

[REDACTED]
63 Balcombe Rd

Haywards Heath

RH16 1PE

5/12/25

Dear Hamish

Re: Application No. DM/25/2830 – Proposed Change of Use from C3 Dwellinghouse to C2 Children's Residential Care Home (3 children) at 65 Balcombe Road, Haywards Heath, RH16 1PE

I write to object to the above application for a Lawful Development Certificate (LDC) pursuant to section 192 of the Town and Country Planning Act 1990, seeking confirmation that the proposed use of the property as a children's residential care home (Use Class C2) would not constitute a material change of use from its current lawful C3 residential use.

For the reasons set out below, it is clear that the proposal *would* amount to a material change of use. Accordingly, the Council cannot lawfully grant the LDC, and the application must be refused.

The proposed C2 use is materially different in character from the existing C3 residential use

An LDC may only be issued where the applicant demonstrates, on the balance of probabilities, that no material change of use would occur. The evidence submitted by the applicant confirms the opposite.

The proposed use is an institutional, professionally managed operation involving:

- Rotating, non-resident staff working day and night shifts (awake throughout), 365 days a year
- Two daily shift changeovers
- Regular on-site managerial presence (Monday–Friday)
- Frequent visits from professional third parties including social workers, Regulation 44 inspectors, Ofsted inspectors and the Responsible Individual and nobody can estimate how often these would be as each child is different but given the implication is that these children have high needs (waking night staff) we can assume there will be many agencies involved in their care
- Associated vehicular and pedestrian movements far exceeding those of a typical household

- Changes to the internal house with a need for fire alarms and doors, a staff office, potentially door alarms (given the applicant talks of high needs of children who require waking night staff) and CCTV materially changing the character of the property
- No adults 'resident' or sleeping in property purely staff on shift whose workplace this will be unlike a normal family

Such characteristics are not incidental to a C3 dwellinghouse but are intrinsic features of a C2 institutional use. Furthermore it would be difficult to ensure and maintain the use in the context of a certificate of lawfulness where conditions cannot be applied.

Established appeal precedents confirm that children's homes of this nature constitute a material change of use

Recent appeal decisions demonstrate a consistent position by the Planning Inspectorate that arrangements materially identical to those now proposed fall within Use Class C2 and therefore cannot lawfully be confirmed as C3 via an LDC.

- **Bootle – APP/V4305/X/24/3353196 (22 Diana Road)**
LDC refused. The Inspector concluded that the level and nature of activity, including shift-based staffing and regular professional oversight, resulted in a material change of use.
- **West Sussex - APP/Q3820/X/24/3336877 (79 Denchers Plat)**LDC ref
The Inspector held that the appellant failed to demonstrate that the proposed operation would not constitute a material change of use due to a significant difference in the character of the activities on the land as a result of the change of use that would therefore be material and planning permission would be required.
- **Essex – APP/C1570/X/24/3352800 (32 Tyler Avenue)**
LDC refused. The Inspector held that the appellant failed to demonstrate that the proposed operation would not constitute a material change of use.
- **Burnley – APP/Z2315/X/24/3351706 (1 Albion Terrace)**
LDC refused. The pattern of institutional activity, including shift handovers, was held to be materially different from that of a single household.
- **Manchester - APP/G4240/X/23/3327733 (8 Richards Close)**
LDC refused. The Inspector concluded that the level and nature of activity, including shift-based staffing and increase in comings and goings resulted in a material change of use.

The situations are essentially the same. As a result, the scheme at 65 Balcombe Road qualifies as a material change and needs full planning permission. In these circumstances, granting an LDC would place the Council outside its legal powers.

The anticipated comings and goings are institutional in scale and materially exceed those associated with a dwellinghouse

In *SSETR v Waltham Forest LBC* [2002] EWCA Civ 330 it was held that the correct comparison to be made is between the actual existing use and the proposed use. The Court distinguished between the actual use, a notional use within a use class of the UCO and the proposed use. The Court rejected the argument that it was appropriate to compare a proposed use with a notional use within a use class in deciding whether there would be a material change of use. It was held in that case that the interposition of a notional permitted use between the existing use and the use applied for is a complication not relevant to the exercise under section 192 of the Act. So in the current case the correct comparison is an analysis of the actual use of the property as a dwellinghouse, at or when last occupied before the date of the application.

The evidence presented by the applicant far from assuring us that the change would “small” actually indicates just how big the change will be. In short, we will no longer be neighbours with a family dwelling but with a business managing a residential institution that will operate 24 hours a day, 7 days a week with all the associated amenity impacts arising from that use.

