





Supporting Statement

Ashleigh Grove Residential Care Home, 19/20 Ashleigh Grove, Trowbridge

December 2023

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Appendix D – Statutory Declaration of Marcelle Chivers – Therapy Assistant for Aspris Children's Services

1.0 Introduction

1.1 This Supporting Statement has been prepared by Alder King Planning Consultants on behalf of Aspris Children's Services Ltd. It supports an application for a Certificate of Lawful Existing Use in connection with the use of Ashleigh Grove Residential Care Home, 19/20 Ashleigh Grove, Trowbridge.

1.2 The application relates to the occupation of the property as a residential care home (Class C2) for eight residents.

1.3 The building in question, and identified in the submission documents, has been used continuously since 2010 as a single residential care home for eight young people/adults attending local education facilities run by Aspris Children's Services Ltd.

1.4 The young people residing in the home have autism and associated conditions, including ADHD and complex needs. The young people because of their needs are not able to live at home and require specialist residential care, which is provided by the Aspris at the site.

1.5 The purpose of this application is, therefore, to seek a Certificate of Lawful Existing Use for use of the application site as a residential care home (Class C2).

1.6 The remainder of this statement is structured as follows:

- Section 2: describes the relevant planning history and the application proposal
- Section 3: set out the procedural basis for determining the application
- Section 4: summarises the evidence submitted
- Section 5: sets out our overall conclusions

2.0 Planning History & Application Proposal

Relevant Planning History

2.1 The sole planning application of relevance to the submission is:

- Planning permission (Ref: W/10/01446/FUL) was granted in July 2010 for the erection of single storey conservatory extensions to the rear of 19 and 20 Ashleigh Grove, Trowbridge.

2.2 A copy of the decision notice and approved plans are included at **Appendix A**.

2.3 Planning permission Ref: W/10/01446/FUL was subsequently implemented and completed in October 2010. However, while the permission authorised two separate conservatory extensions to numbers 19 and 20 Ashleigh Grove, the internal sub-division between the conservatories was never provided and instead there was a single conservatory that spanned the rear of the then two properties. Furthermore, sliding doors were provided to link the conservatory into the existing lounges. Photographs confirming this are included at **Appendix B**.

2.4 The above events are confirmed by the two statutory declarations of longstanding employees of the applicant which are included at **Appendices C & D**. The implemented layout is also shown on the existing floor plans that form part of the application.

2.5 Since the completion of the conservatory in October 2010 the site has subsequently been used as a single residential care home for eight residents – i.e. the site ceased being two separate properties in October 2010.

Application Proposal

2.6 As noted above, 19/20 Ashleigh Grove, Trowbridge has been used and occupied by the applicant as a single residential care home for eight young persons (Class C2) continuously since the previous two separate properties were internally linked in 2010. The residents of the care home have been (and remain) young people who have attended the applicant's schools and colleges in the local area.

2.7 The site the subject of this application is indicated on the plan extract below by the red line. The full plan is separately submitted and also included within the statutory declaration.

2.8 This has been confirmed in statutory declarations (see **Appendices C & D**) provided by two individuals who have first-hand knowledge of the property, having worked at the site.

2.9 The purpose of this application is, therefore, to seek a Certificate of Lawful Existing Use for use of the site as a single residential care home (Class C2) on the basis that it has been continuously occupied in this manner for a period of more than ten years, with no enforcement action being taken by the Local Planning Authority.

3.0 Basis for Determining Application

3.1 Section 191 of the 1990 Act provides for anyone (not just a person with a legal interest in the land) to apply to the local planning authority for a lawful development certificate. A certificate is a statutory document certifying, in the case of an application under section 191, the lawfulness, for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition.

3.2 Section 191(1) of the Town and Country Planning Act 1990 (herein referred to as "The Act") allows any person to submit an application for a Certificate of lawfulness of existing use or development to the local planning authority to ascertain whether any existing use or buildings of land is lawful.

3.3 By virtue of Section 191(2) of The Act, uses are "lawful" at any time if –

a) *no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and*

b) *they do not constitute a contravention of any of the requirements of any enforcement notice then in force.*

3.4 Section 171B of The Act specifies the time-limits for taking enforcement action. Part (2) states that

'Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.'

3.5 Part (3) states that:

'In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of breach".

3.6 In this instance, the time limit for the Class C2 use becoming immune from enforcement action if no action is taken is 10 years.

3.7 National Planning Practice Guidance states:

'In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.'
'(Paragraph: 006 Reference ID: 17c-006-20140306)

3.8 It should also be noted that the appropriate legal test for granting a certificate is on the '*balance of probability*', a lesser legal test than '*beyond reasonable doubt*'.

