



**Melton  
Borough  
Council**

# **Planning Guidance for Applicants**

## **Children's Homes**

**MARCH 2024**

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## **Part 1 - Background**

### **1. Introduction**

- 1.1. Melton Borough Council (“the Council”) are a Local Planning Authority (“LPA”). LPAs are responsible for the planning function in England.
- 1.2. The purpose of this guidance is to provide information and assistance for the development of, or changes of use for children’s homes. This guidance will also provide information in respect of applications for Lawful Development Certificates for children’s homes.
- 1.3. This guidance seeks to clarify and provide information around legislation and policy and how this informs the decision-making process around children’s homes.
- 1.4. This guidance does not create new policy but references existing policy and is considered to be a material planning consideration in the determination of applications.
- 1.5. The guidance is not exhaustive or conclusive but rather seeks to highlight the relevant legislation, regulations, guidance and policy that will be used in the decision-making process. Every case will be assessed on its merits, and it is advised that pre-application advice is sought from the Council in respect of a specific application (see Section 15).

### **2. Aims and Objectives**

- 2.1. The Council is fully supportive of children’s homes and the key role they play in providing an important part of the social care provision for children. The Council aims to:
  - 2.1.1. ensure that such accommodation is located in appropriate and suitable locations that best meet the needs of looked after children and can also integrate into existing settings with consideration of the current infrastructure available;
  - 2.1.2. support and safeguard children in care and local communities through the use of structured and robust management plans;
  - 2.1.3. avoid the undue concentration of children’s homes in a particular area having regard to the existing character and amenity of an area; and
  - 2.1.4. actively support and enhance local communities for all residents within an area.
- 2.2. The planning system is not the only regulatory regime relevant to children’s home. Section 11 of the Care Standards Act 2000 and the Children’s Homes (England) Regulations 2015 require care homes to be registered with Ofsted. There is also guidance that care providers should follow when registering and operating a children’s home (including the suitability of locations through location assessments).

### **3. The Planning Position**

- 3.1. The Council has noted an increase in the use of dwellings as children's homes in recent times. Some of these properties have applied for Lawful Development Certificates, some for full planning permissions and some neither.
- 3.2. A Lawful Development Certificate is a mechanism by which an application can be made to the Council as a Local Planning Authority to consider whether the use of a building or land is lawful and whether there has been a material change of use.
- 3.3. The Council's planning department have worked with other Council departments and stakeholders to better understand the nature of children's care homes and associated considerations.

### **4. What are the relevant 'Use Classes'?**

- 4.1. All buildings and land within England will have a use, and this use will be defined by the Town and Country Planning (Use Classes) Order 1987 ("the Use Class Order").
- 4.2. The Use Class Order has a number of classes, and the relevant classes for this purpose can be set out as follows<sup>1</sup>:
  - 4.2.1. C2 Residential Institutions  
Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)). This includes the personal care of children.
  - 4.2.2. C3 Residential dwellings  
C3(a) – a single person or people who can be regarded to form a single household.  
C3(b) – not more than six residents living together as a single household where care is provided for residents.  
C3(c) – not more than six residents living together as a single household where no care is provided to residents.

### **5. What use class does a Children's Care Home come under?**

- 5.1. Whilst it may appear that a children's care home could fall under either C2 or C3 use, case law<sup>2</sup> has found that children could not form a household on their own and therefore where carers do not reside at the premises, the use class will fall within C2.
- 5.2. In the majority of (but not all) cases, care providers will not reside at the premises and so most children's homes will come under C2.

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<sup>1</sup> Please note this is a summary and the exact wording can be found within the Use Class Order

<sup>2</sup> North Devon District Council v First Secretary of State [2003] EWHC 157 (Admin)

## **6. When will a change of use application be required?**

- 6.1. The fact that a children's care home may be a different use class from a residential dwelling does not necessarily require approval. A change of use application will only be required where a change of use is 'material'.
- 6.2. There is no statutory definition of what constitute a material change of use. Rather, it is a matter of judgement to be assessed in considering all of the facts and circumstances of a particular case.

