



DESIGN AND ACCESS STATEMENT

Application to change the use of a (C3a) dwelling to a children's home for a maximum of five children, with up to three carers and a manager on site during the day, two of whom sleep or are awake overnight, working on a rota basis (C2) and garage conversion into habitable games room.

**Holly Cottage,
Fengate,
Moulton Chapel,
Spalding
Lincolnshire
PE12 0XR**



1. The Proposal

1.1. I am writing on behalf of my client, Virtue Therapeutic Care & Education (East Sussex) Limited who is seeking planning permission to use Holly Cottage, a C3a dwelling, as a small specialist care home for up to five children with emotional and/or behavioural difficulties, (EBD) which falls within Use Class C2 of the Use Classes Order.

1.2. Holly Cottage would provide a nurturing therapeutic home for up to five children, aged between 7 up to their 18th birthdays, who have been a victim of trauma. The home would aim to provide a therapeutic approach with a high level of individualised care. It would provide young people with a sense of belonging and security and to enable the development of healthy relationships, feeling valued, and a positive transition into adulthood. The aim is to provide an environment that reflects as realistically as possible, that of a genuine and nurturing family environment, with the consistency of care, boundaries, and support associated. Some of the young people will have experienced several placement and relationship breakdowns, which have further entrenched the disadvantage and trauma they have experienced. The aim is to provide a home in which children and young people feel secure and valued.

1.3. The home would provide:

- An initial assessment programme that will determine the therapeutic needs of the young person and their suitability for intervention



- Therapeutic intervention for children aged between 7 – 18th Birthday.
- Day and night staff support.
- A robust 24-hour management on-call support system.
- Work that may facilitate a return to the family home or a Step-Down placement within their sister organisation Semi Independence and Supported Living accommodation.

1.4. It will, through OFSTED, have a stringent impact risk assessment to ensure it will integrate with the local community. This assessment considers the home, the environment, the community, plus peer groups and assesses against each child as an individual prior to admission into the home. The children will live at the property long term, hopefully for many years. This is not a halfway house or emergency housing for children.

1.5. In a ministerial statement from Rachel Maclean (Minister of State (Department for Levelling up, Housing and Communities) in May 2023 she stated: *'The planning system should not be a barrier to providing homes for the most vulnerable children in society. When care is the best choice for a child, it is important that the care system provides stable, loving homes close to children's communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love'.*

1.6. *'Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties*



in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country. It is important that prospective applicants talk to local planning authorities about whether their service is needed in that locality, using the location assessment (a regulatory requirement and part of the Ofsted registration process set out in paragraph 15.1 of the Guide to the Children's Homes Regulations) to demonstrate this.'

1.7. Under Section 22G of the Children Act 1989, local authorities have a statutory responsibility to take steps, as reasonably practicable, that ensure children in care are provided with accommodation that '(a) is within the authority's area; and (b) meets the needs of those children.' Three reports were published in 2020 by the Children's Commissioner: 'Children who no-one knows what to do with; Private provision in children's social care' and 'Stability index 2020', which point out the failings of local government to meet this responsibility.

1.8. The papers summarise the findings of three years of work by the Children's Commissioner's Office and explain the failure of both national and local government to adequately meet the needs of these children. The report (page 15) states: '*Local authorities are highly reliant on the independent sector, particularly for children's residential care. Costs are increasing but it's unclear why. Given this reliance, it is imperative the market works well and that commissioning and procurement are improved to ensure no child is placed in unsuitable care settings. Recommendations: The Government should consider the barriers to creating more residential care placements to increase supply*'.

1.9. There will be minimal changes to the external appearance, other than a rationalisation of the parking area, additional boundary fencing to match existing, and a new electrically operated access gate. At present five cars could be parked there, but they would block each other in. The revised arrangement allows the four spaces to be accessed independently. A bin store, an EV charging points and bike shed will also be added. All these would be carried out under permitted development rights before the use commences.

1.10. The outbuilding is currently utilised as a games room on the first floor, and garage on the ground floor. The intention is to replace the current ground floor access doors to a window and pedestrian door to match existing, apart from minor internal alterations, these are the only works required for the space to be a habitable games room. At present the ground floor already benefits from perimeter windows, which are currently covered, these will simply be uncovered to allow further natural light. The first floor will be used as a home gym, with the addition of a shower room. These changes will be for use ancillary to the main house.

1.11. Within the main house, there will be no changes other than the addition of a shower room on the first floor. The remaining space will be utilised as it stands.

1.12. The applicant has had regular discussions with the local Social Services Department, who have confirmed the urgent need for such care homes. This can be verified by consulting them on this application.

