

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/2830	Case Officer:	Hamish Evans
Application Type:	Lawful Development Certificate -Proposed		
Proposal:	Proposed change of use from dwelling house (C3) to Children's Care Home (C2) for 3 children.		
Site:	65 Balcombe Road, Haywards Heath, West Sussex, RH16 1PE, , , ,		
Validation Date	4 Nov 2025	Overall Expiry Date:	28 Nov 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Refusal	Recommendation Date:	13 Jan 2026
Target Date:	30 Dec 2025	Recommending Officer Signature:	Hamish Evans

Date Legal Agreement Completed: (if applicable)		No of Representations:	17
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Signed and Agreed By:	Stephen Ashdown	Date:	15 Jan 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/2830

**65 Balcombe Road, Haywards Heath, West Sussex, RH16 1PE, , ,
Proposed change of use from dwelling house (C3) to Children's Care Home (C2) for 3 children.
Ms Susan John**

SUMMARY OF REPRESENTATIONS

Seventeen third-party letters of representation have been received in respect of the application. They object to the proposal on the below grounds;

- Lack of details,
- Similar application refused elsewhere,
- Exaggerated occupation baseline,
- Inaccurate information regarding parking at the site,
- Insufficient on street parking,
- Highways safety,
- Material change of use,
- Impact on character of the area,
- Inadequate storage facilities
- Potential increase in crime and anti-social behaviour,
- Impact on existing children,
- Impact on amenities of nearby residents,
- Unsure of freeholder consent,
- Institutional facility,
- Impact on property values,
- Could lead to more intensive use, and
- No need for the use.

Representation letters also request that the application is determined by a planning committee.

SUMMARY OF CONSULTEES

None received.

TOWN COUNCIL OBSERVATIONS

Haywards Heath Town Council

Defers decision to Mid Sussex District Council.

INTRODUCTION

The lawful development certificate seeks to establish that the change of use would not constitute 'development' as defined in Section 55(1) of the Town and Country Planning Act 1990. The proposal seeks to demonstrate that the change of use from Class C3 to C2 would not be a 'material' change and thus not constitute 'development'.

RELEVANT PLANNING HISTORY

DM/17/2977. Two storey side extension and single storey front and rear extension. Permission.

SITE AND SURROUNDINGS

The site is located within the Haywards Heath built up area boundary and an area of Townscape Character as defined by the Haywards Heath Neighbourhood Plan. The application site consists of a two-storey five-bedroom residential property which is characterised by bare brown brickwork, white and render walls, brown clay roof tiles and white uPVC window and door frames. The existing boundary treatment consists of a mixture of closed board fencing, hedgerows and treelines. The proposed fencing measures some 1.8 metres in height and the hedgerows and trees lines are varied in their height from 1.8 metres to higher than 3.0 metres. It is considered that there are some four off-street parking spaces to the front of the dwelling. The surrounding area is residential in its nature with residential properties to the north, south, east and west of the site and Balcombe road is located to the north of the site.

APPLICATION DETAILS

The application seeks to use the existing dwellinghouse as a children's home for a maximum of three children and up to three carers, on a shift rota basis. Details of shift patterns have been provided with the application and it has been confirmed that no sleeping accommodation will be available for staff. It has been advised that the shift patterns would be 07:30-19:15 for day staff and 19:30-07:15 for night staff. There will also be a registered manager who will visit typically between 9.30am and 5pm between Monday and Friday. The submitted documents also advise of other less frequent visitors such as Ofsted, social workers, family visitors etc. The application states that the dwelling is capable of accommodating nine individuals and it also include an analysis of the potential trips to and from the site under the proposed use and a C3 use with two adults and five children.

The application seeks a Lawful Development Certificate under Section 192 of the Town and Country Planning Act 1990 for use of the proposed use as a children's home.

The application is supported by the following schedule of documents:

- Application Form,
- Existing and Proposed Floor, Elevation, Roof and Location Plans,
- Planning Statement
- Email Confirmation of Further Details

RELEVANT LEGISLATION

This application is to establish whether the proposed development would benefit from permitted development rights and will be a legal decision; planning merits cannot be taken into account when considering this application.

The proposal will be tested against the relevant criteria of The Town and Country Planning (Use Classes) Order 1987 (as amended), as detailed below:

Permitted Development

Permitted Development:

Permitted Development
Class C3. Dwellinghouses

Use as a dwellinghouse (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).

Interpretation of Class C3

For the purposes of Class C3(a) "single household" shall be construed in accordance with section 258 of the Housing Act 2004.

Class C2 (Residential Institutions) - relates to residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres. This use class also has a subcategory C2A

for 'secure residential institutions' including prisons, detention centres, custody centre, secure hospital or secure local authority accommodation.

The lawful development certificate seeks to establish that the change of use would not constitute 'development' as defined in Section 55(1) of the Town and Country Planning Act 1990. The proposal seeks to demonstrate that the change of use from Class C3 to C2 would not be a 'material' change and thus not constitute 'development'.

ASSESSMENT

The property's planning history has been checked and permitted development rights are understood to be intact. The property is located in an Area of Townscape Character as defined by the Haywards Heath Neighbourhood Plan.