3.9 Finally a local planning authority must only consider whether, on the facts of the case and relevant planning law, the specific matter is lawful. Planning merits are not relevant at any stage in this particular application process.

4.0 Summary of Evidence

Introduction

4.1 This section summarises the evidence submitted, which is included at **Appendices A - D**, to justify the issue of the lawful development certificate in the terms sought.

4.2 The evidence includes statutory declarations from:

- Carly Brown – Pastoral and Safeguarding Lead for Aspris Children's Services (**Appendix C**)
- Marcelle Chivers – Therapy Assistant, Aspris Children's Services (**Appendix D**)

4.3 These statutory declarations provide clear and corroboratory evidence of the use of the site as a single residential care home since 2010. The evidence provided is clear and unambiguous, and more than meets the relevant legal test here.

4.4 Both of the individuals who have provided statutory declarations have worked for the applicant for many years and have direct first-hand experience of the site, either (or both) because they have been based there as a place of employment or have visited it many times as part of their role.

4.5 In light of the above, the content of the statutory declarations must be accepted unless the Local Planning Authority has any contradictory evidence of its own or from others. The statutory declarations alone are sufficient evidence for a certificate to be issued in the terms sought,

4.6 It will also be clear that the time within which the Local Planning Authority could take enforcement action has now passed.

Summary of Evidence

Planning Permission W/10/01446/FUL

4.7 **Appendix A** contains the decision notice and approved plans for conservatory extensions to 19 & 20 Ashleigh Grove.

4.8 As noted above, this planning permission was implemented in 2010. However, the internal sub-division separating the conservatories was not provided. Therefore, a single conservatory spanning and linking both properties resulted. This is confirmed in the two statutory declarations that have been provided.

Photographs of Conservatory

4.9 **Appendix B** contains two photographs of the extension. The photographs confirm both that the conservatory is a single structure with no sub-division and that there are sliding doors from the single conservatory into the lounges.

Statutory Declarations

4.10 The statutory declaration of Carly Brown (**Appendix C**), the Pastoral and Safeguarding Lead for Aspris Children's Services confirms, *inter alia,* the following:

- She has been employed by Aspris Children's Services (previously part of Priory Group) since 2003.
- She is currently the Pastoral & Safeguarding Lead for Aspris Children's Services.
- She was previously the Head of Residential Services in charge of overseeing all of the applicant's residential care homes in the Trowbridge and Frome areas, including the application site.
- She has personal knowledge of the application site having being based there for employment between 2004 and 2012. She has then visited the site at least monthly since then in her subsequent roles.
- That in 2010 the conservatory was erected but did not include the internal sub-division and the site then operated as a single residential care home comprising the two former separate properties.
- That since 2010 the site has always been used for residential care purposes as a single care home for young persons attending local schools or colleges operated by the applicant.
- That the site, as defined in the plans appended to the statutory declaration, has operated as a single care home for eight residents.

4.11 The statutory declaration of Marcelle Chivers (**Appendix D**), Therapy Assistant confirms, *inter alia*, the following:

- She has been employed by Aspris Children's Services (previously part of Priory Group) since 2003.
- She is currently a Therapy Assistant for Aspris Children's Services.
- She was previously both a Learning Support Worker and a Pastoral Lead across the applicant's residential care homes in the Trowbridge and Frome areas, including the application site.
- She has personal knowledge of the application site having being based there for employment between 2004 and 2011. She has then visited the site at least monthly since then in her subsequent roles.
- That in 2010 the conservatory was erected but did not include the internal sub-division and the site then operated as a single residential care home comprising the two former separate properties.
- That since 2010 the site has always been used for residential care purposes as a single care home for young persons attending local schools or colleges operated by the applicant.

- That the site, as defined in the plans appended to the statutory declaration, has operated as a single care home for eight residents.

Conclusion

4.12 It is clear that, based on the statutory declarations, the site has 'on the balance of probability' operated as a single residential care home (Class C2) since October 2010 – a period of some 13 years, significantly in excess of the requisite ten-year period.

5.0 Conclusion

5.1 This Supporting Statement relates to an application for a Certificate of Lawful Existing Use in connection with the use of Ashleigh Grove Residential Care Home, 19/20 Ashleigh Grove, Trowbridge.

5.2 The application relates to the use of the site as a single residential care home (Class C2) for eight young persons.

5.3 The site has been used continuously since 2010 as a single residential care home (Class C2).

5.4 The application is supported by statutory declarations made by individuals who have worked at the site in relation to its operation as a care home. The evidence is first-hand, precise, and unambiguous.