- 1.13. The proposed children's home seeks to replicate as closely as possible a normal family environment. This type of provision, which government policy is promoting, is to help children who often, through no fault of their own, have not had good parenting in their early years.
- 1.14. Under the requirements of OFSTED, such care homes must be run as closely as possible to a typical family household, while accepting staff are employed on a rota basis to provide the parental support to the children so many have missed in their early years. The only physical requirements specified by OFSTED are security cameras (although not essential and not materially different from a system found in many households), emergency lighting (no external visual distinction from normal lighting) and locks on bedroom doors for the privacy of each child (not a material issue for planning).
- 1.15. In terms of fire regulations for care homes, the only other physical requirement is to have fire doors on those leading to the kitchen. The physical appearance of such doors is not materially different from normal doors and has no material impact on the character of the property.
- 1.16. The application is to ensure that the property acquired will meet the necessary planning requirements to achieve OFSTED registration.
- 1.17. The property is a five bedroomed detached house, with off street parking spaces. It is the company policy to encourage staff to use public transport (by offering free bus passes or subsidised taxi fares) and not to allow on street parking. An electric/hybrid vehicle will be available to transport the children when necessary to school or for other visits. Details of the typical number of visitors are outlined below.



1.18. Up to five children would live at the house, with three carers working on a rota basis, two of whom will sleep overnight. Six carers would operate on a shift pattern of 48 hours on, 60 hours off. A manager would usually visit the site each weekday between 9am and 5pm. Other than changeover times, there would no more than four staff on the premises at any one time. There would be one changeover of the overnight care staff per day, usually between 12.00 - 12.30pm each afternoon, which would last for around ten to fifteen minutes and be outside of busy periods.

1.19. These comings and goings are set out in the table below.

1.20. The purpose of the home would be to support the children to build their confidence, help them in developing life skills and prepare them for life when they leave the home to fend for themselves. This type of support has been found to be most effective in helping these children to have normal lives and not experience problems in later life.

1.21. During the day it is expected that the children would engage in various activities, plus attend a mainstream or special school. In some cases, the children may receive some home schooling but only while they settle in. Clearly this is no different from a family choosing to have home tutoring.

1.22. With regard to schooling, it is often the case that when young people come into care, they have missed an extensive proportion of their education or are affected in a way that they could not work effectively in a large classroom environment. Given this, they would be tutored from



home initially. This is all achieved online without any tutors having to go to the house. They may then progress to a specialist unit (smaller class sizes) then hopefully onto mainstream. In cases where parents of children in an ordinary family choose to have their children educated at home, it makes no difference to the planning status of the use.

1.23. The children's home model is to create a warm and nurturing family style environment for the medium to long-term care of a small number of children. This type of provision is operated in the same manner as a regular family home with **three** primary carers, to provide consistency and stability to the children who live there (similar to a fostering model).

1.24. Care is provided in small sized family units where residential carers help to develop the social and life skills needed when the children no longer live within an institution. Without such homes and positive interventions, these children when they leave the controlled environment of care homes will often end up in adult institutions, suffering from long term health problems.

2. Planning Assessment

2.1. The planning policy framework is provided by the National Planning Policy Framework (NPPF) and the Southeast Lincolnshire Local Plan 2011-2036.

2.2. The relevant sections of the NPPF are as follows:



Paragraph 2 of the NPPF is highly relevant as it states that applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 60 makes clear that in order to *'support the Government's objective of significantly boosting the supply of homes.....the needs of groups with specific housing requirements are addressed'*.

Paragraph 60 makes clear how housing need in an area should be assessed and understood, and paragraph 61 advocates that planning policies should reflect the housing needs for different groups in the community.

Recent Government advice emphasises the provision set out in Paragraph 60 of the NPPF, which notes that local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflects this in planning policies and decisions. Paragraph 61 says the different groups include but are not limited to *'those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes'*. In her statement the Housing and Planning Minister said councils should *'consider whether it is appropriate to include accommodation for children in need of social services as part of the NPPF assessment'*. She went on to say that *'Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties*



in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country’.

Paragraph 109 is specifically relevant, which advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Section 8 – Promoting healthy and safe communities emphasises the need to make appropriate provision for the special needs of young people.