## **7. Considerations for a 'Material' Change**

- 7.1. The Council is of the opinion that (notwithstanding that every case will be considered on its own merits) a change of use from a dwellinghouse to a Children's Care Home will often be material for the reasons set out below.
- 7.2. In assessing whether there has been a material change of use, the Council will amongst other factors consider the:
  - 7.2.1. change in the character to an area based on the operating information and day-to-day activities of the children's care home;
  - 7.2.2. impact of the children's home on an area (particularly in less sustainable locations);
  - 7.2.3. changes by way of physical alteration(s);
  - 7.2.4. concentration and proportionality; and
  - 7.2.5. information contained within the specific management plan and location assessment for the home.
- 7.3. In the event that it is established that there is a material change of use, a planning application will need to be made to the Council.
- 7.4. The Council will then make an assessment of the application to ensure that the provision of children's homes are established in appropriate properties in suitable and sustainable locations.

## **8. National Planning Policy**

- 8.1. The National Planning Policy Framework (September 2023) ("the NPPF") is the national planning policy for England.
- 8.2. Paragraph 60 states that LPAs should "support the Government's objective of significantly boosting the supply of home" and that "the needs of groups with specific housing requirements are addressed".
- 8.3. Paragraph 61 requires consideration for how housing needs in an area should be assessed.
- 8.4. Paragraph 62 states that the type of housing should be reflective of and assessed for all different types and groups of people (specifically including care homes).
- 8.5. Written ministerial statement (23 May 2023)

- 8.5.1. A written ministerial statement<sup>3</sup> (which is a material planning consideration) was issued by the then Housing Minister specifically relating to the planning system and children’s care homes. This stated (inter alia) that:

“the planning system should not be a barrier to providing homes for the most vulnerable children in society.” ... “local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions.” ... “In two tier authorities, we expect local planning authorities to support these vital developments where appropriate, to ensure that children in need of accommodation are provided for in their communities”.

## **9. Local Planning Policy**

- 9.1. The Melton Local Plan (adopted October 2018) sets out the local development strategy for Melton Borough up to 2036, including a vision and objectives that seeks to deliver a wide choice of quality homes to meet the needs of Melton Borough’s community. The plan also sets out a number of planning policies to direct development.
- 9.2. Notwithstanding the fact there is no specific policy relating to children’s care homes, the Local Plan includes a number of policies that are of most relevance (this list is not exhaustive and the relevant policies will depend on a particular application):
- 9.2.1. Policy SS1 sets out a presumption in favour of sustainable development.
  - 9.2.2. Policy SS2 seeks to restrict new development in the countryside to that which is necessary and appropriate for the open countryside.
  - 9.2.3. Policy SS3 seeks to accommodate a proportion of the Borough’s housing need in Rural Settlements to support their role in the Borough through planning positively for new homes as ‘windfall’ sites within and adjoining settlements by 2036. This development will be delivered through small unallocated sites which meet the needs and enhance the sustainability of the settlement.
  - 9.2.4. Policy C2 seeks to manage the delivery of a mix of house types, tenures and sizes to balance the current housing offer.
  - 9.2.5. Policy C9 seeks to ensure that all development proposals make a positive contribution to a number of promoters of health and well-being.
  - 9.2.6. Policy EN6 states development proposals will be supported where they do not harm open areas which contribute positively to the individual character of a settlement, contribute to the setting of historic built form and features or contribute to the key characteristics and features of conservation areas.

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<sup>3</sup> <https://questions-statements.parliament.uk/written-statements/detail/2023-05-23/hcws795>

- 9.2.7. Policy IN2 seeks to ensure the support and promotion of an efficient and safe transport network offering a range of transport choices for the movement of people and goods, reducing the need to travel by car and encouraging use of alternatives, such as walking, cycling, and public transport.
- 9.2.8. Policy D1 seeks to raise the standard of design through siting and design being sympathetic to the character of the area, to protect the amenity of neighbours, utilise the existing trees and hedges together with new landscaping and make adequate car parking provision.
- 9.3. The Council's Supplementary Planning Document for Design of Development may also be referred to.
- 9.4. The Leicestershire Highway Design Guide (Leicestershire County Council) may also be referred to.
- 9.5. There may also be considerations within the relevant Neighbourhood Plan for an area.

## **10. Location Assessments**

- 10.1. The Council expects applicants to include with their application a supporting statement in respect of the appropriateness of the location.
- 10.2. These assessment documents should include the following:
  - 10.2.1. a justification and explanation as to the appropriateness of the premises;
  - 10.2.2. that the premises is located in a suitable and sustainable location;
  - 10.2.3. that it would not lead to an undue concentration of children's home in that particular area;
  - 10.2.4. that it would not adversely affect or impact the local character and amenity; and
  - 10.2.5. that it provides suitable access and parking provision to accommodate activity associated with the premises.

