proposal in Hinckley, Leicestershire. Paragraph's 11-13 are of relevance to this proposal. Looking firstly at Paragraph 11, the inspector notes that *'At any one time, and excluding short-term changeover periods in the early mornings and mid-afternoons, there would be up to three children and three carers present.'*
- 5.19 Paragraph 12 then states that *'in refusing the LDC, staff numbers are cited by the Council as the sole cause for concern. However, looking at the numbers involved, they are not materially different from what might be expected of a large family house in which, say, a parent and two teenagers or young adults live together and each uses a car to get to work or college and for socialising. Peak daytime vehicle movements, setting aside the potential for the use of car sharing or public transport by staff, coincide broadly with school run periods when there would be similar activity associated with neighbouring properties and the locality in general. Transport associated with school and weekend outings would not be an untypical occurrence in a family house. Up to two vehicles departing from the property late at night would not, on its own, be a sufficient basis for determining that a materially different character of use would be taking place.'*
- 5.20 Paragraph 13 concludes that *'I acknowledge that the Council, in its statement, highlights that these figures are qualified by reference to "normally" and that the potential exists for greater staff numbers to be at the property to deal with particular difficulties. However, this should be regarded as an exception and not part of the typical day-to-day operation of the home.'*
- 5.21 Finally, 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 15**). This states that:

5.22 *"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."*

5.23 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 existing class C3 use.

Establishing whether the proposal accords with Classes B and C, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

5.24 As outlined above, it is the view of the applicant that the proposal falls within C3 use class and is therefore not development. Due to this, the property is considered to have residential permitted development rights.

5.25 Application ref. 191795 (**Appendix 16**) was previously granted on site for a Certificate of Lawfulness for the proposed loft conversion with rear dormer and front roof lights which is still extant and was granted under permitted development, confirming that this option is available to property.

5.26 The proposed loft conversion, dormer and rooflights are assessed in line with the General Permitted Development Order (England) (2015) (as amended).

5.27 The loft conversion itself is not development but is included within this application in the interests of completeness.

5.28 B.1 Development is not permitted by Class B if-

a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, Q of Part 3 of this Schedule (changes of use);

Not applicable to this application.

b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;

The height of the proposed dormer would be lower than that of the existing roof.

c) any part of the dwellinghouse would, as a result of the works, extend beyond the plane of an existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;

The extension is located at the rear of the dwellinghouse and would not front a highway.

d) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than-

- (i) 40 cubic metres in the case of a terrace house, or
- (ii) 50 cubic metres in any other case

The cubic content as a result of the extension would measure 32.44m³.

e) it would consist of or include-

(i) the construction or provision of a verandah, balcony or raised platform, or

(ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or

The dormer extension would not amount to or replace any of the above.

f) the dwellinghouse is on article 2(3) land.

Not applicable to this application.

5.29 Development is not permitted by Class C if-

a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

Not applicable.

(b) the alteration would protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof;

The rooflights would not protrude more than 0.15m beyond the plane of the slope of the original roof.

(c) it would result in the highest part of the alteration being higher than the highest part of the original roof; or

The rooflights would not be higher than the highest part of the original roof.

(d) it would consist of or include—

(i) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or

(ii) the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.

The rooflights would not amount to or seek to replace any of the above.

6 Conclusion

- 6.1 This statement has demonstrated that the proposal is considered to still accord with the Class C3 use class and as such, no development will occur. In addition to this, the statement has demonstrated that the proposed loft conversion, rooflights and rear dormer comply with Schedule 2, Part 1, Classes B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 6.2 The proposed bedrooms created via permitted development will then be utilised as part of the children's home.
- 6.3 Similar applications have been determined within Reading Borough Council in this manner, as well as nationally. 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.
- 6.4 Based on the characteristics of the proposals, with further details provided for the case being made, we consider the proposal should fall within the lawful use of the site as a dwellinghouse (Use Class C3), and that no material change of use would occur, thereby negating the need for planning permission for this proposal.
- 6.5 Planning permission is granted by virtue of the GPDO and the submission of this Certificate of Lawfulness application only seeks to confirm that this is the case.