5.5 On the relevant legal test of the 'balance of probability', the only conclusion that can be reasonably reached is that the submitted evidence confirms that a Certificate of Lawful Existing Use should be issued in the terms sought.

Appendix A

Decision Notice & Approved Plans Ref: W/10/01446/FUL

Wiltshire Council
Where everybody matters

Town & Country Planning Act 1990 (as amended)

NOTIFICATION OF PLANNING DECISION

Application Reference Number: W/10/01446/FUL

Applicant:
Priory Group
C/o WYG Planning And Design
Ropemaker Court
12 Lower Park Row
Bristol
BS1 5BN

Agent:
WYG Planning And Design
Ropemaker Court
12 Lower Park Row
Bristol
BS1 5BN

Parish: Trowbridge

Particulars of Development: *Single storey conservatory extensions to rear*

At: 19 And 20 Ashleigh Grove Trowbridge Wiltshire

In pursuance of its powers under the above Act, the Council hereby GRANT PLANNING PERMISSION for the above development to be carried out in accordance with the application and plans submitted (listed below), subject to compliance with the condition(s) specified hereunder:

Permission granted for the following reason:

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

Subject to the following condition(s):

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: *To comply with the provisions of Section 91 of the Town and Country Planning Act* 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 The external brickwork for the dwarf wall of the development hereby permitted shall be constructed to match that of the existing building in terms of its colour, texture, face bond, size, jointing and pointing.

REASON: *In the interests of visual amenity and the character and appearance of the area.*

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a.

PLEASE NOTE:

This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

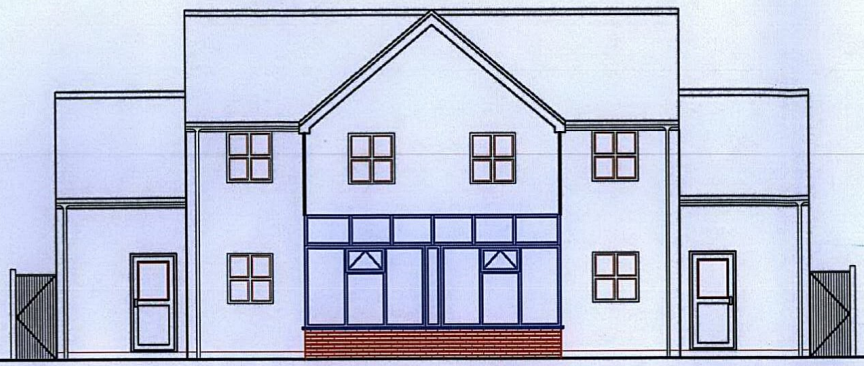
Plan Ref : SITE PLAN - received on 07.05.2010
Plan Ref : 09:258:01 - received on 07.05.2010
Plan Ref : 09:258:02 - received on 07.05.2010

Signed:

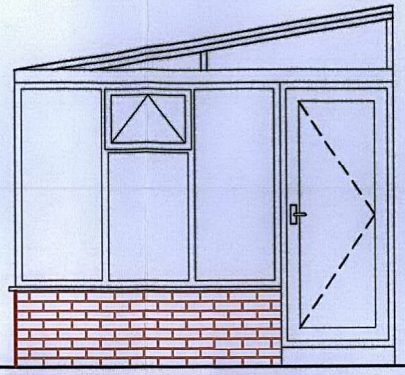
B A Fleet.

