

**Planning statement.**

Proposal

**Application for a Lawful Development Certificate for proposed change of use from Class C3(a) to Children's Care Home (C2) for up to 3 children.**

At

**65 Balcombe Road, Haywards Heath, RH16 1PE**

By



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## **Introduction**

The site comprises of a detached 5-bedroom dwelling house providing accommodation for up to 9 people. To the front there is a large garden and an area of hardstanding providing parking for multiple cars. To the side there is a garage. To the rear of the site is a generous garden. The council's planning maps do not show the site being in a Conservation Area. The closest is the Mill Hill Close Conservation Area. According to the environment agency this site is in flood zone 1. Land within flood zone 1 has a low probability of flooding. The surrounding area is characterised by similar properties.



Aerial view of the site



Front view of the site



Rear view of the site

The proposal involves an application for a Lawful Development Certificate for the proposed change of use from Class C3(a) to Children's Care Home (C2) for up to 3 children. The application follows pre planning application advice. The officer under DM/25/2047, stated the following on 17/09/2025 (the advice is attached to the appendix of this report): -

"Thank you for your enquiry relating to the above and apologies for the delayed response. Please find below my comments on the proposal.

Your enquiry seeks to establish whether the provision of a care home for three children at 65 Balcombe Road would require formal planning permission or not. The advice provided is based off the information you have submitted with your enquiry.

The submitted statement advises that the proposal would be occupied by a maximum of three children and there would be two carers working on a shift pattern. As set out in North Devon District Council v First Secretary of State [2004] 1 P. &C.R. 38, carers who provide 24-hour care but were not residents could not be regarded as living together in a household. The concept of living together as a household means that a proper functioning household must exist and children and carer must reside in the premises. In such circumstances, the use cannot therefore be considered to fall within Class C3 (b). A children's home run on shift patterns could not be considered to fall within Class C3 (a), because clearly, this is not occupation of a dwelling house by a single person or people living together as a family. Equally, C3(c) distinguishes groups of people living together as a single household, which could for example include people with lodgers, or student accommodation for up to six individuals. Children's homes based on shift patterns would not be considered to fall into these criteria either. Taking into account the above it is my informal opinion that the proposal would result in a change of use from a C3 use to a C2 use.

In respect of whether this change of use would be material or not, key considerations can include:

- 1) Movements to and from the premises associated with such a use, including shift patterns and whether they would cause any harmful impacts;
- 2) Increased need for visitors ('comings and goings') on a regular basis including the emergency services;
- 3) Appropriate level of parking provision to serve the use; and
- 4) External alterations and whether they are visually acceptable/cause any harm to residential or visual amenity.

From the information you have provided I consider that the comings and goings from the dwelling would be relatively similar to the existing C3 use, the number of carers and residents would be modest and I would expect shift patterns to be along the lines of 8am-8pm with visitations by parents etc to be managed appropriately. The level of need by residents does not appear to lead to a significant increase in visitations from emergency vehicles etc. There appear to be some three off-street parking spaces to the front of the dwelling and two within the existing garage. As such there are considered to be sufficient off-street parking spaces at the site. You have advised that the proposal would include limited internal alterations and no external alterations.

Taking into account the above it is my informal opinion that the proposal would result in a change of use between the existing C3 use to a C2 use however it would not result in a material change. As such it is my informal opinion that due to the special facts of the case and on based on the specific information you have provided, that formal planning permission would not be required for the proposal.

The above represents my informal view only based on the information contained in your enquiry. Should you require a formal determination as to whether planning permission is required for your proposal then it is open to you to make an application to this authority for a Certificate of Lawful Development, under Section 192 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991.

I hope the above is of use to you."

### **Assessment**

Section 192 of the Town and Country Planning Act 1990 (as amended) allows applications to the Local Planning Authority for the issue of Lawful Development Certificates for proposed uses. This provides a statutory mechanism for obtaining confirmation that a proposed use of land is lawful. A certificate of lawfulness is not a planning permission. The planning merits of the use, operation or activity in the application are not therefore relevant and planning policies are thus not applicable.

The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The test in the current application is whether 'on the balance of probabilities' the application has demonstrated that the proposed use of the application site does not constitute a material change of use from its current lawful use. In this case from Class C3(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) to a C2 Use as a children's home for up to 3 children.

The key statutory framework for lawful development certificate applications and their determination is set out in sections 191-193 of the Town and Country Planning Act 1990. A local planning authority can grant a lawful development certificate confirming that: -

- (a) an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990.

or

- (b) a proposed use of buildings or other land, or some operations proposed to be carried out in, on, over or under land, would be lawful for planning purposes under section 192 of the Town and Country Planning Act 1990.

This application seeks a certificate of lawfulness to demonstrate that the C3(a) premises will be utilised as C2 children's home and that this change is not considered to be a material change of use. Currently, Class C3 dwellinghouses are defined as follows: -

C3 Dwellinghouses - This class is formed of three parts.

C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child

C3(b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.

C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.

Section 55 of the Town and Country Planning Act 1990 states "development" means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land'. Any development within this meaning would require planning permission via section.57. Within this definition, development is operations and material changes of use.

