

2 Lucas Way
Haywards Heath
West Sussex
RH16 1JR

Mr. Stefan Galyas
Mid Sussex District Council
Oaklands, Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

24th August 2025

Re: Planning Application DM/25/1968 at 1 Lucas Way, Haywards Heath, RH16 1JR - Use of a (C3) dwelling as a children's home for a maximum of 3 children with up to three carers, two sleeping overnight working on a rota basis.

Dear Mr. Galyas,

We write in response to the Notification of Planning Application dated 8th August 2025 for 1 Lucas Way. The applicant seeks a Lawful Development Certificate ("LDC") under Section 192 of the Town and Country Planning Act 1990 to operate 1 Lucas Way as a children's home in the manner stated above.

We recognise that only the following matters will be considered by MSDC in this determination:

- whether the development accords with the criteria set out under the relevant planning legislation;
- factual information about the length of time a building/structure/use has been constructed or taken place;
- any other evidence to support/refute the claims being made in the application.

Having carefully considered the application, we write to object against this application. The full details of our objection are below, but in summary the proposed Class C3(b) use is simply incompatible with the nature of children's home being proposed. The proposed development clearly falls within the C2 use, and not C3.

Location

- Our address is 2 Lucas Way, immediately adjacent to Number 1.
- Lucas Way is a small cul-de-sac with six houses, built in the 1950s; accessed only via Lucastes Road.
- The road is quiet, with no pavements and existing parking restrictions. There is a small turning circle at the end of the road.
- All properties fall within the Lucastes Conservation Area. The MSDC publication "Conservation Areas in Mid Sussex" indicates that this conservation area is characterised by *"the absence of on-street parking and a low traffic flow"*.
- Number 1 Lucas Way is on the direct path of the London – Portslade Roman Road.

Context to our response

- We have focused primarily on the application as stated – being a Class C3 to Class C3(b) application [see screenshot in Appendix 1]. We trust that MSDC will consider any LDC solely against the stated proposed change of use – Class C3(b), as this is the class formally applied for.
- Given the significant public interest and precedent setting nature of this application, including potential interest for Councillors and the wider community, we submit that it would be inappropriate for this LDC

application to be determined under delegated powers. Instead, we request that this is appropriately determined by the Planning Committee. We note that the MSDC delegation framework mandates such consideration by the Planning Committee if two councillors express interest in any particular application.

Overall Objection – C3 to C3(b) Application on Two Bases

Basis 1 – Not a “Single Household”

- The applicant’s main argument in the application is that 1 Lucas Way – in being run as a children’s home – will fall within Class C3(b) (Children’s Care Home).
- Their covering letter expands on this – and states that carers will “*sleep overnight at the site changing on a rota system.*”
- We object to the C3 to C3(b) application on the grounds that the nature of the rota system of care is incompatible with the definition of “single household”. Any such application should have been on the basis of a change of use from Class C3 to C2. Specifically:

- the Town and Country Planning (Use Classes) Order 1987 defines Class C3 as follows:

Use as a dwellinghouse, as a sole or main residence and occupied for more than 183 days in a calendar year by [...] (b) not more than six residents living together as a single household where care is provided for residents

- Established Case Law, particularly North Devon District Council v. The First Secretary of State [2003] EWHC 157 indicates that where carers work on a rota system, this cannot constitute a single household. Mr. Justice Collins held as follows [our underlining]:

One has to have regard to the need that they be living together as a single household. The question then arises whether carers who do not live but who provide, not necessarily through the same person, a continuous 24-hour care can be regarded as living together. In my view, the answer to that is no. Consistent with the approach indicated by the Circular, what is required is indeed residential care with a carer living in full-time and looking after those in the premises who otherwise would be unable to live as a household.

[...]

It seems to me that the concept of living together as a household means that, as I have put it, a proper functioning household must exist and, in the context of a case such as this, that must mean that the children and a carer must reside in the premises. Otherwise, as it seems to me, it clearly falls within Class C2.

