



Joanne Fisher
Planning Department
Mid Sussex District Council
Oaklands Road
Haywards Heath
RH16 1SS

Our Ref: JB/HM/35569

Dear Joanne,

**PLANNING APPLICATION REFERENCE DM/25/3020
COURTHOUSE FARM, COPTHORNE COMMON, COPTHORNE, WEST SUSSEX**

I am writing with regards to the above application which seeks planning permission for the following development on land west of Courthouse Farm, Copthorne Common, Copthorne, West Sussex:

"Outline planning application for the erection of an extra-care retirement community (Use Class C2) and community pavilion, including associated parking, outdoor amenity space, landscaping and drainage, with all matters reserved except for the new access proposed from Copthorne Common Road"

This letter provides a response to Mid Sussex District Council's Housing Officer who has made comments on the referenced use class (Use Class C2) and the proposal to accommodate Extra-Care accommodation within the site.

The Housing Officer states the following:

*"The applicant has stated that it is a C2 facility, **however each and every unit is self-contained.** The fact that care (either by way of on-site or external provision) is provided does not make it a C2 facility. **A C2 facility would be a residential care home,** and this proposed development is not that. Table T13 in the submitted Comprehensive Planning Need Assessment (Page 9) clearly shows that this does not meet the criteria for being a residential care facility."*

"I also have concerns around this being labelled as an extra care facility. The previously mentioned table (T13, Page 9), states the level of care provided at what they deem to be Extra Care and this does not provide a high enough level of support which they later state is provided when defining Extra Care (Paragraph 6.3, Page 12 of the Comprehensive Planning Need Assessment). The Design and Access Statement also states that this is a Retirement Village, and not an Extra Care Facility. This appears to suit the proposed plans more than labelling it an Extra Care facility as the applicant is proposing a mix including 3 Bed/6 Person flats and houses. There is also a lack of M4(3) Wheelchair Accessible properties which does not lend itself to the claim that the applicant is open to offering an Extra Care model which is open to applicants of varying support needs." (emphasis added).

The Housing Officer's comments place undue weight on the self-contained nature of the accommodation when considering whether the proposal falls within Use Class C2. Case law confirms that accommodation within a C2 development may take the form of self-contained flats or bungalows with facilities for independent living, without this determining a Class C3 use.¹ The relevant distinction is not the physical form of the units, but whether the development as a whole

¹ *Rectory Homes Ltd v Secretary of State for Housing Communities and Local Government [2020] EWHC 2098 (Admin)*



provides residential accommodation **together with care** as part of an organised and managed scheme.

Extra-care developments commonly include self-contained units and are expressly recognised in national guidance as falling within Class C2 where appropriate care provision is secured. The National Planning Practice Guidance defines Extra-Care housing or Housing-with-Care as usually consisting of 'purpose-built or adapted flats or bungalows' and this is reflected in MSDC's Housing for Older People Topic Paper (2020) which states that Extra-Care will **"provide independent, self-contained homes with their own front door"**. Self-contained flats and bungalows are standard accommodation types for Extra-Care developments as they allow residents to live independently whilst benefiting from care packages to suit individual needs. For Extra-Care developments, this typically involves a lower level of support when a resident moves into the development and the care packages can adapt to their needs as they 'age in place'.

There is local precedent for this. There are two examples of Extra-Care developments that have been approved in Mid Sussex – detailed planning permission reference DM/20/4159 relating to 70 Extra-Care apartments and 15 Extra-Care cottages, and outlined planning permission reference DM/19/1001 (allowed at appeal) comprising of 84 units including Extra-Care apartments and cottages. The development description for this application is notably more loosely worded which means that the final mix of apartments and bungalows can be agreed at reserved matters stage. However the principle of self contained apartments and bungalows/cottages has already been established as Extra-Care accommodation within the District.

In this instance, the defining feature of the proposal is that **occupation would be restricted to residents with an identified need for care**, secured through planning obligations and contractual arrangements. Prospective residents would be required to undertake a health assessment, enter into a mandatory care package, and contribute via service charges to on-site care provision available on a 24-hour basis. This approach is consistent with national guidance and appeal decisions, which confirm that extra-care communities providing self-contained accommodation, extensive communal facilities and guaranteed care provision for those in need of care fall within Use Class C2. The Applicant is willing to secure these requirements through a Section 106 agreement to ensure the development operates as genuine extra-care accommodation rather than open-market or age-restricted housing.

There is also an important distinction between domiciliary and general support for older people and nursing or medical care which are typically provided in care and nursing homes, the former being the principal type of care in an Extra-Care facility. Residents of Extra-Care facilities tend to be the older elderly who, for one reason or another, are find themselves in need of domiciliary and general support, including for example with cooking, cleaning and shopping, even if they do not yet have significant medical care needs. This topic was subject to extensive discussion in the drafting of the legal agreement for the above referenced DM/19/1001 application, in which the applicant and Council negotiated a set of terms which would ensure that the Extra-Care provision fell within the scope of Class C2. As a result of these discussions, the development's alignment with Use Class C2 was not disputed.

The notable components of the Unilateral Undertaking were as follows:

- The units would be occupied by the primary resident and spouse or partner of such person.
- Prior to occupation each primary resident would undertake a health assessment to identify the level and type of care and support required, and whether they meet the requisite need for care.
- The Basic Care Package would comprise a minimum of 2 hours of care per week, the costs of which would be collected through the service charge for each Extra-Care unit. The basic



care package, which was be obligatory to take, would also include any services that are needed by reason of old age or disablement following the health assessment. Care services would be available 24 hours a day, 7 days per week.

- The operator would be required to enter into a contractual relationship with a partner Care Agency in order to provide the identified services in conjunction with the owner.
- That any approved communal facilities would be provided prior to first occupation and would be available to residents throughout their occupation.

The Applicant would be willing to enter into a similar agreement for the proposed development, meaning that the end-user would need to satisfy themselves and the Council that they meet these requirements – and therefore that the detailed schemes falls under the scope of Use Class C2 – at reserved matter stage. It should be noted that this is an outline planning application, and the indicative plans have been submitted to show how the proposed scope of development could be accommodated on the site. The application does not seek detailed planning approval for the design and layout of the buildings.

It is expected that the indicative floor plans submitted with this application would not be included in the list of approved plans on any future Decision Notice. More detailed discussions will be required at reserved matters stage on more specific aspects of the development, including the provision of M4(3) Wheelchair Accessible homes, parking and unit sizes.

An Extra-Care development is a form of a retirement village, as noted in the NPPG definition, so no revisions are proposed to be made to the Design and Access Statement.

The submitted Planning Need Assessment demonstrates a need for Extra-Care accommodation in Mid Sussex following an in-depth analysis of existing and planned provision. Please also refer to Section 7.2 of the submitted Planning Statement for further discussion. It is standard practice for a Section 106 legal agreement and conditions to be used to restrict the occupancy of a development approved for senior living, as outlined above. The proposed development does not seek planning permission for open-age Extra-Care accommodation.

Overall, we acknowledge the reasons for the Housing Officer's concerns and consider that these concerns can be suitably addressed through an appropriately worded legal agreement. We respectively disagree with the comments made with respect to the accommodation types and seek further comments from the Housing Officer with reference to the previous approved schemes outlined above.

It follows from the above that as the proposed use is clearly Class C2 in nature, affordable housing is not required by adopted Local Plan policies.

Please do not hesitate to contact me if you have any comments or queries.

Yours sincerely

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Director

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