Appeal decision reference APP/F1040/X/21/3283867 is relevant to clarifying the use class in the proposed situation. Paragraph 5 referenced the North Devon case and states: -

"That judgement confirmed it is unrealistic to expect children to look after themselves in a single household. It also clarified that carers who provide 24- hour care but were not resident could not be regarded as living together in a household. At Paragraph 7 the Inspector clarified that the use could not be considered as within C3 (b) as the staffing situation would not be considered a household. "A children's home run on shift patterns by carers could not be considered to fall within Class C3(a) because it would not be occupation of a dwelling house by a single person or people living together as a family. Class C3(b) refers to "use as a dwelling house by not more than six residents living together as a single household, (including a household where care is provided for residents)." If No. 3 was to be run on that basis, with children being looked after by a permanent occupant or occupants of the dwelling, it would not need planning permission. Where support staff come and go on shifts, the use cannot be considered to fall within Class C3(b). Use of No. 3 as a children's home would fall within Class C2 of the Order (Residential institutions)".

In the above appeal and this case there is a proposed change from C3 to C2, which would normally constitute development. However, evidence has been robustly provided to assert that whilst the change of use to C2 is proposed, the change of the use is so small so as not to constitute a 'material' change and therefore planning permission is not required and a lawful development certificate should be granted.

Paragraph 011 of the national Planning Practice Guidance (PPG) states: "A change of use of land or buildings requires planning permission if it constitutes a material change of use. There is no statutory definition of 'material change of use'; however, it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree and this will be determined on the individual merits of a case." This is set out below.

### **The physical change of use**

The proposal is for a non-material change of use from C3(a) to Children's Care Home (C2).

- C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child
- C2 covers residential institutions - Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres

Relative to the proposal there will be 3 children residing at the property with 3 full-time members of staff (carers) on site. A registered manager who will come and go during business hours only, typically from 930am to 5pm. The staff will be on a shift pattern. That is day and night shift. As stated there will be up to 3 children receiving care. The age of the children will be 8 to 16. The total number of resident occupants at any time would be a maximum of 6 (3 children and 3 carers) which is akin to C3(b) use which permits up to 6 people living together as a single household including where care is provided. C3(a) to C3(b) is a permitted change. In this case children cannot form a household on their own and the staff will alternate hence the C2 use is proposed. It is important to note that the manager is not a resident as their role is purely supervisory.

An examination of the term single household is relevant as a starting point.

GOV.UK, VCONST14400 - Dwellings - an explanation of terms: what 'single household dwelling' means is applicable. This states that

"what is meant here is that all the elements of living (that is, washing, cooking and toilet facilities with space for eating, resting and sleeping) are situated in a discrete area for occupation by a single household. An example of a single household dwelling would be the typical family home, whether flat or house. For example, a single household can be a single person, a family or students who join together as if they were a family".

A search of the property reveals that it has a council tax band F rating.

### Property information for **65, BALCOMBE ROAD, HAYWARDS HEATH, WEST SUSSEX, RH16 1PE**

<b>Local Authority</b>	Mid Sussex ( <a href="http://www.midsussex.gov.uk">http://www.midsussex.gov.uk</a> )
<b>Local authority reference number</b>	102204600650
<b>Council Tax band</b>	F
<b>Improvement indicator</b>	No
<b>With effect from</b>	1 April 1993
<b>Mixed-use property</b>	No
<b>Court code</b>	None

If the property has a Council Tax band A-H in England it is classified as residential. On balance the property is a single residential dwelling.

In the existing situation the plans submitted with this application show that the house is laid out akin to what would be expected of any typical family house with a sitting room, dining room, a kitchen, conservatory and WC at ground floor. Upstairs there are five (4 doubles and a single) bedrooms (the second-floor bedroom is ensuite). There is also a family bathroom / WC at first floor. The submitted existing plans show that the existing house can provide accommodation for 9 persons.

Regarding the function and setting of the family home it is fair to say that the sitting room is the central space for relaxation, watching TV, and socialising. The kitchen is where meals are prepared, and the dining room is the heart of the home where eating and family talks take place. Sleeping, of course, takes place in the bedrooms and washing in the bathroom. The garden provides an outdoor area for children to play, BBQ's, relaxing, gardening and so on.

In terms of activity in the morning parents prepare for work and children get ready for school. Breakfast is prepared and eaten. Family members then leave for school or work between say 7am and 8.30am. In the afternoon and evening children return from school, do homework and play. Parents arrive home around 5–6 pm. Dinner is a family affair, typically between 6–7 pm. During the evenings activities include watching TV, helping children with homework and winding down together. During the weekend house chores like cleaning, gardening, and laundry are undertaken. Family outings take place for instance the cinema, visiting a park or bowling. Visiting relatives and friends takes place but equally relatives or friends may visit the property at any time. Household shopping is usually undertaken on the weekend. The weekend can involve relaxation activities such as baking, DIY projects, or watching football.

With the family setting it is not uncommon for deliveries and external visits to take place during the week. For instance, Amazon orders, Royal Mail, shopping, groceries and so on. Occasionally trades people may need to visit i.e. say the boiler breaks down or there is other maintenance issues associated with the house.