Director for Development Services

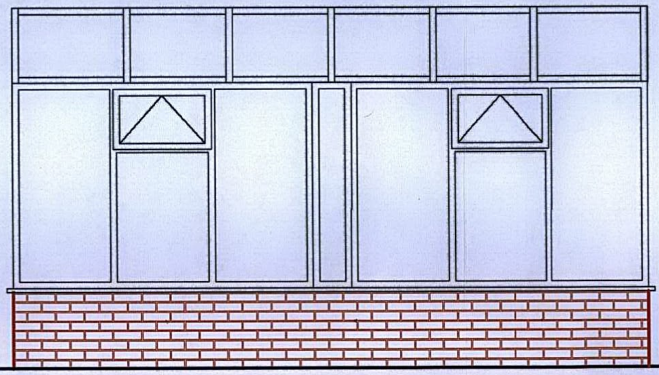
Dated: 1 July 2010



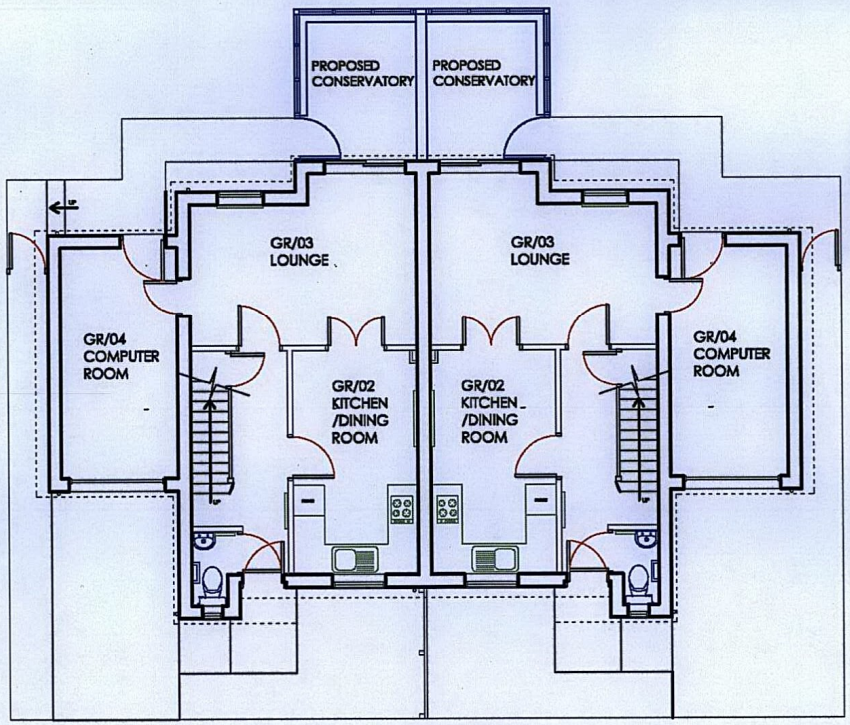
rear elevation scale 1:50 A1 1:100 A3



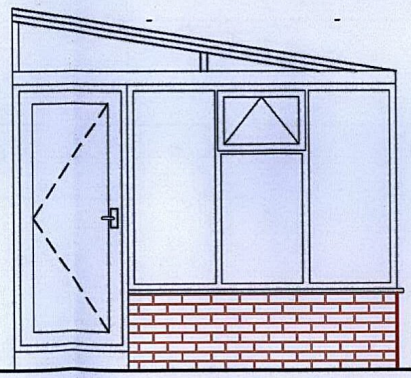
left side elevation of conservatory scale 1:20 A1 1:40 A3



front elevation of conservatory scale 1:20 A1 1:40 A3



ground floor scale 1:50 A1 1:100 A3



right side elevation of conservatory scale 1:20 A1 1:40 A3

RECEIVED
07 MAY 2010

BA Property Consultants Ltd.
First Floor
132 Market Street
Hyde, Cheshire
SK14 1HX
tel. 0161 351 9777 fax 0161 351 9566
web: www.bapropertyconsultants.co.uk

site
PRIORY GROUP
19 AND 20 ASHLEIGH GROVE
TROWBRIDGE

project
Proposed floor plans and rear elevation with conservatory

date	rev.	scale	drawing ref.
Apr 10		as stated	09:258:02

Appendix B

Photographs of Conservatory

Have your say...
Student Council
Your rep is...
The next house meeting is...
ACTIVITIES
hp



Appendix C

Statutory Declaration of Carly Brown – Pastoral and Safeguarding Lead for Aspris Children's Services

Dated 19th December 2023

STATUTORY DECLARATION

By

Carly Brown

Relating to the use of 19/20 Ashleigh Grove, Trowbridge BA14 OBL

I, Carly Brown, of 34 Pinmore, Frome, do solemnly and sincerely declare that:

1. Ashleigh Grove residential care home, located at 19/20 Ashleigh Grove, Trowbridge BA14 OBL, to which this declaration relates, is correctly identified on the plan attached and referenced 98862/Plan 1.

2. I am currently the Pastoral & Safeguarding Lead for Aspris Children's Services and have worked continuously in the Frome and Trowbridge areas since 2003. My previous role was as Head of Residential Services, which meant that I was responsible for overseeing all of the residential care homes within the Frome and Trowbridge areas, including Ashleigh Grove residential care home. Before this, and covering the period 2004 – 2012, I worked as part of the Ashleigh Grove Care Team.

3. I have been continuously employed by Aspris Children's Services (previously Priory Education Services Ltd) since 2003.

4. I have personal knowledge of the subject site having been based at it between 2004 to 2012. Furthermore, my subsequent roles with Aspris Children's Services mean that I have visited Ashleigh Grove residential care home at least once a month since.

