



Housing LIN

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## Viewpoint 115

# C2 or C3? Why This Planning Grey Area Still Confuses Everyone and Why It Matters for Housing and Affordability

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# Introduction

The 2021 Census found that 30% of people aged 65 and over in England and Wales live alone, with nine in ten (90%) residing in mainstream housing. ONS projections indicate that this age group will grow substantially, reaching around 15 million, about 24% of the population, by 2041, driven by increased life expectancy and the ageing baby-boom generation.

This demographic shift poses a major housing challenge. [The Older People's Housing Taskforce \(November 2024\)](#) warns that the supply of 'later-living' homes is far below need: [30,000-50,000 new homes are required each year, yet only around 7,000 are currently built](#). Crucially for planning, the Taskforce also identifies inconsistent use-class decisions by local planning authorities: supported living, assisted living and extra-care schemes are often variably classified as C2 (residential institutions) or C3 (dwelling houses).

## The basics: what's C2 and what's C3?

Under the Town and Country Planning (Use Classes) Order 1987 (as amended):

- **Class C2** covers *residential institutions*, including care homes, hospitals, and other facilities "where residents live communally and are provided with care."
- **Class C3** covers *dwellinghouses* used by people "living together as a single household," which includes family homes, shared housing, and supported living where residents lead largely independent lives.

## Where it starts to blur

At face value, the distinction between C2 and C3 appears straightforward. In practice, however, many modern developments sit in a grey area, particularly as a plethora of confusing terms are now used to describe different housing options such as independent living, retirement villages, extra care housing, assisted and supported living. Determining which class applies often hinges on how much care is provided (the staffing arrangements) or level of dependency, how it is delivered (types and tenure), and the degree of shared facilities (services) on-site. There are no specific national policy guidelines on use class, and the decision makers are left to interpret each case individually.

The confusion is made worse by the fact that interpretation varies from council to council, as only 36.2% of Local Plans in England have a specific policy for specialist housing and even fewer make any specific allocations (source: Taskforce Research: [The Older People's Housing Taskforce \(November 2024\)](#)). Some planning authorities only recognise traditional care homes as C2, while others accept modern extra care or supported housing models. The result is a patchwork of inconsistent decisions both locally and on appeals.

# What's happened in practice

For the sake of brevity, not all single examples are mentioned below, but three examples are chosen that have had different outcomes.

1. The High Court (North Devon DC v FSS [2003] EWHC 157 (Admin)) held that a home for residential care for two children was C2 because the residents were not living independently; they required and received continuous care and supervision.
2. The High Court again in Crawley BC v SSETR [2004] decided that use of a semi-detached house for four persons with learning difficulties considered as Class C3. The Court was satisfied that the North Devon Judgement was not applicable in the circumstances, because this case was concerned with adults, not children. The judgement to be made in applying the criteria in Class C3 depends upon the specific facts of the individual case.
3. In West Oxfordshire DC v SSE [1991] J.P.L.58, in granting planning permission, the Secretary of State had not accepted his Inspector's view that the development would be a sui generis use but had concluded that although the development might initially have the characteristics of a C3 use, it would gradually take on more of the nature of a C2 use. The Court upheld the Secretary of State's decision in view of the conditions he had imposed preventing the residential accommodation from being occupied before the care centre and community facilities were ready to ensure that the development did not become a Class C3 housing estate.

This lack of clarity means similar schemes can be treated very differently depending on where they are and how each planning officer interprets them.

## Why it matters

The classification has real consequences in terms of housing numbers. C2 schemes generally don't count towards local housing targets, even though they often deliver hundreds of new homes and help free up family housing. That means many Councils are underestimating their true housing supply and overlooking the role that specialist housing plays in meeting need.

Government guidance says councils should plan for all types of housing, including specialist accommodation. But without a consistent way to count it, many still don't.

## The Affordability Dilemma

Many modern care-led developments now compete directly with general housing, especially in high-value areas where retirement or extra care schemes occupy sites that could otherwise deliver traditional homes. Extra care, supported living, and retirement schemes are increasingly pitched against standard residential developers, but their classification depends on subtle differences.

Generally, C3 developments are typically subject to affordable housing requirement under local plan policies and Section 106 agreements, whilst C2 developments, however, are exempt, as they are classed as institutional accommodation rather than conventional housing. As a result, classification disputes often become viability driven. Developers may seek a C2 designation to avoid contributions, while local authorities argue for C3 to secure affordable housing delivery.

This tension has led to numerous appeals and negotiations hinging on operational detail, particularly for extra care and retirement village schemes that could feasibly fall either way. For example, in *Rectory Homes Ltd v SSHCLG [2020]*, the Inspector accepted that the mandatory on-site care contract and shared facilities justified a C2 classification, overriding the council's attempt to secure affordable housing contributions. The High Court overturned the Inspector's decision, ruling that the C2 extra-care scheme was still subject to affordable housing contributions because the local plan's "dwelling" requirement wasn't tied to the C3 Use Class, meaning the mandatory care contracts and shared facilities didn't exempt the development from local affordable housing policies. Since then, several councils (e.g. South Oxfordshire and Cornwall) have adopted "hybrid policies" requiring commuted sums from extra care schemes even when classed as C2, reflecting recognition of their quasi-residential nature.

On top of that, the Community Infrastructure Levy (CIL) adds additional pressure. Because CIL is particularly onerous for developers of specialist housing, it is a flat-rate square metre tax applying also to the extensive shared areas such as restaurants, leisure facilities, communal lounges and larger wheelchair-accessible corridors typical of extra care housing schemes, making schemes unviable in many cases.

## Conclusion - Time for a rethink

The way we live in later life has changed, but the planning system hasn't caught up. The C2/C3 framework no longer reflects modern housing models that sit somewhere in between.

The lack of clarity leads to delays, costly appeals, and uncertainty for investors, councils, and residents alike. It also risks holding back the development of the specialist housing we urgently need, homes that can help people live independently for longer, reduce pressure on care services, and make better use of existing housing stock.

It's time for a national rethink, perhaps even a new legislative reform, providing a unified use class and/or a standardised definition of specialist housing. That would bring consistency, speed up decision-making, and help local authorities plan more confidently for an ageing population.

Given that the need for retirement homes will increase in the future, getting this right could unlock thousands of much-needed homes and make later life living both more affordable and more accessible.

## Note

The views expressed in this paper are those of the author and not necessarily those of the Housing Learning and Improvement Network.



## About the Author

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With dual expertise in architecture and planning, Ifti brings a strong eye for detail and a deep commitment to sustainable design. His experience spans both private and public sector projects, including retail, leisure, education, residential, and commercial developments.

He is motivated by complex and challenging projects and is skilled at developing innovative solutions to intricate planning issues, particularly on heavily constrained sites and those within the Green Belt. He also has a strong interest in policy interpretation, case law, and appeal precedents.

Ifti has delivered projects across the country and has extensive experience guiding small-, medium-, and large-scale developments, including senior living accommodation, through all stages of the planning process.

## About the Housing LIN

The Housing LIN is a sophisticated network bringing together over 15,000 housing, health and social care professionals in England, Wales and Scotland to exemplify innovative housing solutions for an ageing population. Recognised by government and industry as a leading 'ideas lab' on specialist/supported housing, our online and regional networked activities, and consultancy services:

- connect people, ideas and resources to inform and improve the range of housing that enables older and disabled people to live independently
- provide access to intelligence on the latest funding, research, policy and practice
- raise the profile of specialist and supported housing with developers, commissioners and operators, and
- attract business to help and support clients plan, design and operate aspirational housing and developments operators, and services for people of all ages.

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