

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H02-0440-23 **Applicant:** Protea Care Ltd.

Proposal: Change of use of residential dwelling (C3a) to childrens home for a maximum of 4 children with 3 carers, 2 sleeping overnight and working on a rota basis.

Location: 30 Low Road Crowland Peterborough

Terminal Date: 6th July 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

Not applicable for a Lawful Development Certificate section192 application as it is a legal determination.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is an application for a Lawful Development Certificate to confirm that the proposed change of use of residential dwelling (C3) to childrens home for a maximum of 4 children with 3 carers, 2 sleeping overnight and working on a rota basis is lawful and does not require the submission of a planning application.

Site Description

The detached dwelling is situated outside the defined settlement limits of Crowland, according to the South East Lincolnshire Local plan, 2019.

The application site is a detached single storey dwelling which lies on Low Road, Crowland. The site is located in a rural location with open fields to the north, east, south and west with a small number of dwelling to the south east.

History

H02-022-15 - S73A - Retention of dwelling without complying with agricultural habitation clause (Condition 3 of H02-0758-78) - Approved 05 May 2015.

Consultation Responses

Crowland Parish Council

The Parish Council support this application

Internal Drainage Board

North Level District IDB has no observations to make with regard to the above application.

Planning Considerations

This application is a legal determination and planning policy is not relevant to the determination as to whether the proposed use would be lawful.

The application seeks the granting of a Lawful Development Certificate (LDC) for the use of the premises as a children's home from a residential dwelling (Use Class C3). The proposal is for a maximum of four children aged between 5 to 18 years old who will receive care by three carers working on a rota basis with two carers sleeping overnight. Six carers would operate on a shift pattern of 48 hours on, 60 hours off.

It is accepted that where care is provided and this is not the main residence of the carers, the use falls within C2 and not C3b and therefore would typically require the submission of a planning application. Notwithstanding whether the use is considered to be within Class C2 in this instance, rather than Class C3b, a submission of a planning application would not be required if the proposal comprised work that would not be a 'material change' of use.

In terms of whether the proposed use can be considered as reflecting the characteristics of a single household, previous appeal decisions appear to indicate that facilities should be communal rather than individual. Based on the details that have been submitted, it appears that the use reflects the nature and character of a single household. There does not appear to be any proposals to make a major change the interior or the exterior of the property and facilities will be shared much like a family unit.

Given that the premises would have 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, it is considered that in this instance no material change of use would occur. Therefore, given the extent of proposed use, although being occupied as a childrens home, the use would remain C3.

However, any intensification above and beyond what is stated in the application may need planning permission.

Conclusion

Taking the above into account, it is considered that the use of the premises as proposed would not amount to development in accordance with s.55(2)(f) of the Town and Country Planning Act 1990.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.