DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H09-0351-25**	**Applicant:**	**Mr D V John**
Proposal:	Use of premises as a home for up to four young people and up to two adults as a single household (Use Class C3 (b))		
Location:	19 Langwith Drive Holbeach Spalding		
Terminal Date:	9th June 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Representations:

	Object	Support	No Obj.	Comments
OTHER STATUTORY BODIES	1	0	0	0
RESIDENTS	6	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent for a lawful development certificate for the proposed use of 19 Langwith Drive, Holbeach as a home for up to four young people and up to two adults as a single household (Use Class C3 (b)).

The applicant considers that a full planning application to change the use of the site would not be required as the proposed use would continue to fall under Use Class C3.

The application is submitted under Section 192 of the Town and Country Planning Act (1990) (as amended).

Site Description

The application site comprises land at 19 Langwith Drive, Holbeach. The site features a two-storey detached dwelling which is located at the end of Langwith Drive, which is a cul-de-sac, located to the south of Spalding Road.

Planning History

H09-0420-17: (Full Application) Proposed first floor extension and alterations - approved 18 September 2017

H09-0756-18: (Discharge of Conditions) Details of colour of render and roof tiles (Conditions 3 and 4 of H09-0420-17) - approved 03 August 2018

H09-1008-24: (Certificate of Lawfulness) Use of premises as a home for up to five children or young people as a single household (Use Class C3) - refused 04 April 2025

Consultation

There is no statutory obligation for the Local Authority to publicise an application for a certificate of lawful development. A site notice has however been displayed next to the site for 21 days in the interests of transparency.

Six representations have been received from members of the public, setting out objections to the proposals. The key matters raised are set out within the 'Public Representations' section of this report.

Although there was no obligation to do so, Lincolnshire County Council's Children's Services Team were previously consulted application H09-1008-24. No response was received. The Team has not been consulted on the current application as it was not considered to be necessary. The current application only seeks consent to determine if the proposed use is lawful in planning terms. The Children's Services Team would not be able to advise on this.

Key Planning Considerations

Relevant Legislation

Section 192 of the Town and Country Planning Act (1990) (as amended) sets out the following:

"Certificate of lawfulness of proposed use or development.

(1) If any person wishes to ascertain whetherâ??
(a) any proposed use of buildings or other land; or
(b) any operations proposed to be carried out in, on, over or under land,
would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shallâ??
(a) specify the land to which it relates;
(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
(c) give the reasons for determining the use or operations to be lawful; and
(d)specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.]"

Therefore, the local planning authority need to be provided with sufficient information to demonstrate that, on the balance of probability, the proposed use is lawful in planning terms and would not require full planning permission for a change of use.

Whether the Proposed Use Falls within Use Class C3

The application seeks consent to establish that the proposed use of the site under Use Class C3 is lawful. No operational development is proposed such as external changes to the building.

The Town and Country Planning (Use Classes) Order 1987 (as amended) defines Use Class C3 as follows:

"Use as a dwellinghouse (whether or not as a sole or main residence) â??
(a) by a single person or by people regarded as forming a single household, or
(b) not more than six residents living together as a single household where care is provided for residents' or
(c) not more than six residents living together as a single household where no care is provided to residents (other than a use with Class C4)."

The use class of the site is currently Use Class C3 as it has been occupied as a dwelling. The applicant considers that the proposed use of the site would continue to fall under Use Class C3, specifically C3(b). As such, the applicant considers that a change of use application would not be required. As set out above, it is clear that a qualifying use must involve residents living together 'as a single household' and, additionally, care must be provided for the residents.

National Planning Practice Guidance clarifies that it is the responsibility of the applicant to provide sufficient information to support the application (Paragraph 006 Reference ID: 17c-006-20140306). The evidence provided needs to be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability rather than beyond reasonable doubt.

According to the application form, the intention is to use to site as a home for four young people The application is also accompanied by a supporting statement, within which the applicant clarifies that they intend to live within the site to support and care for the young people. The applicant would not employ any staff, however, the applicant intends to live with their cousin who would assist with looking after the young people. The applicant clarified during the determination of application H09-1008-24 that their cousin is an adult. Therefore, according to the submitted information, the site would be occupied by no more than six people.

In terms of whether the proposed use can be considered as reflecting the characteristics of a single household, facilities should be communal rather than individual. Based on the submitted details, it appears that the use reflects the nature and character of a single household. Some of the rooms contain ensuite bathrooms, however there are communal rooms downstairs. Facilities will therefore likely be shared as would be the case within a family unit.

Relevant case law is provided within the judgement North Devon District Council v First Secretary of State . Within the North Devon judgement, it was established that the concept of living together as a household means "a proper functioning household must exist". In that case, this meant that "the children and a carer must reside in the premises".