Although the applicant refers to the theoretical capacity of the dwelling to accommodate up to nine family members, the historic use of the property has only had one to two occupants for the past nine years and four in total for around thirty years previous to that. Given the relevant legal test concerns *actual* use and the character of activities ordinarily associated with a C3 dwelling we note this proposal introduces at least:

- Two staff shift changeovers each day, including early-morning and late-evening movements. The handovers are underestimated at 15 minutes in the application, yet waking night handovers are known to take a minimum of around 30 minutes in care
- Six staff attendances per day
- Managerial visits throughout the working week
- Frequent visits from social workers, Ofsted inspectors and other regulatory professionals
- Scheduled family contact sessions
- Transport movements for school and appointments
- The applicant has not mentioned how the children will be transported but presumably there will be another car on the driveway for this purpose
- The information provided implies the children would not be related so on the balance of probability they are likely to attend different schools (if indeed they attend school, this information has been omitted) and will participate in different extracurricular activities. This will result in more separate movements to and from the property than a single household

As the children would be in the care of the Local Authority there would be multi-agency visitors during periods of the day and not necessarily restricted to just infrequent reviews depending on the needs of an individual child and to the extent of associated professional and personal visitors to the property for each individual child. The applicant does not yet know what these children's needs will be but given they are looking to provide the highest level of care we can assume that they will need many agencies involved which would likely exceed their visit estimates.

This level and pattern of activity is fundamentally different from that of a single household and represents a scale of comings and goings typical of an institutional setting.

Noise and disturbance would inevitably increase due to:

- Repeated vehicle movements and door slamming
- Regular attendance of professional visitors
- Safeguarding interventions, including potential emergency service attendance

Ofsted reports commonly acknowledge that children's homes experience higher emergency call-out rates than family dwellings. Any such attendances would further exacerbate existing constraints at the site.

The application misrepresents the parking provision, which is inadequate to serve the proposed use

The Planning Statement incorrectly asserts that the property benefits from six off-street parking spaces plus garage accommodation. In reality:

- The driveway accommodates a maximum of 2–3 vehicles no room for the 6 cars minimum at handover.
- The submitted drawings materially overstate the parking area
- There is no capacity for vehicles to turn on-site when more than two cars are present, requiring reversing onto Balcombe Road—a location with restricted visibility and narrowing due to the dangerous nature of the road and previous near fatal accidents in this location
- No on-street parking spaces on Balcombe Road, there is no certainty that spaces elsewhere would be readily available. Any attempt to park on Balcombe Road is unsafe and would impede traffic flow, a known route out of Haywards Heath for the fire and ambulance stations and the bottom of the hill
- Emergency service vehicles would have no safe or feasible parking options

Given the number of staff, professional visitors, family visits and transport movements, overspill parking onto Balcombe Road is unavoidable and would create a significant highway safety hazard.

The site lies within an Area of Townscape Character (ATC)

The property is located within an Area of Townscape Character as identified in the Haywards Heath Neighbourhood Plan (Section 6.29 and Figure 4). Development within the ATC must demonstrate how it preserves and enhances the special character of the area.

The proposed use, with its institutional character, frequent comings and goings and associated noise and activity, does not preserve or enhance this important townscape character.

Please do not publicly publish the following but felt it important to include:

Further to all of these points, we have three young children who we chose to bring up in a quiet purely residential area for very good reason. My eldest has anxiety and is often triggered by disturbances or noise related issues. My son is currently awaiting assessment and is also triggered by noise. Although my son does not yet have a formal diagnosis, he has noise-related difficulties that affect his day-to-day life. These difficulties are being monitored/assessed, and he receives support because of their impact on his wellbeing and functioning. For the purposes of the Equality Act 2010, he may still fall within the definition of disability due to the substantial and ongoing effect of his noise sensitivity. The proposed change of use is likely to generate elevated and unpredictable noise levels, which would cause him and my daughter clear and measurable harm. The Council must therefore demonstrate, in compliance with its Public Sector Equality Duty, how it has considered the impact of this proposal on a vulnerable child and what steps it has taken to avoid or mitigate that harm.

I fear if such a use is approved we could no longer tolerate living in my present house. Simply put when I bought no. 63 5 years ago the attraction was moving to a settled residential area comprising family homes. In the circumstances, I find the proposed change of use upsetting as it would fundamentally alter and indeed harm how we enjoy our home. It would also alter the character of the area.

In summary the proposal would clearly constitute a material change of use from Class C3 to Class C2. The legal test for the grant of an LDC is therefore not met.

Accordingly, we respectfully request that the Council **refuse** the application on the following grounds:

- The change of use is materially different and requires full planning permission, as confirmed by multiple recent appeal decisions
- The proposal would introduce institutional-level comings and goings, resulting in material noise and disturbance
- The likelihood of emergency service attendance would increase
- Parking provision is substantially inadequate and poses a highway safety risk
- The proposal would fail to preserve or enhance the Area of Townscape Character
- The effects on the current children residing in close proximity

Yours sincerely