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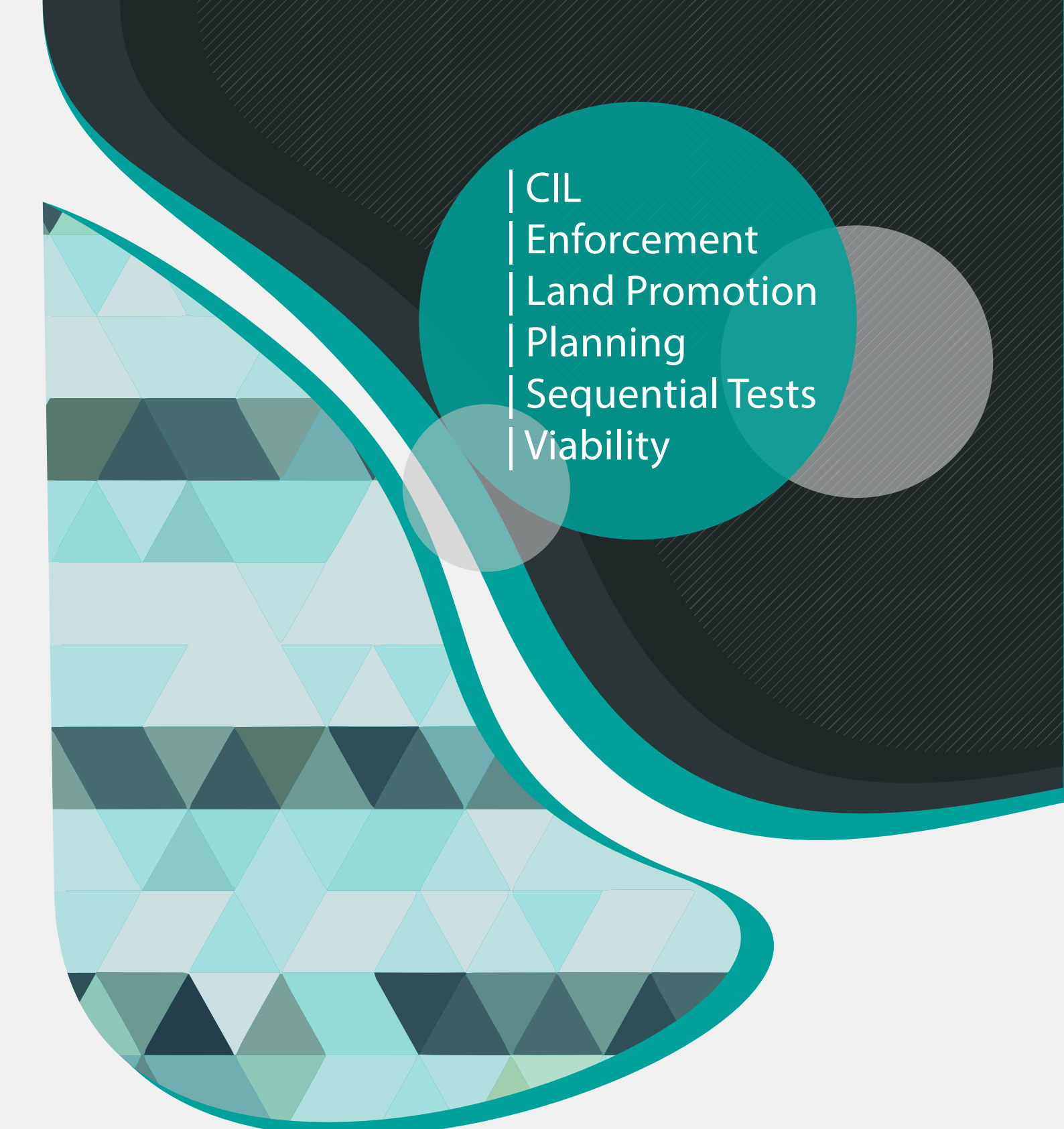
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