## **11. Types of Properties**

- 11.1. Generally, the following types of property are considered appropriate:
  - 11.1.1. Terraced properties – generally only suitable for accommodating one child.
  - 11.1.2. Semi-detached properties – generally only suitable for accommodating up to two children.
  - 11.1.3. Detached properties – can be used to accommodate one or two children but become necessary for proposals seeking to accommodate three children or more, subject to relevant material planning considerations.

- 11.2. The density of the premises in relation to neighbouring properties must also be considered.

## **12. Other changes that may be required**

- 12.1. It is acknowledged that some children may have suffered from some form of trauma resulting in some complex needs. These children undoubtedly deserve to live in a pleasant, caring and supported residential environment as part of the community, but it is also important that the amenities of neighbours be appropriately protected. As such, the following measures may be required:

- 12.1.1. Installation of sound-proofing to protect party walls and residential amenity.

- 12.1.2. Prevent children from having access to balconies, roof terraces, and any flat-room areas.

- 12.1.3. Provision of appropriate boundary treatments to garden areas; and

- 12.1.4. Installation of CCTV.

## **13. Car Parking**

- 13.1. It is recognised that children's care homes may require more parking than an equivalent sized dwellinghouse due to the number of support staff and visits from other professional workers.
- 13.2. On this basis, children's care homes will only be supported where adequate parking provision to meet the needs of the home can be demonstrated. This should ordinarily be off-street parking, but on-street parking may be considered where available and not subject to excessive pressure.
- 13.3. When considering parking availability, due regard will be given to the care ratio, the needs of the children accommodated, and the operational model of the home, the nature of the surrounding area and the presence of any parking restrictions on-street. In essence, each proposal will be considered on its own particular merits.
- 13.4. Vehicular movements and frequency of access that would result from the intensification of activity in and around the site, particularly in unsociable hours, can be disruptive in a residential setting and impact on visual and residential amenity.

## **14. Management Plans**

- 14.1. A Management Plan must be submitted with all applications for planning permission or Lawful Development Certificates for a children's care home. This information will inform the decision made on the suitability of the location and also the potential impacts on residential amenity.
- 14.2. It is noted that some information contained within the Management Plan will be sensitive and therefore redacted prior to publication on the Council's



Planning Website.

14.3. The Management Plan should consider the following questions to guide its preparation:

- 14.3.1. How many children would be accommodated and the age range?
- 14.3.2. What is the ratio of staff to children that is required i.e. delivery model?
- 14.3.3. What is the likely level of need of the children accommodated i.e. is there a focus on complex needs? Will the home have a particular specialism?
- 14.3.4. What is the likely shift pattern of staff i.e. how many staff (management and care staff) would likely be at the premises at any one time and when would shift changes occur?
- 14.3.5. What support officers would be likely to visit the property?
- 14.3.6. How would visits be scheduled and would staff/support-workers meetings take place at the property?
- 14.3.7. If residents are unable to participate in full-time mainstream education, what educational support would be offered on-site and what education staff are needed onsite?
- 14.3.8. Would therapeutic care be offered on-site?
- 14.3.9. Would case reviews taken place on or off-site?
- 14.3.10. Are children ever left alone unsupervised at the property?
- 14.3.11. Under what circumstances are children allowed to leave the property?
- 14.3.12. Would staff members be informed/aware if a child left the property?
- 14.3.13. Is there a curfew?
- 14.3.14. What would happen in the event of a breach of the curfew?
- 14.3.15. What security provisions are proposed e.g. security and access controls on doors?
- 14.3.16. How would local residents know how to raise a concern in the event of an issue?
- 14.3.17. How long is each placement within the children's care home?

## **15. Pre-Application Advice**

15.1. Melton Borough Council welcomes and encourages discussions with applicants or their agents before a planning application (including lawful development certificate) is submitted. Early discussions can help to achieve time savings, and a better standard of application, which improves the chance of a timely and successful outcome. The council does, however make a charge for advice that it provides to applicants and developers prior to submitting a planning application. The level of the fee

depends on the scale and nature of the development proposed.

- 15.2. Further information on the pre-application service can be found on the council's website <https://www.melton.gov.uk/planning-and-building/planning-applications/pre-application-advice/>

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