5. Since 2004 the site has been in use for residential care purposes for up to eight young persons who attended local schools and colleges, also operated by Aspris Children's Services. Care staff at the site have always worked on a shift basis.

6. While the site originally consisted of two separate buildings, they were internally linked in 2010 through the erection of a conservatory straddling both properties. Since then, the site has operated continuously as a single residential care home for up to eight residents.

7. The existing ground and first floor plans attached to this declaration accurately reflect the site layout that has been in place since 2010. It confirms its use as a single residential care home with an internal link via the conservatory across the rear of the buildings, with sliding door access into the lounges.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835.

DECLARED at...Frome.....this.....19th.....day of...December.....2023

before me

(signature of the declarant)

Towler Brown Solicitor
5a The Bridge
Frome
BA11 1AR

Solicitor

Before me

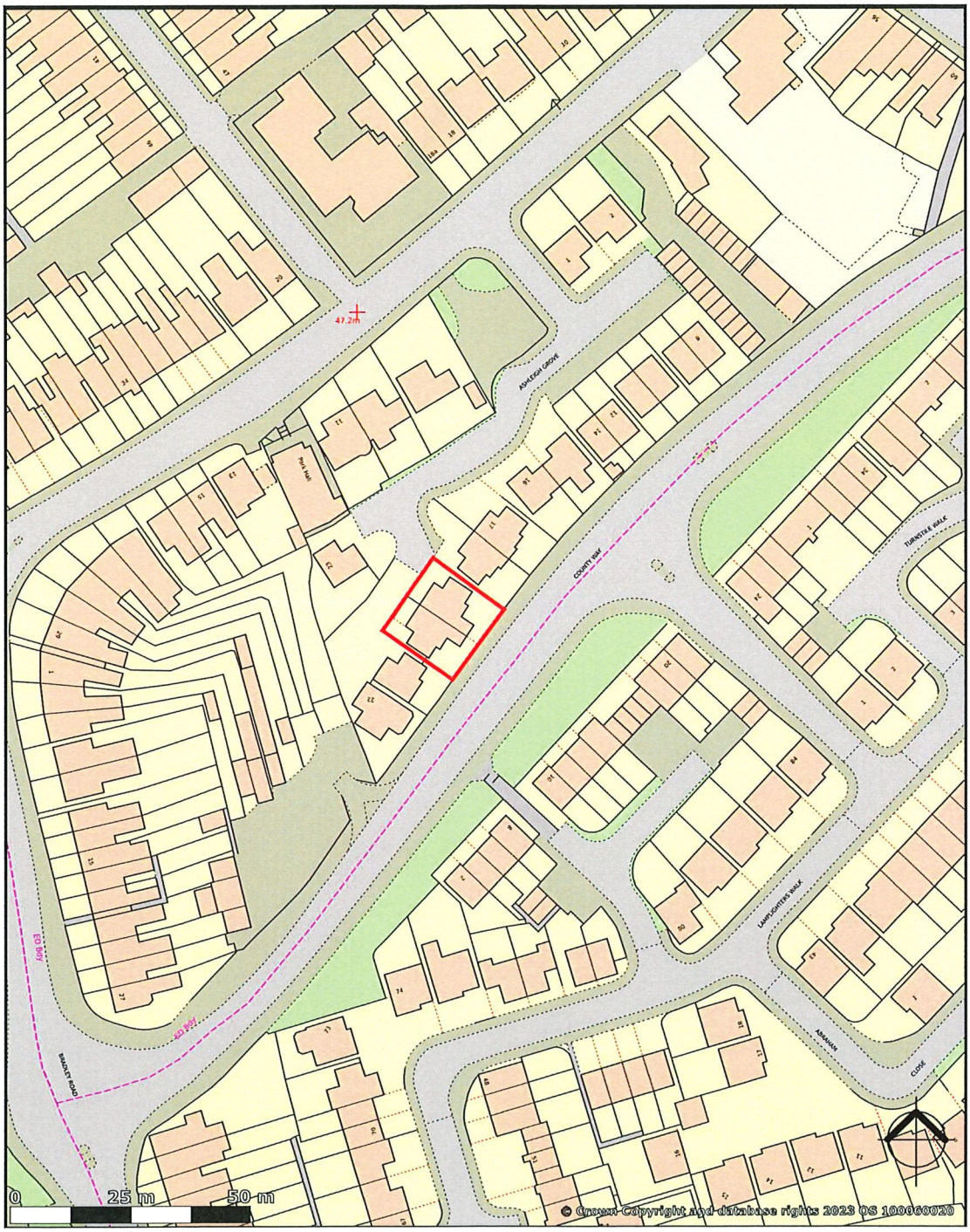
(signature of person before whom the declaration is made)