The supporting statement that accompanies the submission sets out the following:

"I will be personally caring for the young people with the support of my cousin, who will share the carers' bedroom with me. Together, we will ensure a warm, intimate atmosphere without the need for additional staff. We will share daily activities such as cooking and eating meals together, and I will personally assist the children with their routines, including school drop-offs and pick-ups."

Therefore, based on the submitted information, the intention is for the applicant and their cousin to live within the site and support up to four young people. It is considered that this would comprise a functioning household. As such, it is considered that the proposed use would fall under Use Class C3.

Whether a Change of Use Application is Required

It is established planning law that a material change of use will only have occurred if there has been a change in the definable character of the use of the site. For example, there needs to be some significant difference in the character of the activities relating to the exiting use. Assessments need to be made on a case-by-case basis and the change needs to be one of substance.

In terms of caring for children at home, planning permission can sometimes be required for a change of use from Use Class C3 to Use Class C2 (residential institutions). Class C2 includes the

following description:

"Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses))."

If the proposals included staff members working shifts to care for the young people with the site, and if those staff members did not reside within the site, then the proposals might fall under Use Class C2 (children's care home). However, this is not proposed in this case.

The dwelling would continue to feature five bedrooms under the proposed use. A 5-bedroom house might typically accommodate four children and two adults, as would the proposed use of the site at any one time. There are no obvious physical features that distinguish the property from a typical family dwelling.

There would not be staff changeovers in this case. The number of people visiting and leaving the site would not be significantly greater than expected from a typical family that could occupy the site. There is room for two vehicles to park on the front driveway of the dwelling. It is reasonable to presume that the two adults that are proposed to occupy the site might each have a car. As such, there would be sufficient room for parking within the site.

It is therefore considered that even if the proposed use was considered to fall under Use Class C2, a material change of use would not result from the proposals as such planning permission would not be required.

Public Representations

It is acknowledged that members of the public have submitted representations setting out concerns with the proposals. For lawful development certificates, planning policy guidance is clear that there is no statutory requirement to consult third parties including parish councils or neighbours (Paragraph: 008 Reference ID: 17c-008-20140306). A site notice has however been displayed in this case for transparency. Planning policy guidance is also clear that a local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are therefore not relevant (Paragraph: 009 Reference ID: 17c-009-20140306).

Planning practice guidance also sets out the following (Paragraph: 008 Reference ID: 17c-008-20140306):

"Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application."

As such, the application can only be determined on the basis of whether the proposed use is lawful, not whether the planning merits weigh in favour or against the proposals. Notwithstanding this, the issues raised within the public representations are summarised below, including an explanation as to how they have been considered to assist members in case they have similar queries.

-Concerns are raised with the lack of consultation with neighbours - As set out previously there is no requirement to consult neighbours, however, a site notice has been displayed in the interests of transparency.
-Concerns are raised that the applicant would not be able to care for five young people - The applicant has clarified that their cousin lives with them and would assist. The matter as to whether the ratio of one or two adults caring for four young people is permitted by social services is a matter for third parties rather than a relevant consideration in the determination of the current application.
-No evidence of the applicant's insurance or police checks has been provided - This is not relevant to the determination of the application. As set out above, checking the applicant's suitability to look after young people ¬¬¬would be subject to processes which are managed by the county council's children's services team and other relevant bodies and services.
-The property is subject to a restrictive covenant which prevents the proposed use - No evidence of this has been provided and this is a civil matter which is separate from the current application process.
-Concerns are raised with the potential devaluation of neighbouring properties as a result of the proposals - This is not a material planning consideration within any type of planning application.
-Concerns are raised with the possibility of anti-social behaviour, noise disturbance and an increase

in traffic resulting from the proposals - The current application is for a determination as to whether the proposed use continues to fall under Use Class C3. As set out above, the amount of noise and traffic that would likely be generated from the proposals would not be significantly greater than a typical household that could reside within the site.
-The landowner's details are redacted and the applicant is a lessee rather than the owner - personal details have been redacted from the application for data protection reasons (this is standard procedure for all application types), and the fact that the applicant is a lessee rather than the owner is not relevant to whether the certificate can be granted.
-The proposed fifth bedroom is very small and would not be suitable for a child - The proposal is for up to four young people to reside within the site. If children's services determine that the fifth bedroom is unsuitable for a child to reside within then it might be appropriate for the young people to share a bedroom or it might be determined that only up to three young people could reside within the site with the adults.

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.

Conclusion

As listed above, the proposed use of the site is considered to continue to fall under Use Class C3. As such, full planning permission for a change of use is not considered to be necessary. It is therefore considered that the certificate can be granted on the basis of the submitted information.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.