In the family setting parents care for the children and play an active role in their upbringing. Care is expressed in emotional and practical ways. In this case: -

- Assisting with hygiene, bathing, dressing (if needed)
- Encouraging self-care and independence in personal grooming
- Preparing and providing nutritious meals
- Supporting children with dietary needs (allergies, cultural preferences)
- Encouraging healthy eating habits and meal planning
- Keeping the home clean, tidy, and safe
- Encouraging children to participate in household tasks
- Laundry, room organization, and maintaining personal space
- Ensuring children attend school
- Helping with homework and educational activities
- Liaising with schools and teachers to track progress
- Taking children to school, medical appointments, and outings
- Ensuring safety during trips
- Providing emotional reassurance and being a trusted adult
- Encouraging positive decision-making and problem-solving
- Teaching children how to build and maintain healthy relationships
- Encouraging respectful communication
- Organizing activities
- Encouraging sports and outdoor activities
- Taking children to parks, cinemas, bowling, museums, etc.
- Arranging holidays
- Practicing their faith and attending places of worship
- Celebrating cultural and religious festivals
- Teaching budgeting, money management, and shopping skills
- Supporting children to attend GP, dental, and hospital appointments
- Promoting healthy lifestyles and hygiene

In the proposed case, the submitted plans demonstrate that the premises will be used in an almost identical way to the existing dwelling without any external or significant internal physical alterations. The proposal is to incorporate 3 bedrooms for 3 no. looked after children. One of the existing bedrooms at first floor will become a study / office. The second-floor bedroom becomes a playroom. The future users of the site will share the ground floor communal areas as the residents would have done in the C3(a) setting. Namely the sitting room for relaxing and watching TV, the dining room for eating together, and kitchen for preparing meals. Sleeping will remain upstairs as it did previously and washing etc will take place in the bathroom. The proposed situation is what one would expect from a single household containing shared facilities. The children and staff members on duty would live together as a family unit albeit that the live in carers would be on a shift pattern.

It is expected that the carers in this case would fulfil the role of the children's parents as the children cannot form a household on their own.

Given the layout it is unequivocal that the residents for the premises would eat breakfast and dinner together, watch TV together, carry out household chores together, undertake homework together, relax together, sit in the garden together, undertake outings as a unit, do the family weekly shop collectively and so on. It would further be expected that the residents would form bonds and relationships with one another as anyone living together would. Trust and dependency would form between the children themselves like it does with siblings and the children and carers (as it does with any children and their parents). It would be as though the children and carers would join as a family unit in a traditional family setting. Below is a detailed list of activities and services to be typically provided by carers in the children's home.

- Personal support
- Assisting with hygiene, bathing, dressing (if needed)
- Encouraging self-care and independence in personal grooming
- Preparing and providing nutritious meals
- Supporting children with dietary needs (allergies, cultural preferences)
- Encouraging healthy eating habits and meal planning
- Keeping the home clean, tidy, and safe
- Encouraging children to participate in household tasks
- Laundry, room organization, and maintaining personal space
- Ensuring children attend school
- Helping with homework and educational activities
- Liaising with schools and teachers to track progress
- Taking children to school, medical appointments, and outings
- Supervising travel and ensuring safety during trips
- Emotional Wellbeing & health Support
- Providing emotional reassurance and being a trusted adult
- Helping children process trauma and difficult experiences
- Encouraging positive decision-making and problem-solving
- Teaching children how to build and maintain healthy relationships
- Encouraging respectful communication and conflict resolution
- Organizing arts, crafts, music, and creative activities
- Playing games and interactive activities
- Encouraging sports and outdoor activities
- Taking children to parks, cinemas, bowling, museums, etc.
- Arranging summer trips, holidays, and residential stays
- Supporting children in practicing their faith and attending places of worship
- Celebrating cultural and religious festivals
- Teaching budgeting, money management, and shopping skills
- Cooking lessons and basic household maintenance
- Helping older children prepare for independent living
- Supporting children to attend GP, dental, and hospital appointments
- Promoting healthy lifestyles and hygiene
- First aid and responding to minor injuries

As can be seen from the list of activities above, these activities are literally identical to what any parent would provide for their children within a family home. The list is indistinguishable from what takes place in a C3a dwelling.

Care will be provided to the children. The carers will be on a shift pattern and will not be live in. The carers would ultimately fulfil the children's parents, and the children would be dependent on the carers just like children are dependent on their parents in a family home. This is evidenced by the associated activities taking place which makes the observation unequivocal. The requirement for providing care to the children residing at the premises is because the children have social and emotional difficulties due to loss and separation from family, traumatic life events and bereavement. They are displaced children, vulnerable and in need of care. The accommodation will not facilitate anyone who is physically or mentally incapacitated. The home is orientated at mainstream traditional independent living under the guidance of carers. There is no need for specialist care associated with any incapacity or wheelchair provision. The home is not regarded as an institution in this respect.



The aim of the care is to facilitate the following for the individuals involved: -

- Provide emotional wellbeing.
- Supporting emotional needs.
- Supporting social needs.
- Giving children a voice and influence.
- Improving understanding of how to identify damaging situations.
- Improving decision making.