A commissioner for oaths or solicitor empowered to administer oaths

19/20 Ashleigh Grove, Trowbridge, BA14 0BL

Drawing No: 98862/Plan 1

Towler Brown Solicitors
5a The Bridge
Frome
BA11 1AR



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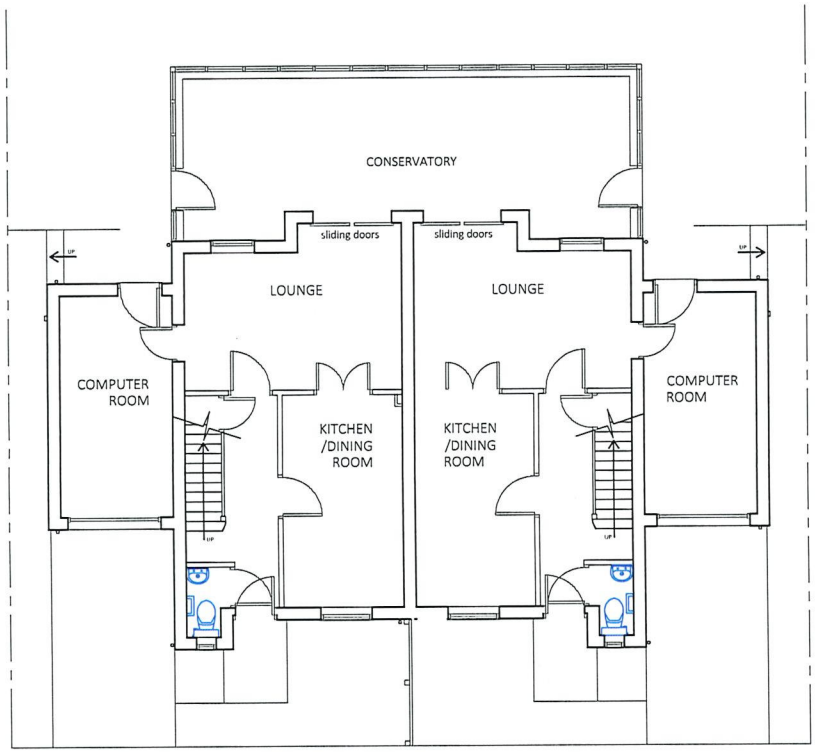
Plotted Scale - 1:1,250

GROUND FLOOR PLAN



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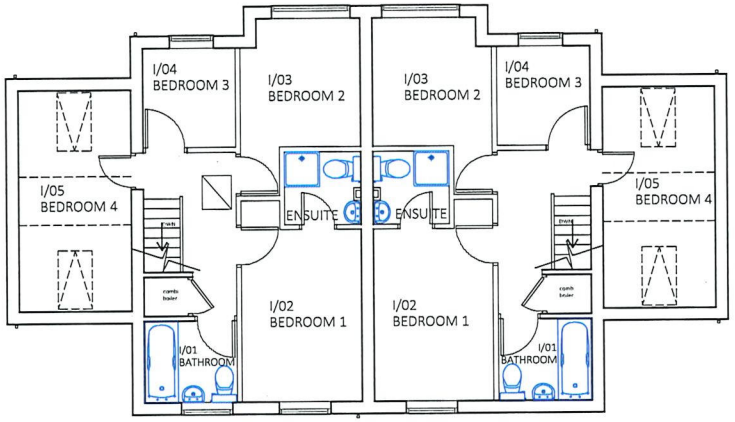
web: www.bapropertyconsultants.co.uk

site
19 & 20 ASHLEIGH GROVE
TROWBRIDGE
BA14 0BL

project
ASPRIS CHILDREN'S SERVICES

date	rev.	scale	drawing ref.
DEC23		1to50 on A1 1to100 on A3	23:159/01

FIRST FLOOR PLAN



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date	rev.	scale	drawing ref.
DEC23		1to50 on A1 1to100 on A3	23:159/02

Appendix D

Statutory Declaration of Marcelle Chivers – Therapy Assistant for Aspris Children's Services

Dated 2023

STATUTORY DECLARATION

By

Marcelle Chivers

Relating to the use of 19/20 Ashleigh Grove, Trowbridge BA14 OBL

I, Marcelle Chivers, of 28 Cavell Court, Trowbridge BA14 0HH, do solemnly and sincerely declare that:

1. Ashleigh Grove residential care home, located at 19/20 Ashleigh Grove, Trowbridge, BA14 OBL, to which this declaration relates, is correctly identified on the plan attached and referenced 98862/Plan 1.

