

PLANNING PERMISSION FOR RESIDENTIAL CARE HOMES FOR CHILDREN C2 OR C3 – GUIDANCE NOTE.

The Town and Country (Use Classes) Order (as amended) distinguishes a range of uses of buildings and specifically permits changes of use from one use to another within individual classes.

Where activity results in a **material** change of use of a building to a use falling within different use class then planning permission will be required to authorise change of use.

A residential care home for children will normally fall into a C2 Use Class but depending on the circumstances of each case it may be considered that a material change of use from C3 will not occur.

Use Class C2 (Residential Institutions) of the above Order reads as follows:

Use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3 (dwellinghouses)) Use as a hospital or nursing home Use as a residential school, college or training centre.

Use Class C3 (Dwelling houses) reads as follows:

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,*
- (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)*

A material change of use from class C3 to C2 amounts to development requiring planning permission. There is therefore a potential requirement for planning permission to use a dwelling house as a residential care home for children.

The starting point is to first establish as a matter of fact and degree, whether such a use would constitute a change of use from C3 to C2. The issue largely centres on whether a material change of use will occur.

It is important to bear in mind that a change of use from C3 to C2 may not amount to development which requires planning permission. So, it is possible to conclude that no material change of use has occurred, or will occur, if there is no material difference in activity to that which may be anticipated in the case of a conventional residential use.

So, if the premises has the look and character of a conventional residential dwelling and the use gives rise to no greater level of disturbance or amenity effects than could be generated by a C3 use, then no material change of use has occurred, or will occur.

If planning permission is required, what are the issues to be considered?

The key issues relates to the impact of the amenity of nearby occupiers. Relevant considerations/factors will include the movements to and from the premises associated with such a use, including shift patterns, the need for visitors on regular basis, including emergency services. It will also be considered if substantial internal alterations are proposed in order to facilitate the use.

Where unauthorised development has taken place, as for any other enforcement case, an assessment of the expediency of taking enforcement action will need to be considered.

If a planning application is submitted then generally, if the premises in question provides for sufficient parking, outdoor space and the amenity effects on neighbouring dwellings are capable of being mitigated, it is the case that these developments would normally be considered appropriate uses, in planning terms, in residential areas. Similarly, if the surrounding area is not characterised mainly by single family dwellings, it may could be the case that such a use could continue with little appreciable impact subject to there being no increased concerns in other areas such as to highway safety.

In cases where no 'material change of use' is proposed (i.e. small scale):

The submission of a Lawful Development Certificate will be required.

Each property/proposal to be judged on merit but as a rule of thumb:

- i) Semi-detached and terrace houses (typically three bedrooms) - no more than two children. At least two car parking spaces in place. We need to refer to number of carers and shift patterns etc.
- ii) Detached houses (four/five bedrooms) – no more than three children. At least three car parking spaces in place. We need to refer to number of carers and shift patterns etc.

Summary

The issue of whether or not a material change of use has occurred, or will occur, will ultimately be a matter of fact and degree in each individual case. The key issues are however, the number of residents involved and whether or not staff work shift patterns and the materiality in planning terms of any change of use.

The starting point will be to consider:

1. The number of residents involved and how the operation is to be conducted, for example whether or not staff are employed and if shift patterns are in operation. It should also be considered whether any significant alterations are to be carried out to the property – extensions or increase in the number of bedrooms. Are the number of bedrooms proportionate to the number of children being cared for, and also for sleep over staff?
2. By contrast, where staff working shift patterns and are not full time residents this is consistent with C2 use. Ultimately it will remain a matter of planning judgement but this should be the start of a sequence of considerations to help establish whether or not a change in the character of a dwelling-house has occurred, for example, through increased coming and goings and disturbance.

There are many care-related uses that operate smoothly in residential areas without complaint, and generally, residential areas are the most suitable place for such uses. Others, by contrast, may result in long-term harm and significant amenity concerns for adjoining residents. It must also be fully recognised that whilst planning processes can be used to regularise existing situations, it can only complement other statutory functions, and if proposals

are on the own merits acceptable, any planning controls through the use of conditions, will be limited. Equally, such assessments require careful balancing of the need to assess the amenity expectations of residents in their communities against the need to ensure that vulnerable children are also appropriately accommodated.