- The Planning Inspectorate has upheld the decision, where carers are on a rota basis. APP/E2530/X/24/3354568 states [our underlining]:

“The proposed use of the house is as a children’s care home for two children, who could live there from the age of six to the age of eighteen. This use would be within Class C2 and not within Class C3, because (i) the personal care of children is placed in Class C2 by Article 2 of the Order and (ii) the children would not form a household, on account of their age and their dependence on carers who were not residents but would stay in the home on a rota basis.”

- It therefore follows that the LDC under Class C3(b) cannot succeed – as the nature of the proposal is not a single household. We respectfully request that MSDC reject this application on this basis.

Basis 2 - “Care” in the context of Children does not generally fall within C3(b)

- The Town and Country Planning (Use Classes) Order 1987 defines “care” as follows:

personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment;

- Whilst the application is silent as to the likely ages of children expected to live at 1 Lucas Way, it follows that “care” for children falls under Class C2, and not Class C3(b). This is supported by the Planning

Inspectorate example APP/E2530/X/24/3354568 above: *“the personal care of children is placed in Class C2 by Article 2 of the Order.”*

- The LDC under Class C3(b) cannot succeed – as the nature of the proposal is for care of children, which is stated to be a Class C2 matter. We respectfully request that MSDC reject this application on this basis.

Theoretical Consideration of a Change of Class to C2 - insufficient detail to determine materiality

We have noted that the applicant has stated the following in their covering letter:

- *“The application seeks a certificate of lawfulness for the proposed use of a C3 dwelling as a children’s home for a maximum of 3 children with up to three carers, two of whom will sleep overnight, working on a rota basis”;*
- *“It is argued that there is little material difference between the current and proposed use and therefore planning permission is not required”;*
- *“No changes are proposed to the external appearance of the building or surrounding land”;*
- *“Similar proposals have been submitted [,,,] These cases were not deemed to constitute a material change of use. The material considerations and nature of use proposed in this current application are essentially the same as those in the above cases”*
- *“The proposal constitutes a change of use from Use Class C3(a) dwellinghouse to C2 Residential Institution, but this is not considered a material change of use and does not require planning permission”.*

As noted above, we do not consider it appropriate for MSDC to consider this application as being for Class C2. It is inappropriate for the applicant to try to leverage a single application to cover multiple potential possibilities. Furthermore, it would be wholly unreasonable to expect local residents to respond on any alternative basis to reflect a theoretical change of use which has not actually been applied for, simply on the basis that the applicant appears to be covering all potential bases in their covering letter. The application is for C3 to C3(b), and we trust that MSDC will consider and determine any LDC solely against the application criteria.

Notwithstanding this, we wish to expand our objection to cover any theoretical consideration by MSDC of a Class C3 to C2 LDC. This is covered in bullet-point form below:

- The applicant considers that any change of use would not be a “material” change of use.
- Even, if in extremis, were MSDC to consider this as a C3 to C2 LDC – the covering letter lacks substantial and important detail for MSDC to effectively determine such materiality matters, when compared to similar applications of a C3 to C2 nature. Specifically:
 - Such a change of use (from C3 to C2) is not permitted development. Accordingly, to avoid the need for a full planning application, the onus is on the applicant to demonstrate, on the balance of probabilities, that the change of use would not constitute “development” under Section 55 of the Town and Country Planning Act 1990. Failure to do so must result in a full planning application.
 - To “evidence” non-materiality, the applicant has provided limited information about the day-to-day operation of the care home, and links to certain cases considered by Adur and Worthing Council where a LDC was allowed due to non-materiality.
 - However, in many of the cases cited by the applicant, detail provided about the proposed nature and operation of the Childrens’ Homes proposed had significant depth, including 17-page supporting statements focusing on proposed traffic movements, shift times etc. Details in respect of the proposed usage of 1 Lucas Way are extremely limited.
 - Furthermore, the applicant has relied on Adur and Worthing Council as effective precedent. There are multiple examples of where other local authorities have considered a C3 to C2 Children’s Care Home change as material, have refused LDCs, and accordingly required full planning permission.
 - Some such cases have been escalated to the Planning Inspectorate. Specifically:
 - In case APP/R2330/X/22/3309304: the Planning Inspectorate held that despite there being off-road parking at the property, parking considerations should be taken into account when

determining materiality. Furthermore, that the potential change of use to a Children's Care home would create greater potential for visits from external agencies. The applicant had not demonstrated, on the balance of probabilities, that ... *"there would not be material change of use to a C2 use"*.