South East Lincolnshire Local Plan 2011-2036

- 2.3. Whereas there are no specific policies concerns this type of children’s home, the plan sets out the sustainable development requirements that will be applied at the local level in the district. It sets out the sustainable framework to ensure housing provision meets the needs of all sections of the community.
- 2.4. It supports development that promotes the health and well-being of local communities and which helps to maximise opportunities to improve quality of life and to make it easier for people to lead healthy, active lifestyles. The provision of accommodation for these children makes a significant contribution to the well-being of the community.
- 2.5. New developments are required to be compatible with adjacent, existing or proposed uses and would not lead to significant adverse



effects on health, amenity, safety and the operation of surrounding uses and for occupants or users of the development.

2.6. Policies seek to maximise opportunities for sustainable transport. They seek to ensure adequate parking provision and that the development will not have an adverse impact on the existing highway network.

2.7. The Council's parking policy is one space per three residents and one bicycle space per three employees. With five children (=2 parking spaces) and a maximum of four carers on shift at any one time (=2 cycle spaces) two off street parking spaces are required, and two cycle spaces. There are 4 compliant parking spaces, and 5 bike spaces within the bike store, therefore parking/cycling exceed the council's policy provisions to accommodate the intended use.

Principle of Use

2.8. As the proposed use will remain residential in nature, the principle of the use in a residential area is not considered to be in conflict with policy.

Location of Specialist Housing

2.9. OFSTED will require a local risk assessment before approving the property as a care home. Planning is therefore not the only form of regulation which controls the suitability of the location. A basic principle in assessing a planning application is whether there is other legislation which is more appropriate to regulate the proposed development. In the case of children's care homes, the relevant powers are set out in:



Care Standards Act 2000

The Care Standards Act 2000 (Registration)(England) Regulations
2010

The Children's Homes (England) Regulations 2015

Children's Homes and Looked after Children (Miscellaneous
Amendments) (England) Regulations 2013

Neighbouring Amenity

2.10. It is not considered the comings and goings will have an adverse impact on the amenity of neighbours.

2.11. The comings and goings, whether by car or other means, are considered to be similar to a typical family dwelling. The home manager and a third carer would arrive most weekdays in the morning and leave each evening (9am and 5pm). In terms of the other two staff on the premises, they would normally work on a 48-hour shift basis, so there would be no more than one change each day (between 12.00pm - 12.30pm).

2.12. An elderly person or someone with special needs living in a dwelling with four carers arriving throughout the day does not have a material impact on the amenity of neighbours, hence nor would the proposed movements.

2.13. An estimate of the average number of comings and goings in a week of the existing and proposed use are set out below.



- 2.14. All household chores such as cleaning, cooking and gardening involve the children and no additional staff are employed at the premises.

Visitors

- 2.15. In addition to OFSTED's one visit per year, there would be visits by local social services circa every four to six weeks and one Regulation 44 each month. Usually, each child's social worker would visit them individually but if they are from the same local authority one of the social workers may visit all of the children.

- 2.16. Depending on the needs of the individual children, there may be occasional visits by other social workers. In addition, there may be visits by family members and friends, although these are carefully managed in advance, subject to child's individual care plan and will mostly take place off site. These visits are no more frequent than those to a typical family by friends or relatives.

Schedule 1 (estimated comings and goings of previous occupants, a family of 3 adults and three children)

Activity	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Journeys to work		2	2	2	2	2	
School Run		4	4	4	4	4	
Shopping/ Social/recreational outings	4			2		2	4
Other visitors	2			2		2	4
Total Movements (in and out)	6	6	6	10	6	10	8



Schedule of Proposed Use (based upon experience of other similar homes)

Activity	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Home Manager / care staff	2	4	4	4	4	4	2
Other visitors	2	2	2	2	2	2	2
School run		4	4	4	4	4	
Shopping/ Social/recreational outings	4						4
Total Movements (in and out)	8	10	10	10	10	10	8

2.17. The above schedule shows the that comings and goings would similar to a typical house.

Impact of the presence of staff

2.18. Visually, the property would look no different to the adjacent houses. During the day there could be four members of staff in the property at any one time, but this would have no impact on the amenity or character of the area.

2.19. In terms of the nature of the proposed use, Paragraph 25 of Circular 05/2010 is relevant. It states that the criteria for determining whether the use of particular premises should be classified within the C3 use class (or similar) include both the manner of the use and the physical condition of the premises. The circular states that the premises can properly be regarded as being used as a single dwelling house where they are:

- *a single, self-contained unit of occupation which can be regarded as being a separate 'planning unit' distinct from any other part of the building containing them.*



- *designed or adapted for residential purposes containing the normal facilities for cooking, eating and sleeping associated with use as a dwelling house.*

2.20. In an appeal in Stockport (Appeal Ref. 2162636) an Inspector noted that although the building would be fitted with an office [and fire alarm], this was not uncommon in many dwelling houses around the country and would not materially alter its basic character as a dwelling house. There are no major modifications required to this property.