The care home will be operated by a registered provider who will manage this children's care home. The provider takes a collaborative approach to the care and support, helping children and young people lead healthy, happy and fulfilled lives as any parent would do so for their child. The company's purpose is to support children, providing them with hope, freedom of choice and the opportunity to be able to succeed all under a traditional family setting. The notion of family is critical to the care home provider. Family environments provide support and stability to children. The company's goal is to provide exceptional quality of care for children. This includes empowering, supporting, and striving for inclusion. They provide excellent residential support and health care to children who are experiencing emotional and social difficulties, neglect and abuse, feelings of rejection and challenges in life.

The provider will deliver the children with all the care and support needed. This will be delivered by the provider through their highly trained carers and support workers. The property will be staffed by a team of experienced, dedicated and fully trained support workers of whom combine this professional experience with a family perspective to create a dynamic service that strives to offer children with better outcomes and wider horizons. The provider has multiple staff on hand however only three members of staff will be present at the property at any time as well as a registered manager who will visit during business hours. An application to Ofsted will be submitted for review pending the outcome of this application.

The notion of living together as a family unit is consistent with C3(a) as demonstrated by the internal arrangement of the house and list of activities taking place. **On balance the physical change of use itself in terms of layout, use and activities taking place at the property is not a material change from C3(a)** in so much that it has been illustrated that the children and carers will form a single household, live together as a family unit and the numbers occupying the premises will not exceed the current occupation which the house could reasonably facilitate.

#### **Staff and visitors / management**

As stated there will be 3 children residing at the property with 3 full-time members of staff (carers) on site (shift pattern), and a manager who will visit during business hours only. There are to be no more than 6 occupants residing in the premises and it is important to note that the manager only attends between 930am and 5pm Monday to Friday and therefore is not considered a resident occupant. It is acknowledged that the proposed care home is to be staffed by care workers on alternating shifts. This is to provide 24-hour care 7 days of the week. It is accepted that there could be an overlap in staff, but this would be for a matter of minutes whilst a shift change occurs. It is unlikely that this would be determinantal in terms of noise impact or disturbance to others.

At a given time, in terms of actual occupants there would be 3 children and 3 carers residing at the premises. There would be 1 visiting manager present during business hours. Even with the manager present the day time occupation would be 7, however the actual maximum resident persons in the property would be 6 as the manager leaves daily and only comes during business hours. This is less than the current occupation of 9 which could reasonably reside in this large dwellinghouse. As stated, the shift change in staff is not material to the numbers on site occupying the premises. It is accepted that sporadic visits may occur at the property i.e. Ofsted inspector once a year, Regulation 44 inspector once a month, a responsible individual fortnightly / once a month, social workers as well as family (dependant on the child's plan). These visits would be intermittent and sporadic and no different to friends and family visiting a traditional home setting under class C3(a).

#### **Staff rota**

- Staff X3, Day shift – 7.30am to 19.15pm
- Staff X3. Night shift – 19.30pm to 7.15am
- Manager – 9.30am to 5pm Mon to Fri

As can be seen the staff handover will only last 15 minutes. The work schedule patterns have been designed to ensure that there is always at least three staff members on duty. No sleeping accommodation is provided for staff. This will ensure that there is no possibility of any antisocial behaviour, and that the children's needs are always met (known as waking nights). During annual and sick leaves of permanent employees, interim staff and reserve team members will cover their duties. The staff handover will take place between 7.15am and 7.30am and between 19.15pm and 19.30pm. This will not be during school hours thus not impacting the staff's ability to take children to school.



Regarding other sporadic visits: -

Ofsted inspector

Once a year during office working hours between Monday and Friday: 9am and 5pm.

Social worker visit

This depends on the individual child's plan but once a month initially, as the children settle the visits will be less. Visits will be during office working hours Monday to Friday between 9am and 5pm.

Regulation 44 inspector

Once a month during office working hours Monday to Friday between 9am and 5pm.

Responsible individual

Fortnightly to begin and then once a month during office working hours Monday to Friday between 9am and 5pm.

LAC Nurse

Once a year for annual health check or never as the child can be asked to visit GP for the check. The nurse may never visit the health check can be taken at an offsite location like a school or a GP practice.

Family visit

These depend on the child's plan but will be no more than once every two weeks. The visits may also take place off site depending on the child's circumstances.

There will be no visitations during staff handover time. This is to be enforced strictly. Visits will be secured by a booking system and managed to ensure that there is no overlap in sporadic visits to the site. During handover time, the staff will be focused on exchanging information between those leaving and those beginning their shifts; therefore, visits will not be appropriate by others.

In terms of movements associated with the proposed use, these are calculated below.

Assumptions

#### Children's Arrangements

- 3 children in residence.
- Attend local schools Monday to Friday.
- Weekend outings and recreational activities take place under supervision of day staff.