As a starting point, the application seeks a lawful development certificate under the premise that the carers would be present at the proposed children's home. Three of these carers would work overnight, three carers would work during the day and all six carers would work on a rota basis. To this end, it is considered that the carers cannot be considered as permanent residents due to the use of a rota dictating the shift patterns of each. It was held in the *North Devon v FSS* [2003] ruling that the carers could not be considered as living as part of the household provided that they operated on a rota basis. It is therefore considered that the test in this instance would be whether the proposal constitutes a material change of use from C3 dwellinghouse to a C2 residential institution.

The test in establishing whether the change of use would be material or not would be based on a matter of fact and degree. This can be done so by comparing the baseline character of the current use to the proposed. In carrying out this test, it will be assessed whether a greater level of disturbance would be incurred when comparing the existing to the proposed.

As set out in The Town and Country Planning Act 1990, the burden of proof lies with the Applicant. The relevant test will then be conducted based on the balance of probabilities with regard to significant or substantial changes in the impact of the use of the change in character.

Details have been provided showing the existing dwellings floor plans which includes five bedrooms and communal areas commonly associated with residential dwellings. There is no planning history on the site to suggest that the property has been subject to a different use. It is therefore accepted that the property falls under Use Class C3 as existing.

The application submission states that the proposed use would accommodate a children's home for up to three children who be predominantly between the ages of 8 to 16. There are intended to be up to three carers on site at any one time. Care staff will operate on a rota basis with shifts being 07:30-19:15 for day staff and 19:30-07:15 for night staff. There will also be a registered manager who will visit typically between 9.30am and 5pm between Monday and Friday.

Consideration of the Materiality of the Change of Use

The Use Classes Order defines uses and those that can be grouped together, while the Town and Country Planning (General Permitted Development) (England) Order 2015 specifies permitted changes of use that do not require planning permission. It is not always necessary to obtain planning permission when converting a dwellinghouse to a residential institution, as described above.

There is no statutory definition of what constitutes a 'material change of use' rather the question is whether the proposal is substantially different in the character of activities undertaken under the established use (being C3 dwelling), as a matter of fact and degree. Of particular relevance is consideration as to the impact on land and building use. Each case must be considered on an individual basis.

Further consideration needs to be paid towards whether the care home for the three children is materially different from a dwellinghouse, with particular regard to:

- The external appearance of the building.
- The external impact of the residential character and local amenities
- The proposed use

No external building works would be proposed to both the existing building or the surrounding land. It is therefore considered that the physical appearance of the building would still maintain the appearance of the existing dwellinghouse.

The submitted documents advise that the site benefits from some six off-street parking spaces to the front of the dwelling and one within the existing garage to the side of the dwelling. The existing garage entrance measures below the 2.4 metres width which is the standard width of a parking space. As such it is not considered that the existing garage provides an off-street parking space for the site. It is also considered that the parking area to the front of the dwelling is large enough to accommodate four off-street parking spaces due to its size. As such it is considered that there are a total of four off-street parking spaces at the site.

With regard to the proposed use, there would be comings and goings likely including vehicular movements generated by changing care staff, taking children to and home from school, visits from training staff and trips for shopping and leisure.

It is considered to be necessary when assessing the materiality of a change of use to compare the proposed use against the existing actual use. Limited details of the existing use have been provided with the submitted assessments being made on the basis of seven or nine individuals living at the site. Whilst it is noted that the property is capable of housing seven or nine individuals this is an unlikely arrangement and common family units usually range between three and six individuals. Electoral Register records show that the number of registered voters ranges from two to five residents between 2008 and 2025. These records show that between 2008 and 2016 there were four to five occupants, between 2017 and 2022 there were two occupants and between 2023 and 2025 one occupant. These records also show that the same occupiers have been present since 2008. Whilst it is noted that there is not a requirement for individuals to be placed on the Electoral Register it is considered that as a record it provides a good indication of the previous use of the site. The applicant has advised that the property has been occupied continuously as a single private dwellinghouse between 1992 and 2025 by two adults and three children and that the children resided at the property until they left for university.

Given the number of most recent occupiers compared to the number of proposed occupiers and the existing parking arrangement on the site it is considered that the resulting comings and goings would likely generate a much greater turnover of journeys to and from the site. This would lie in distinct contrast to a single household dwelling where generally it is the same people who come and go from the property. This would result in a degree of unfamiliarity between those living and working in the property and neighbouring residents. It also means the property would appear to the observer to have much more intensive commercial character than residential.

Therefore, it is considered that there would be a material difference in the character of the use of the property as proposed when compared to the existing use as a dwellinghouse. Thus, on the evidence before the Council and on the balance of probabilities, the proposal would amount to a material change of use. Therefore, the proposed change of use from dwellinghouse (C3) to a residential children's care home (C2) would not be lawful.

It is noted that the submitted documents state that there is an urgent need for this form of accommodation however planning merits are not taking into consideration in the determination of this application. It is also noted that pre-application advice was provided from the LPA advising that a similar proposal would not result in a material change of use of the land however, the proposal as part of this application includes a higher quantum of carers at the site, the advice was given based on the information provided by the applicant which did not include the historic occupation levels of the dwelling and that the advice was informal which did not prejudice the Council in the determination of future applications.

CONCLUSION

In conclusion, the proposal would constitute a material change of use from Use Class C3(a) dwellinghouse to C2 residential institution of the Town and Country Planning (Use Classes) Order 1987 (as amended). As such, a certificate of lawfulness cannot be issued.

Decision: Refusal

Case Officer: Hamish Evans