2.21. A similar conclusion is drawn in the Dale Road appeal (Appeal ref. 3263178) : *'The number of these movements is unlikely to be significantly more than the number that would be undertaken by a family and certainly not enough to result in a level of intensification in the use of the site that gives rise to concerns from a planning point of view. There is insufficient evidence before me to show that the use would be likely to result in greater levels of noise and disturbance than the existing authorised residential use.'*

2.22. Appeal (Ref. 32993519) also provides a useful assessment of a similar care home. In paragraph 12 it states: *'Whilst there will be some additional comings and goings associated with the use as a residential care home, there is no evidence before me to dispute the appellant's case that the use will not give rise to a greater level of disturbance than could be generated by the lawful use as a C3 dwellinghouse. The additional comings and goings identified by the appellant and Council are at a sufficiently low level so as to remain within the parameters of what could be usually expected of a family home and not therefore materially*



different so as to change the character of the property. Similarly the number of people who will be typically present at the property, and therefore the associated waste generated, is not significantly higher than could be expected with its current lawful use’.

2.23. On this basis it is maintained that the proposed use as detailed in this supporting statement would not be materially different from a typical household. This is also supported by the Egerton Appeal (Appeal Ref.3161037) where the Inspector concluded a similar use would not result in significantly more movements to give rise to planning concerns.

Fear of Crime

2.24. The fear of crime and anti-social behaviour is a material planning consideration which might weigh against the granting of planning permission. Given that this is a matter of planning merit and in the absence of any basis to conclude that crime and anti-social behaviour are an inherent part of the character of the proposed use such a fear is not relevant to the determination of this application.

2.25. There can be concern that the use would result in more noise and possibly anti-social behaviour due to the background of the children. A response to such concern is contained in appeal decision (Appeal Ref. 2162636-):

11. The fear of crime is a material consideration in the determination of the appeal. However, the weight that can be attributed to it depends on whether or not the evidence shows that the potential risk of crime is



shown or expected to be high and the consequences for the community and individuals are serious. Whilst it is acknowledged that the incidents cited by the local residents would cause upset, they are not altogether unusual occurrences in modern society. Some of the incidents raised issues relating to the running of the home which have the potential to be overcome by changes to the management of the site. None of the evidence suggests that the potential risk from crime is shown or expected to be high or that the consequences for local residents are serious.

12. The evidence therefore leads me to conclude that the effect of the development on the living conditions of the occupiers of neighbouring dwellings regarding risk of crime would be low and carries insufficient weight to warrant dismissing the appeal on these grounds.

2.26. The nature of the children is not therefore material to the determination of this application. In addition, the level of professional care would also act to minimise any likely disturbance.

2.27. The task must be to compare against that 'baseline' the character of the current land use with what is now proposed. In so many respects the use would operate in a way that is very similar to a normal family home. The property would provide the young people with their sole and main residence, with free and shared access to living, dining, and kitchen facilities, an ability to take shared meals prepared for them or make their own food or drink.

2.28. The residents would interact with the property in a way that is very similar to an adult resident, parent or guardian. The residents would eat together and carry out domestic chores. The home seeks to

foster lifestyles which would be the same as if the residents were normal children living in a family home.

3. Conclusion

3.1. It is maintained that there is little difference in planning terms between the proposed use and the current authorised use. The carers, working on a rota basis, would effectively live at the dwelling house to provide 24-hour care, as a single household. Facilities such as the bathroom/wc, kitchen and living rooms would be shared and the living mode would be communal. The comings and goings associated with the use would not be materially different from a typical residential household.

3.2. The proposed use is to provide a stable home environment for the occupants as their main and sole residence and that the length of stay is generally more than temporary or passing. It would not be a 'halfway' house or provide overnight emergency lodgings for example. However, in any event, the courts have provided some assistance in determining the significance of there being a commercial factor to a residential use or an arrangement where the occupants have generally only a limited period of stay.

3.3. Following *Gravesham BC v Secretary of State for the Environment* [1982], the court accepted that the distinctive characteristic of a dwelling house was its ability to afford to those who used it the facilities required for day-day private domestic existence. It did not lose that characteristic if it was occupied for only part of the year, or at



infrequent intervals, or by a series of different persons or if it was under commercial management.

3.4. Comings and goings would be no greater than could occur at present, hence there would be no undue disturbance to any neighbours. The local authority is therefore respectfully requested to support the application to allow this much needed facility to be established.