#### Visitor Schedule

Visitor Type	Frequency	Notes
Ofsted Inspector	Once per year	Excluded from weekly average
Regulation 44 Inspector	Once per month	≈ 0.25 visit/week
Responsible Individual	Once per month	≈ 0.25 visit/week
Family Visits	Once every 2 weeks	≈ 0.5 visit/week (averaged as one every other weekend)

#### Estimated Movements

Day	Activity Description	Total Movements
Monday	3 children to/from school (6) + 3 day staff in/out (6) + 3 night staff in/out (6) + manager in/out (2)	20
Tuesday	Same as Monday	20
Wednesday	Same as Monday	20
Thursday	Same as Monday	20
Friday	Same as Monday	20
Saturday	3 day staff in/out (6) + 3 night staff in/out (6) + 3 children out with carers (6) + family visit (average 2)	20
Sunday	3 day staff in/out (6) + 3 night staff in/out (6) + 3 children out with carers (6)	18

#### Weekly Movement Summary

Category	Movements
Weekdays (Mon–Fri)	20 × 5 = 100
Saturday	20
Sunday	18
Subtotal (core weekly movements)	138

Category	Movements
Regulation 44 and Responsible Individual visits (~0.25/week each × 2-way) +4	
<b>Adjusted Weekly Total</b>	<b>≈ 142 movements/week</b>

In the existing situation a family of 9 would no doubt have external visitors in the form of: -

- Friends and family. People often welcome guests to their homes for social visits, celebrations, or overnight stays.
- Delivery People. Delivery services like Amazon or UPS will deliver packages to your house.
- Utility Providers. Gas, electricity, water, and internet providers may visit to read meters, install services, or handle repairs.
- Home Care Workers. If someone you know needs in-home care, a home care agency might send a carer to visit.
- Professionals and tradespersons.

There would be movements daily to and from the site in the form of school runs, travelling to and from work, shopping, leisure outings, errands and so on. Whilst 7 children could live in the house, this assessment compares the scenario against 5 children living with their parents.

An estimate of the movements is detailed below: -

Family Scenario: 2 Parents + 5 Children (Active Household)

Assumptions

- Adults (A1, A2): Both work Monday–Friday (commute daily). One also does weekly grocery trips (Sat) and other errands (Sun).
- Children (C1–C5): All attend local schools Monday–Friday.  
3 attend after-school clubs or sports twice a week.  
4 2 older children have weekend social visits.
- Visitors Family/friends, deliveries, and trades occur regularly through the week.  
Home deliveries (Amazon, groceries, parcels): ~3/week.  
Family/friends visits: 2–3 times per week.  
Trades/service calls: ~1 per week.

#### Weekly Movements (Comings + Goings)

Day	Activity Description	People Involved	Movements (Out+In)
Monday	Adults to/from work	A1, A2	4
	Children to/from school	C1–C5	10
	Delivery or tradesperson	1	2
	<b>Subtotal</b>		<b>16</b>
Tuesday	Adults to/from work	A1, A2	4
	Children to/from school	C1–C5	10
	After-school club (2 children)	C1, C2	4
	Friend visit (2 friends)	2	4
	<b>Subtotal</b>		<b>22</b>
Wednesday	Adults to/from work	A1, A2	4
	Children to/from school	C1–C5	10
	After-school club (2 children)	C3, C4	4
	Delivery (parcel/groceries)	1	2
	<b>Subtotal</b>		<b>20</b>
Thursday	Adults to/from work	A1, A2	4
	Children to/from school	C1–C5	10
	Playdate/friend visit	3 friends	6
	<b>Subtotal</b>		<b>20</b>

Day	Activity Description	People Involved	Movements (Out+In)
Friday	Adults to/from work	A1, A2	4
	Children to/from school	C1–C5	10
	Family/friend gathering	3 visitors	6
	<b>Subtotal</b>		<b>20</b>
Saturday	Grocery shop	A1	2
	Sports match/outings (3 children)	C1–C3	6
	Family outing (whole household)	All 7	14
	Friend visit	2	4
	<b>Subtotal</b>		<b>26</b>
Sunday	Church/outings (5 family members)	A2, C1–C4	10
	Visitors drop in (2 friends)	2	4
	Errand (A1)	1	2
	<b>Subtotal</b>		<b>16</b>

Total Weekly Movements: 140

Day	Movements
Monday	16
Tuesday	22
Wednesday	20
Thursday	20
Friday	20
Saturday	26
Sunday	16
<b>Total Weekly Movements ≈140</b>	

Although 3 carers will be present at any one time (rather than two as referenced in the pre-application enquiry), this reflects Ofsted's recommended staff-to-child ratios for 24-hour care and safeguarding. Importantly, this does not alter the overall residential character, level of activity, or number of occupants when compared to the existing lawful C3(a) use especially when considered in the context of contemporary residential occupation patterns. According to the Office for National Statistics (ONS, Families and Households, 2023), around 2.9 million multigenerational households exist in the UK, equivalent to over 11% of all households. Such homes commonly contain three or more generations, often including grandparents, adult children, grandchildren, and in many cases live-in carers or domestic staff. These households frequently comprise five to eight adults present at any one time, with comings and goings associated with employment, school runs, and caring duties.

By comparison, the proposal involves a maximum of six resident occupants (three children and three carers) and a visiting manager during office hours only. The number of resident adults (three) is wholly consistent with, and indeed below, the level observed in many large family dwellings where both parents and grandparents reside together, sometimes with an au pair or live-in nanny.

In planning terms, such arrangements continue to be classified as Class C3(a) use. The number of adults within the household does not of itself constitute a material change of use where the character remains residential and the property functions as a single household unit. The carers in this proposal fulfil the role of parental figures, mirroring the dynamics of extended family structures where several adults share domestic and caring responsibilities.