2. I am currently the Therapy Assistant for Aspris Children's Services and have worked continuously in the Frome and Trowbridge areas since 2003. My previous role was as a Learning Support worker, and later as Pastoral Lead, which meant that I worked across all Aspris's residential care homes within the Frome and Trowbridge areas, including Ashleigh Grove residential care home. Before this, and covering the period 2004 – 2011, I worked as part of the Ashleigh Grove Care Team.

3. I have been employed by Aspris Children's Services (previously Priory Education Services Ltd) since 2003.

4. I have personal knowledge of the subject site having been based at it between 2004 to 2011. Furthermore, my subsequent roles with Aspris Children's Services mean that I have visited Ashleigh Grove residential care home at least once a month since.

5. Since 2004 the site has been in use for residential care purposes for up to eight young persons who attended local schools and colleges, also operated by Aspris Children's Services. Care staff at the site have always worked on a shift basis.

6. While the site originally consisted of two separate buildings, they were internally linked in 2010 through the erection of a conservatory straddling both properties. Since then, the site has operated continuously as a single residential care home for up to eight residents.

7. The existing ground and first floor plans attached to this declaration accurately reflect the site layout that has been in place since 2010. It confirms its use as a single residential care home with an internal link via the conservatory across the rear of the buildings, with sliding door access into the lounges.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835.

DECLARED at 54 The Bridge Frome this 20th day of December 2023

(signature of the declarant)

Before me

(signature of person before whom the declaration is made)