- In case APP/G4240/X/23/3327733: the Planning Inspectorate held that in the road in question, which appears to be extremely similar in nature to Lucas Way – a small cul-de-sac with a turning circle and no footpaths – would be impacted. Specifically, paragraph 23 of the decision states (our underlining):

"Taking account all these factors, the property would result in a significantly different character from just the existing residential use and would result in off-site impacts as a consequence of the proposed use including the comings and goings by the staff, visitors, multi-agency workers, vehicles and parking. It would therefore amount to a material change of use which would require planning permission. Therefore, I consider that there would be a material difference in the character of the use of the property in comparison to the existing use of the dwellinghouse."

- It appears that neither of these decisions related to dwellings in Conservation Areas – but yet vehicle movements were still key to the materiality decision. We submit that the existence of the Lucastes Conservation Area, the stated nature of which comprises the absence of on-street parking and a low traffic flow, is sufficient to require MSDC to consider such a proposed change is 'material'.

Conclusion

To summarise this letter:

- We wish to formally object to the applied for change of use from C3 to C3(b). This is on the basis that the rota system adopted by the carers is incompatible with Class C3(b). Furthermore, the definition of "care" in Article 2 of the Town and Country Planning (Use Classes) Order 1987 indicates that insofar as this relates to Children's Homes, this is a Class C2 use. We respectfully request that MSDC rejects the application on this basis.
- The applicant appears to be formally applying for C3(b), but informally appears to suggest a fallback of Class C2 (presumably in the event that the C3(b) application fails). It is inappropriate for the applicant to try to leverage a single application to cover multiple potential possibilities. The application is for C3 to C3(b), and we consider this should that the request for a LDC should only be determined on this basis.
- Throughout the applicant contends that such a change would not constitute a "material" change of use. However, if MSDC were to consider a LDC under C3 to C2 change of use, previous judgements contend that this may be material, and constitute "development" under Section 55 of the Town and Country Planning Act 1990, particularly given the quiet nature of the Lucas Way cul-de-sac, limited on-road parking, and the stated nature of the Lucastes Conservation Area. Accordingly, a LDC would be inappropriate in that circumstance.
- Given the nature of the application, and potential interest for Councillors and the wider community, we submit that it would be inappropriate for this LDC application to be determined under delegated powers. Instead, we request that this is appropriately determined by the Planning Committee.

We respectfully request that Planning Application DM/25/1968 be referred to the Planning Committee for determination and that no Lawful Development Certificate be granted under Class C3(b) or C2 without full consultation with affected residents.

Yours sincerely,

[CC: In respect of Haywards Heath Town Council (Lucastes & Bolnore): Cllrs. Paul Lucraft, Sinead Walsh, Allan Murray. In respect of MSDC (Lucastes & Bolnore): Cllrs. Abdul Bashir and Paul Lucraft.]

Appendix 1:

Screenshot from application form

Select the use class that relates to the existing or last use.

C3 - Dwellinghouses

Information about the proposed use(s)

Select the use class that relates to the proposed use.

C3 - Dwellinghouses

Is the proposed operation or use

- ☒ Permanent
- ☐ Temporary

Why do you consider that a Lawful Development Certificate should be granted for this proposal?

Use Class C3 (single family dwelling) also provides for, under C3(b) (Childrens Care Home), the occupation of a dwelling by not more than six residents living together as a single household where care is provided for residents.