In this context, the day-to-day pattern of activity, meal preparation, school attendance, leisure time, deliveries, and visitors, is indistinguishable from a large family household. The total resident and visiting population is lower than could reasonably occupy the property under its existing lawful C3(a) use (up to nine persons).

Technically, the density of occupation (6 residents within a 5-bedroom detached dwelling of approximately equates to a residential density of approximately 1.2 persons per room, well within the accepted thresholds of the Housing Act 1985, Part X, and below the occupancy of many typical family homes in the area.

Accordingly, the presence of three adult carers does not represent a fundamental or discernible departure from a multigenerational household pattern and therefore cannot reasonably be regarded as a "material change" in the character of use.

**On balance the comings and goings would be like a single household and not materially different to a C3(a) dwelling.** As previously stated, the existing 5-bedroom home could house 9 people with associated comings and goings. Friends and family could visit at any time. The proposed use has been assessed against a lower number i.e. family of 7. It is considered that at the scale proposed, the development would not result in harmful levels of noise and disturbance that would be out of keeping with a residential area in terms of staff and visitors. The change is therefore considered nonmaterial.

#### **External appearance and internal changes**

The proposal does not involve any external changes above and beyond the C3(a) setting. Visually it would appear as identical. The accommodation remains fully integrated into the residential surroundings. There are no internal changes proposed aside from one of the small bedrooms at first floor becoming a study. **In this regard the change is nonmaterial and no different to a C3(a) dwelling.**

#### **Impact on neighbouring amenity**

Living within a large village region, it would typically be expected to hear, and normally tolerate, noises from the properties around you, such as traffic noise, voices, music, DIY noise, etc. Whilst the use class would change in planning terms, the property would still be in residential occupation akin to a family setting with people using the dwelling and garden as anyone else would in any residential property. In this regard the change of use is not material. The only difference in the case of specialist housing is that the children are vulnerable and thus require special care from specially trained adults. It has been shown that the activities taking place within the property are nearly identical to the existing situation.

It is acknowledged that the proposed care home is to be staffed by care workers on alternating shifts. This is to provide 24-hour care 7 days of the week. There will be 2 members of staff at one time with a manager coming and going. It is accepted that there could be an overlap in staff, but this would be for a matter of minutes whilst a shift change occurs. This has been shown to last no more than 15 minutes. It is unlikely that this would be determinantal in terms of noise impact. The shift change in staff is not material to the numbers on site occupying the premises. It is accepted that sporadic visits may occur at the property i.e. OFSTED inspector once a year, Regulation 44 inspector once a month, social workers and family (dependant on the child's plan).

These visits would be intermittent and no different to friends and family visiting a traditional home setting. The proposal is unlikely to generate more noise in this regard particularly as these visits would be controlled by a booking system.

As previously stated, the existing 5-bedroom home could potentially house a family of up to 9 people with associated comings and goings. Friends and family could visit the premises at any time, deliveries would occur, trade persons would visit and so on. It is considered that at the scale proposed, the development would not result in harmful levels of noise and disturbance that would be out of keeping with a residential area. Additionally, the facility is to be managed by staff which will assist with minimising the potential for adverse impacts upon the amenity of occupiers of neighbouring dwellings by way of noise or anti-social behaviour. A ring doorbell or equivalent will be in operation at the premises. **The change is not material and no different to a C3(a) dwelling.**

#### **Highways**

In planning terms, there is no material difference between the use of a family home occupied by 9 individuals and a small children's home with up to 6 residing occupants in the form of 3 children and 3 carers. The existing C3(a) dwelling, currently capable of housing 9 persons, benefits from 6 off-street parking spaces and an additional space within the garage (7 total). It is reasonable to expect high car dependency in a large family, likely involving the ownership of at least two vehicles, potentially more where older children are present. Visitors such as friends or extended family typically park on the street, which is unrestricted and readily available. They are not restricted from parking on the driveway.

Both the number of occupants and the movements to and from the site have been demonstrated to be non-material when considering a change of use. On this basis, the provision of off-street parking spaces is considered sufficient for the proposed use. The site has 6 off street spaces and a garage (7 total). Operational needs of the children's home would involve some degree of vehicle use: 3 carers may arrive together via carpooling in line with company policy (resulting in one vehicle), and the registered manager would require 1 additional space. 1 space is to be allowed for visitors and therefore, only 3 parking spaces would be regularly required. Irrespective the site has 6 spaces and 1 in the garage as it does in the setting of a family home.

Importantly, the children in the proposed use are not of driving age, further reducing any potential vehicle impact. Overall, the proposed use represents a low-traffic generator that is unlikely to produce any measurable increase in local traffic during peak or off-peak hours. This low level of car usage can be comfortably absorbed within the existing road network without any adverse effects on traffic flow or road safety.

Refuse storage will remain in its existing location, meaning there is no material change in this regard either. **Consequently, the proposed change of use is not considered to be material in planning terms.**

### **Planning as a barrier and the need**

A ministerial statement from Rachel Maclean (Minister of State (Department for Levelling up, Housing and Communities in March 2023)) is relevant. It stated: -

"I, with the support of my Rt Hon colleague the Secretary of State for Education, wish to set out the Government's commitment to support the development of accommodation for looked after children, and its delivery through the planning system.

