

# What's the use?

NorthStar director **DANNY SHARPE** sees red over C2 and C3 'Use Classes'.

Planners like to keep things simple. If a building can be put neatly into a box and labelled as clearly one thing and not the other, then they can devise one of their much-loved flow diagrams to decide what you can legally do with it under planning law. They can follow the arrows and tell you whether or not you can extend it, paint it, add a satellite dish to it or start serving kebabs from it.

That's why they invented the Use Classes Order. This puts uses of land and buildings into various clearly-defined categories. It is generally the case that you will need planning permission to change from one 'use class' to another.

Working, as we do, in the design and development of care homes, we are mostly concerned with use class C2 which is used to classify residential institutions. This includes, amongst other things, residential care homes, hospitals and nursing homes. The other main residential classification is use class C3 which applies to most other types of housing.

Where things become less certain, is when we move from 24-hour nursing or residential care and venture into the realms of residents having more than just an en-suite bedroom in a CQC-registered care home.

We now have close care, extracare, independent living, assisted living, continuing care communities, sheltered housing, dementia villages and twilight-shady-pines retirement communities. Okay, I may have made that last one up, but there is still a raft of different housing types where residents have a degree of independence behind their own front door. That leads to uncertainty in the

planning world. And planners don't like that.

Uncertainty leads to more work on their part. It necessitates them entering into nuanced arguments about the amount of care given, the tenure of the accommodation, the need for restrictive covenants linked to section 106 agreements, etc.

But does it matter? Who really cares whether your development is use class C2 or C3? Well you should for a start! If you are planning to develop accommodation for elderly people which may involve a degree of care and which cannot be easily slotted into a use class bracket, then you should care a great deal about the designated use class. The use class makes a huge difference to the amount of planning gain you might be expected to provide to help ease the passage of your planning application through the system.

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While central government tells us on the news every night that it plans to build more and more accommodation to try and keep up with our growing population, it is often simultaneously cutting local government budgets to the bone. The result is that the cash-strapped local councils have, for some time now, been using (some might say abusing) the system of planning gain to recoup some of their budgets.

These days, when we submit a planning application for a new care home or extracare development, we practically go from the pre-application planning discussion straight to the cashier's office where we are asked to turn out our pockets to help pay for new buses, roads, libraries, footpaths and perhaps a new statue of the Lord Mayor. In return for providing these much-needed facilities, we are



given our planning consent certificate. It isn't quite as blatant as this, but it's not far off.

The old style section 106 agreement of unilateral undertaking is being replaced across the country by the new Community Infrastructure Levy (CIL). This aims to have developers pay for the impact of their development on local communities.

So, where a new housing estate is planned which might bring a load of new young families with school age children, the developer will be asked to pay a contribution to a new school, for example.

The levy isn't always as cut and dried as this and we might be less suspicious if the officers involved weren't wearing masks and striped jumpers when they asked for it... but I digress. We were involved in a scheme recently where the CIL contribution worked out as more than £300,000 if the site were to be classed as C3 and £0 if the site were to be classed as C2. So, getting it wrong can be very costly.

And it isn't always as simple as making sure everything is classified as C2 by reference to the provision of care, the proof of need for care, the establishing of pre-emption rights on the sale of properties, etc. all the things we wily practitioners do to make the case for C2.

We are currently involved with a local authority which has zero rated C3 housing for CIL and yet which penalises C2 accommodation. They have presumably decided that they have sufficient care accommodation but not sufficient general housing stock.

The provision of care accommodation is a continuously developing and evolving model. It is up to those of us who are leading the way in designing and developing these new models to make sure that we maximise our budgets for the benefit of the residents who will eventually live in them, rather than helping to pay for another statue of the Lord Mayor. ct

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**New build plans in the pipeline?**  
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