

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1968	Case Officer:	Stefan Galyas
Application Type:	Lawful Development Certificate -Proposed		
Proposal:	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		
Site:	1 Lucas Way, Haywards Heath, West Sussex, RH16 1JR, , , ,		
Validation Date	5 Aug 2025	Overall Expiry Date:	14 Oct 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Refusal	Recommendation Date:	23 Oct 2025
Target Date:	30 Sep 2025	Recommending Officer Signature:	<i>Stefan Galyas</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	16
--	--	-------------------------------	----

Signed and Agreed By:	<i>Steven King</i>	Date:	24 Oct 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1968

**1 Lucas Way, Haywards Heath, West Sussex, 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
Mr Anthony Nelson**

REPRESENTATIONS

There were 14 letters of representation received in response to the proposal with all 14 raising objections. The following issues were raised:

- The application site being located within a Conservation Area and therefore requiring full planning permission.
- There being an increase in traffic down the cul-de-sac as a result of the proposed development.
- An adverse noise impact being incurred through the close being used as a playground for children.
- There being no facilities for teenagers which may lead to future unsociable behaviour.
- That the application should be determined by way of Planning Committee as opposed to under delegated powers. This is in light of the local public interest and precedent setting nature of the application.
- The rota care system not being compatible with the term 'single household' and therefore not practicable under C3 to C3(b).
- The LDC not being practicable under the premises of a C3(b) use as this involves care for children under a C2 use class.
- The application having been made specifically for C3 to C3(b) and the Council should determine the application when assessed against this criteria.
- The covering letter lacking substantial detail with regard to materiality matters.
- There being a lack of information with regard to traffic movements and shift times.
- The proposal compromising highway safety as there are no pavements and an increase in vehicular traffic and parking demand on a quiet residential road.
- There being a loss of a residential dwelling which contributes towards the local housing mix and availability.
- The other examples provided within the submitted Planning Statement not being applicable to the current application as they are positioned on long, busy through roads and not a cul-de-sac.
- Not having received a neighbour notification letter despite being located nearby and materially affected by the proposal. This undermines the fairness and legality of the consultation process.
- The service provider of the care home not having much experience in managing and running children's homes, giving rise to concerns about maintenance issues.
- The provisions of Care Standards Act (2000) and the related Regulations (2015) and the Children's Home Regulations (2010) should be examined.
- No information having been provided regarding the age of the children, shift patterns or other staff, vehicle movements or assess the existing baseline use against the proposed use.
- There already having been unauthorised works carried out to the trees on site.
- The proposal being incompatible with the vehicle parking standards due to limited driveway space and roadside parking restrictions.
- Ambiguous information provided as part of the application which states that the proposal will not constitute a change of use whilst in other sections, it notes that the proposal will be a change of use from C3 to C2.
- The map drawn on the initial page of the applicant letter truncates the end of Lucas Way and does not show the turning circle, giving the wrong impression that the street acts as a through road.
- On the balance of probabilities, the overall comings and goings not being comparable to that of a single household.
- Workers within the care home taking breaks and making mobile phone calls in front of the property, reinforcing the commercial nature of the proposal.

- The applicant being a lessee but not stating whether the property owner has been informed.

The application was subsequently readvertised following the submission of further information about the proposed use. A total of 9 letters of representation were received which raised an objection towards the proposal for the following reasons:

- The Statement of Purpose confirming that the proposed use would fall within C2 and that the care home cannot be considered as a dwellinghouse.
- The level of staffing and rotation patterns being inconsistent with a single household.
- The use of night alarms, doorbell surveillance, regular external visitors and rotating staff presence intensifying the residential nature of the site, thus materially differing from a domestic residence.
- The use of a company car in addition to staff cars being constrained by the current driveway.
- Regular and monthly visits from professionals adding to the amount of vehicle movements in comparison to a single household.
- The application sites context within the Lucastes Conservation Area requiring the Applicant to preserve and enhance the character of the area, which the Applicant has failed to demonstrate.
- There being insufficient car parking space for the four carers.
- The site not being appropriate for a commercial operation with restricted access and family homes.
- The additional information document being heavily redacted making it not possible to comment.

CONSULTATIONS

Town Council: *'The Town Council notes neighbours concerns and requests that Mid Sussex District Council closely scrutinise this application, due to the lack of clarity regarding the intended class and use for the property.'*

INTRODUCTION

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

RELEVANT PLANNING HISTORY

06/00046/FUL - First floor side extension above existing flat roof garage, incorporating new front and rear dormer. Two storey front extension. Additional front dormer. Permission 10.04.2006.