The planning system should not be a barrier to providing homes for the most vulnerable children in society. When care is the best choice for a child, it is important that the care system provides stable, loving homes close to children's communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love."

The statement goes on to say that: -

"Planning permission will not be required in all cases of development of children's homes, including for changes of use from dwelling 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, on the facts of the case, the specific use is or would be lawful. Where a Certificate is issued, a planning application would not be required for the matters specified in the certificate."

Based on the above it is clear that changes of use from dwelling houses in Class C3 of the Use Classes Order 1987 where there is no material change of use to Class C2 should be supported as is the case here.

### **Framework for assessment**

It is well documented that the only difference in the case of this type of housing is that the children are vulnerable and thus require care from trained adults. Therefore, it can be said that there is no material difference between a house used as a small children's care home and a conventional family dwellinghouse. Recently there have been several Inspectors who have corroborated this approach when determining certificates of lawful proposed use at appeal. These are set out below.

**Appeal Ref: APP/Z5630/X/23/3318074** – dated 24<sup>th</sup> May 2024. 98 Westbury Road – Royal Borough of Kingston Upon Thames. Certificate of lawful use for change of use from a large family dwellinghouse Use Class C3 to small children's care home for up to 6 young people and two adult carers Use Class C2. As a matter of fact and degree, and on the balance of probabilities, the inspector held that the proposed use fell within C2 and consequently the proposal resulted in a change in the use of the property to C2. Notwithstanding this, the Inspector advised that whilst there were no permitted development rights to change the existing C3 use to a C2 use, it did not necessarily follow that a change from one to the other amounted to development requiring planning permission. The key issue was whether the change was material as a matter of fact and degree. In the appeal case, the Inspector considered that the proposed mode of care sought to replicate that of a typical family home with comparable levels of activity. Accordingly, the Inspector found that it was therefore unlikely that the proposed use resulted in a significant difference in the character of the activities from what had gone on previously, as a matter of fact and degree. Consequently, they concluded that the proposed C2 use did not result in a material change of use from the existing class C3 use as a dwellinghouse with the change of use therefore not amounting to development for which planning permission would be required. The appeal therefore succeeded.

**Appeal Ref: APP/C5690/X/23/3329560** - dated 12<sup>th</sup> July 2024. 61 Shaw Road – London Borough of Lewisham. Certificate of lawful use for change of use from a two storey family dwellinghouse Use Class C3 to small children's care home for up to three children and two adult carers Use Class C2. The Inspector found that a house of this size could accommodate a typical family with two/three children and two adults. The use of the house as a home for a maximum of three young people and their carers would not be materially different from the authorised use as a family home. The pattern of comings and goings would be different, but there is no evidence that this would amount to a material change of use. The proposed change of use would not amount to a material change of use of the site. The appeal therefore succeeded.

**Appeal Ref: APP/Z5630/X/23/3329058** – dated 1<sup>st</sup> August 2024. 105 The Crescent – Royal Borough of Kingston Upon Thames. Certificate of lawful use for change of use from a two storey family dwellinghouse Use Class C3 to small children's care home for one child and two adult carers Use Class C2. The Inspector found that the proposed use would not result in a material difference in the character of the activities at the site. Consequently, the proposal would not result in a material change of use from the existing Class C3 use as a dwellinghouse. The appeal therefore succeeded.

**Appeal Ref: APP/M4320/X/22/3300633** – dated 13<sup>th</sup> December 2022. 9 Winstanley Road – Sefton Metropolitan Borough Council. Certificate of lawful use for change of use to a two storey family dwellinghouse Use Class C3 to small children's care home for two children and two adult carers Use Class C2. The Inspector found that the proposed use would not reach the point where it would give rise to such materially different planning circumstances that it would result in such a change in the definable character of the use that it would amount to a material change of use.

**Appeal reference APP/C5690/X/22/3299351** - dated 27th January 2023. 9 Whitburn Road, London. The Inspector stated the following: "The appellant has provided sufficient information to show that on balance there would not be a significant difference in the character of activities at the appeal property from what has gone on previously. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed use as a home for up to three children or young people with up to two full-time resident carers working on a rota basis sleeping overnight was not wellfounded and that the appeal should succeed."

**Appeal reference APP/E2205/X/16/3161037** - dated 17th February 2017. The Cottage, Stonebridge Green Road, Egerton, Ashford The Inspector in allowing the appeal stated "the appellants will be required to comply with all relevant rules governing the accommodation for children in care and their full time supervision and, if the property can meet these regulations and the appellants can meet the staffing requirements, I see no reason why the use proposed would have any planning impacts that would cause it to be considered as a material change of use." The same conclusion was reached by the Inspector within appeal reference APP/P1045/X/20/3263178 (214 Dale Road, Matlock Bath - dated 9th March 2021).