Jeremy Towler

Towler Brown Solicitors
5a The Bridge
Frome
BA11 1AR

A commissioner for oaths or solicitor empowered to administer oaths

19/20 Ashleigh Grove, Trowbridge, BA14 0BL

Drawing No: 98862/Plan 1

Towler Brown Solicitors
5a The Bridge
Frome
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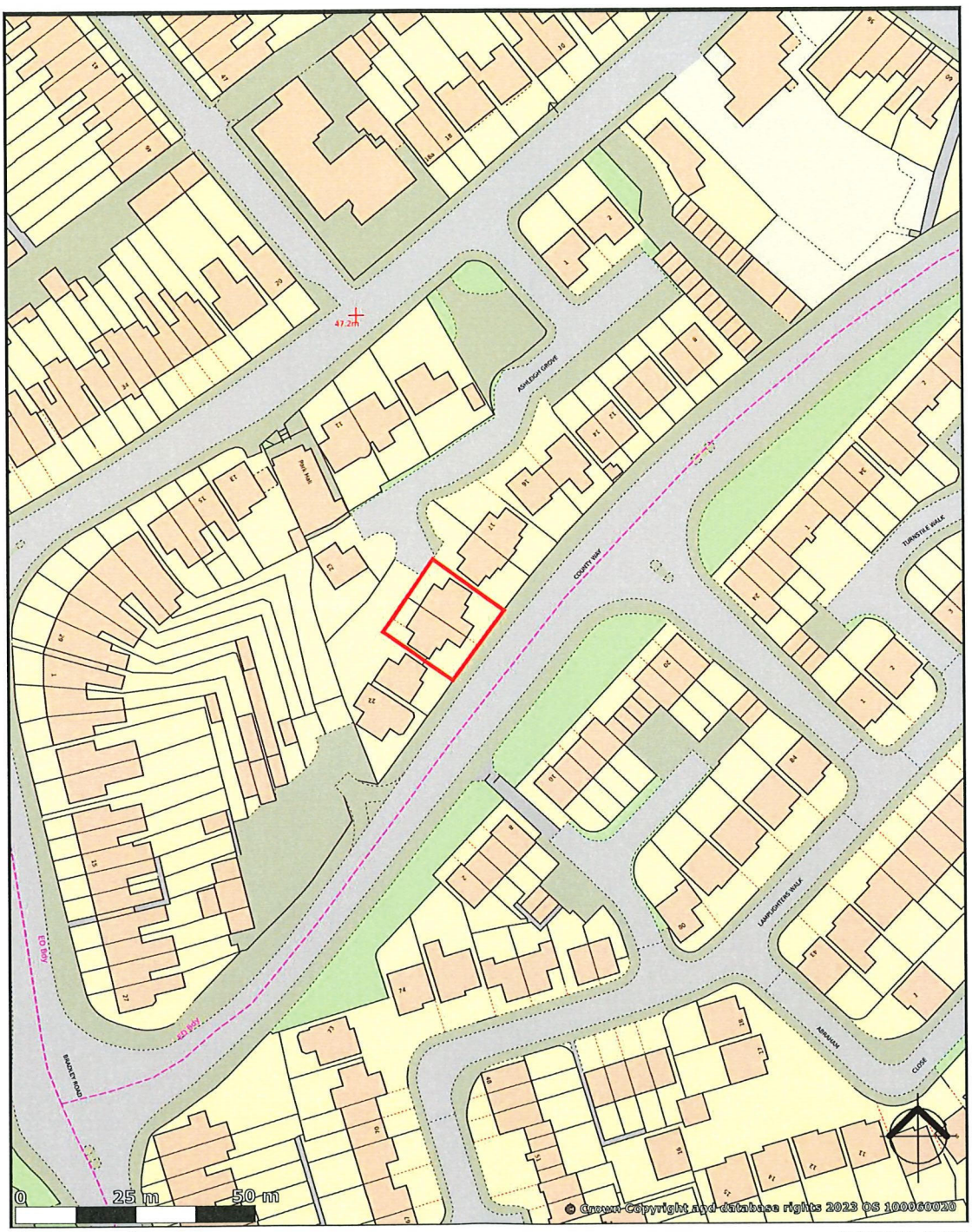
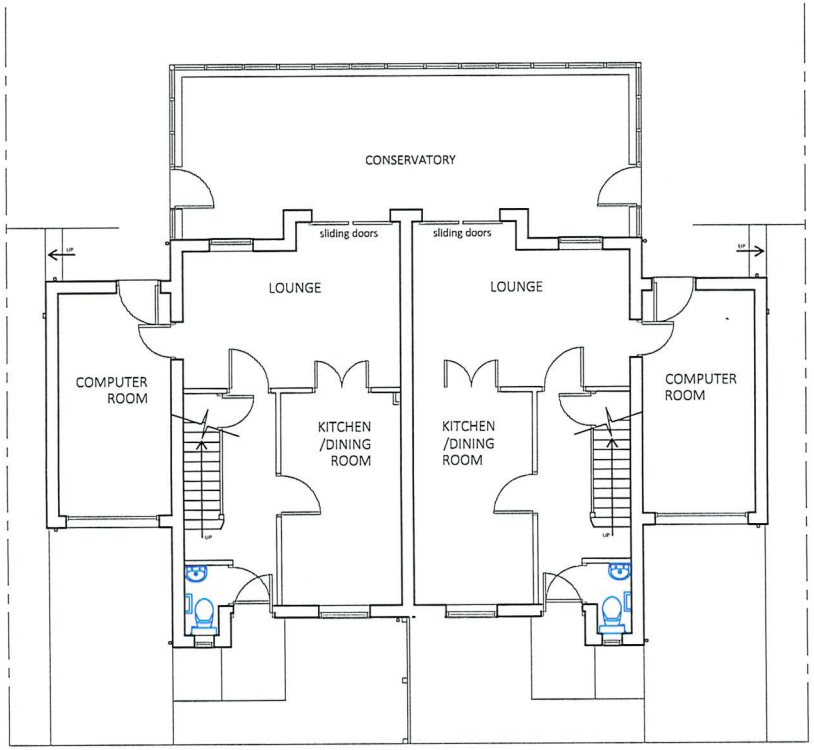


created on edozo

Plotted Scale - 1:1,250

GROUND FLOOR PLAN

Towler Brown Solicitors
5a The Bridge
Frome
BA11 1AR



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project
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date	rev.	scale	drawing ref.
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FIRST FLOOR PLAN

Towler Brown Solicitors
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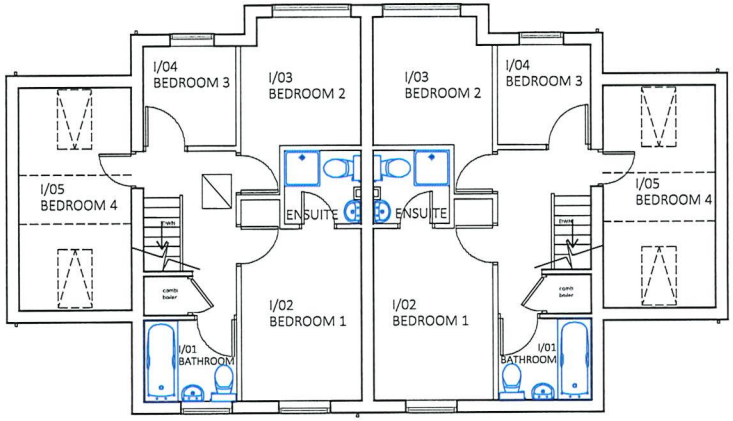
Frome
BA11 1AR

1



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