06/01873/FUL - Conversion of integral garage to habitable room and replacement of existing garage door with bay window. Permission 10.10.2006.

SITE AND SURROUNDINGS

The Certificate of Lawfulness relates to 1 Lucas Way, a detached two storey residential dwelling set to the northern side of the cul-de-sac. The existing dwelling is set back from the highway edge by a brick paved driveway and front garden amenity space. Further garden amenity space is offered to the rear within a box plot format. Lucas Way features a number of other residential properties clustered around the turning circle and a number of mature trees providing a verdant character to the locality. The cul-de-sac does not have a pavement edge and is subject to on road parking restrictions with a single yellow line. The site is set within the built up area for Haywards Heath and is also positioned in the Lucastes Conservation Area.

APPLICATION DETAILS

The application seeks to use the existing dwellinghouse as a children's home for a maximum of three children and up to three carers, two of which would sleep overnight on a shift rota basis.

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

The application is supported by the following schedule of documents:

- Application Form
- Site Location Plan
- Cover Letter
- Statement of Purpose
- Email Confirmation of Details

LEGAL FRAMEWORK

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

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

Permitted Development

Permitted Development:

Permitted Development

Class C3. Dwellinghouses

Use as a dwellinghouse (whether or not as a sole or main residence) by—

- (a) a single person or by people to be regarded as forming a single household;
 - (b) not more than six residents living together as a single household where care is provided for residents;
- or
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Interpretation of Class C3

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

Class C2 (Residential Institutions) - relates to residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres. This use class also has a subcategory C2A for 'secure residential institutions' including prisons, detention centres, custody centre, secure hospital or secure local authority accommodation.

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

ASSESSMENT

The property's planning history has been checked and permitted development rights are understood to be intact. The property is located on Article 2(3) land and is set within the Lucastes Conservation Area.

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

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

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

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

The application submission states that the proposed use would accommodate a children's home for up to three children who be predominantly between the ages of 10 to 16. There are intended to be up to three carers on site at any one time. Care staff will operate on 4 days on and 4 days off rota basis with a total of 10 members of staff alternating between the team. There would be no more than three members of staff on site at any one time. A deputy manager will be present on site, working alternating shift patterns.

Consideration of the Materiality of the Change of Use

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

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

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

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

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

With regard to the proposed use, there would be comings and goings likely including vehicular movements generated by changing care staff, taking children to and home from school, visits from training staff and trips for shopping and leisure. It is considered that the submission still lacks information regarding the average weekly movements and fails to account for family and visitors of the children. Whilst reference is made to 'family time' within the Statement of Purpose, it is not clear how often this would take place. Moreover, the Planning Statement only notes that visitors would 'generally' be daily carers, social workers every six weeks and OFSTED inspectors annually. This description is not considered to provide sufficient clarity to ascertain the proposed amount of comings and goings on site.

It is acknowledged that the staffing team would be composed of a total of ten people. Detail has been provided with regard to how often staff shifts would change and that no more than three carers could be on site at any one time under the Lawful Development Certificate. The submission contains some information regarding how the children would be transported through the use of a company car and local bus service for those working towards independence, however, the submission lacks detail of the staff's

proposed transport. No information has been provided regarding how the members of staff would visit the site.

Whilst information has been provided with regard to the existing floor plans as a four-bedroom dwelling, limited information has been provided regarding the existing baseline use. The Applicant seeks to demonstrate on the balance of probabilities that the four-bedroom dwelling would have a certain occupancy level, however there has been no information submitted regarding the existing household composition and weekly movements.

Accordingly, the Applicant's evidence base on the balance of probabilities is not considered to sufficiently demonstrate the baseline use for which a comparison against the proposed can be made. Moreover, there are also gaps in information regarding the proposed use with regard to the comings and goings.

As set out in The Town and Country Planning Act 1990, the burden of proof lies with the Applicant, and the Planning Practice Guidance establishes that the Applicant must describe the proposal with sufficient clarity and precision to enable the local planning authority to understand the proposal. It is considered that an insufficient level of information has been provided, pursuant to establish that the change of use would not be material.

CONCLUSION

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

Decision: Refusal

Case Officer: Stefan Galyas