**Appeal reference APP/C4235/X/17/3170427** - dated 28th July 2017. 18 Hillcrest Road, Offerton, Stockport. The Inspector in allowing the appeal stated the following: "I conclude that for the low-level care proposed here and the ability of the residents to look after themselves, the use should as a matter of fact and degree be considered as coming within Use Class C3(b). Therefore, planning permission is not required and I need not consider whether the change is a material change of use."

On the balance of probability, it can be said that there is no material difference between a single household used under C3(a) and small children's care home. The only difference in the case of a children's home and single household is that the children are vulnerable and thus require care from specially trained adults.

The need

It is accepted that the planning merits of the scheme are not in question. That said the following is to be noted.

There is an urgent and demonstrable need for additional children's home accommodation in the Mid Sussex area. At present, vulnerable children are at risk due to a lack of appropriate residential capacity. Many do not have a local residence available, leading to reliance on unsuitable, unregulated, or distant placements. The following evidence underlines this deficit and supports the case for developing more children's homes within the region: -

- A charity working in partnership with West Sussex County Council reported that, as of October 2023, there were 929 children under the council's care an increase of over 35% since 2018. Due to insufficient local foster carers and residential placements, many of these children are being sent "long distances from their homes and local communities." This separation disrupts their support networks and adds further trauma. The situation clearly illustrates the need for more local care provision, including children's homes.
- Whilst Ofsted has praised West Sussex County Council's commitment to improving outcomes for children it highlighted that "placement choice for children who are looked after requires improvement." This assessment further supports the view that local residential capacity remains inadequate.
- Between March 2022 and March 2023, the BBC reports that 49 children under the age of 16 were placed in unregulated and unregistered settings by West Sussex County Council. Across the wider region including Surrey, East Sussex, and Brighton & Hove. This occurred 81 times, totalling over 4,700 days in unregulated care. These placements are considered "a last resort," demonstrating the failure to identify sufficient regulated care within the local area.
- Sussex world reported that in Mid Sussex alone, over 150 households provided kinship care in 2023. While kinship arrangements can be valuable, they often mask systemic shortcomings in formal foster and residential care capacity. This over-reliance on informal arrangements underscores the need for a broader and more sustainable network of care options, including children's homes.

- The Report of the Corporate Parenting Panel (September 2024) outlines an “ambitious investment programme” to build outstanding children’s homes within the county. This initiative, combined with efforts to support foster carers and special guardians, aims to provide more local homes for children in care. The report also reiterates the council’s statutory duty under the Children Act 1989 to ensure “placement sufficiency,” emphasizing their legal obligation to meet the accommodation needs of children in their care. The council has committed to a “relentless focus on improving placement sufficiency and keeping children in our care closer to West Sussex.” A significant capital programme over the past four years has resulted in the development and refurbishment of six children’s homes demonstrating progress but also acknowledging the scale of need.
- The West Sussex Safeguarding Children Partnership (WSSCP) Annual Report 2023–24 notes significant pressures on children’s services due to rising demand and tightening budgets. While it does not specifically reference children’s homes, it speaks to the challenge of meeting safeguarding obligations with limited resources, suggesting that existing residential care infrastructure may be under strain.
- The West Sussex Children and Young People’s Plan (2022–2025) highlights several priorities that further imply a need for enhanced residential care options. These include commitments to protect vulnerable children and those with complex needs, ensure adequate provision to address risks outside the home, support children in care with mental health needs and strengthen early intervention and SEND support systems. Residential care remains an essential part of the infrastructure required to meet these complex and overlapping needs.
- The West Sussex JSNA Summary 2024–2025 provides data that clearly implies a need for more local residential placements. 44% of looked-after children were placed outside the county the highest rate in England. This alone suggests that local capacity is insufficient to meet the demand. Additionally, nearly 10% of children in care experienced three or more placement changes in a single year, a clear indicator of instability caused, in part, by lack of suitable options. The JSNA also reports higher-than-average rates of mental health issues, SEND needs, and permanent school exclusions all of which are factors that increase the need for specialist, therapeutic residential care when other placements fail.
- The council’s ‘Our Council Plan’ affirms its intention to reduce reliance on costly short-term placements and to ensure that children who cannot remain with their families are placed in safe and supportive environments. While it does not explicitly call for more children’s homes, it reinforces the principle that all children deserve appropriate, stable, and nurturing care arrangements.

Collectively, the evidence from charities, government reports, performance reviews, and strategic documents indicates a clear and pressing need to expand the provision of children’s homes in West Sussex, including Mid Sussex. Rising numbers of looked-after children, high rates of out-of-county placements, increased reliance on unregulated settings, and the complexity of children’s needs all point to the same conclusion: current local capacity is inadequate. West Sussex County Council is making commendable efforts to address these challenges, but the demand continues to outpace supply. Additional, high-quality local children’s homes would play a crucial role in improving stability, safety, and outcomes for vulnerable children in the region.

## **Conclusion**

It is considered that the change of use here from the C3(a) lawful use to a C2 use does not amount to a material change of use and thereby not amount to development which requires planning permission. The change of use itself has been examined, staffing, movements, trips, external appearance, neighbouring amenity and highways have also been considered. The activities are similar in nature to the current use and therefore not materially different. It has been demonstrated that the planning system should not be an obstacle to the delivery of children’s homes and that there are numerous appeal decisions illustrating the same.