

Development Management - Delegated Officer Report

Application Number: AWDM/0055/26

**Recommendation –
Grant Certificate**

Site: 29 Lancing Close, Sompting, BN15 9NJ

Proposal: Application for a Lawful Development Certificate for a proposed use of a C3a dwelling as a children's home for a maximum of 3 children with up to four carers, two sleeping overnight working on a rota basis C2.

Date of site visit: Assessment has been assisted using the Applicants plans; Earthlight mapping; and Google 3D of the site.

Neighbours checked: Y

Additional neighbour notifications: N

Site and Surroundings:

No. 29 Lancing Close is a 2 ½ storey middle of terrace dwelling within a large Close. The half storey being a gain via a loft conversion. There is a small dormer within the front roofslope, and another within the rear roofslope. The front amenity area has been concreted to allow for the parking of cars, and the keeping of dustbins.

The street is characterized by 2 storey dwellings in terraced form, many of which have extended their properties, mainly to the rear, and some have extended into their roofs e.g. no. 32 and others.

The site is not a Listed Building or within a Conservation Area.

Relevant Planning History:

AWDM/1908/20 Single storey rear extension. **Approved 14.01.2021**

Proposal:

A Certificate of Lawful Development Certificate for a proposed use of a C3a dwelling as a children's home for a maximum of 3no. children with up to four carers, two sleeping overnight working on a rota basis C2.

Class C3 Dwellinghouses – is formed of 3 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.

Class C2 Residential Institutions:

Use 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 sub category C2A for 'secure residential institutions' including prisons, detention centres, custody centre, secure hospital or secure local authority accommodation.

Use Class C2 (residential institutions) can benefit from limited permitted development opportunities to change use without requiring a full planning application. There may be conditions and limitations to such a change however, and further detailed information about this can be found on the Planning Portal website. This website also details other restrictions to permitted development that may be in place, such as planning conditions or Article 4 Directions, and it is recommended to get confirmation from the local planning authority about changes of use proposed using permitted development rights.

If a C2 premises does not benefit from permitted development rights, planning permission may be sought to change it to another use.

Applicants Case for the Application:

The principle is that the children and carers living at the dwelling house will function as a household with the carers who sleep overnight at the site changing on a rota system.

The agent accepts that the proposed use falls within Use Class C2 and hence the change of use from C3 is not an automatic permitted change. However, it is nevertheless argued that there is little material difference between the current and proposed use, meaning that planning permission is not required.

“Section 55(1) of The Act defines the meaning of the term ‘development’ as including the making of any material change in the use of any buildings. Section 55(2)(f)

essentially states that in the case of buildings which are used for a purpose of any class specified by the Secretary of State, the use of the building for any purpose within the same class shall not be taken for the purposes of The Act as amounting to development. Section 57(1) of The Act provides that planning permission is required for the carrying out of any development of land and Section 336(1) defines 'land' as including a building. Section 192 of The Act (as amended) makes provision for an application to be made to the local planning authority to ascertain whether any proposed use of a building would be lawful and which is the purpose of this application.

In a ministerial statement from Rachel Maclean (Minister of State (Department for Levelling up, Housing and Communities in March 2023)) she stated: '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'."

Also within the applicants Case for the Application it is stated that care is provided in small sized family units where residential carers help to develop the social and life skills needed when the child no longer live within an institution.

There are normally no visits from family. Where these take place, they're away from the home. There will be visits from friends when deemed appropriate, which would be in accordance with their care plan. This would be no different from children in a typical household.

The property would provide the children with their sole and main residence, with free and shared access to living, dining, and kitchen facilities, an ability to take shared meals prepared for them or make their own food or drink.

The child would be taken to and brought home from school each day and with their carers would interact with the property and the residence in a way that is very similar to an adult resident, parent or guardian. The residents would eat together and carry out domestic chores. The home would seek to foster lifestyles which would be the same as if the child was living in a family home.

The comings and goings are not considered to be significantly different from those associated with the current. The home manager, also a carer, would arrive most weekday mornings and leave each evening, representing two car movements.

Consultation:

Legal Services:

The proposed use is not dissimilar to the family residing at the address with 3 children and based on the supporting information in relation to school, appointments, comings and goings there would be no material change to the premises. On the

balance of probabilities the proposed use will not give rise to a greater level of disturbance or amenity effects than could be generated by the use of it as a dwelling.

Satisfied that, on the balance of probabilities, the certificate of lawful development can be granted. The applicant's evidence is satisfactory to demonstrate that planning permission is not required because there will be no building operations and the change of use from the existing C3(a) use to the proposed C2 use is not material (i.e. there will be no development requiring permission as defined by s.55 TCPA 1990).

Representations:

None received

Planning Assessment

The relevant considerations are the facts of the case and the relevant planning law.

The planning merits of the proposal are not relevant matters here.

The determination of applications for Certificates of Lawfulness is restricted to consideration of the lawfulness of the proposal. Effectively, the issue for consideration is whether the proposal needs planning permission by means of an application, or alternatively may be carried out without any such need because it is not development or is permitted development or is *de Minimis* or is not a material change of use or is immune from enforcement and so has achieved lawfulness. The, otherwise, planning merits or de-merits of a proposal are outside of the scope of the determination.

The relevant test for such an application is whether, on the balance of probabilities, the applicant has proven the proposed use is lawful. The onus is upon the applicant to demonstrate proof.

There has been case law to show that the use of the property as a children's home would constitute a change of use from Class C3 (dwellinghouse) to C2 (residential institution). The property will not stay in the same use class i.e. C3, because of the fact that the carers will operate in a shift pattern and will not properly reside at the property. Case law demonstrates that it is essential that the carers live at the property in order for it to remain as a dwelling.

Conclusion:

The onus of proof rests on the Applicant to provide evidence that demonstrates (on the balance of probabilities) that there will not be a material change of use. In this case, the size and layout of the property, and the use as a children's home for up to 3no children with up to 4no. full time carers, used as indicated within the submission and supporting information, would, on the balance of probabilities, not constitute a material change of use requiring planning permission.

RECOMMENDATION:

Issue Certificate

REASON FOR RECOMMENDATION:

It has been accepted on the balance of probability that the proposed use would constitute a change of use from Use Class C3(a) dwellinghouses to C2 Residential Institutions, however it does not amount to a material change of use and no development requiring planning permission would therefore take place under Section 55(2) of The Town and Country planning Act 1990 (as amended).

This certificate relates only to 29 Lancing Close, Sompting, BN15 9NJ, as outlined in red on the submitted site plan received on the 9th February 2026 together with the Ground Floor New; Ground Floor Existing; First Floor; and Second Floor Layout Plans received on the 9th February 2026 and the precise use referred to below and within the supporting information:

Use as a Class C2 children's home for a maximum of 3 children with up to four carers, two of whom will sleep overnight, working on a rota basis.

The use is not liable to enforcement action under Section 172 of the Act. However, if any further development/intensification and change in circumstance is carried out subsequent to the issue of this certificate, it may be liable to formal enforcement action by the Local Planning Authority.

This certificate only makes lawful the uses referred to above and does not provide immunity from enforcement for any other use.

Case Officer: Eve Hearsey

Date: 22.04.2026

Authorised by: Peter Barnett

Date: 22 April 2026