DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0400-23**	**Applicant:**	**Honeycomb Care**
Proposal:	Change of use from residential dwelling (C3 Use) to residential home for children (C2 Use)		
Location:	10 Saltern Drive Spalding		
Terminal Date:	20th June 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
RESIDENTS	21	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is an application for a Lawful Development Certificate to confirm that the proposed use of care for up to 2 children within the dwelling is lawful and does not require the submission of a planning application.

Site Description

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

The application site is a semi detached dwelling which lies on Saltern Drive, Spalding. The site is located within a residential area and is surrounded by dwellings of varying designs.

History

No relevant planning history.

Consultation Responses

Public Representation

This application has been advertised in accordance with the Council's Statement of Community Involvement and the Development Procedure Order. In this instance, 26 comments/representations have been received from numerous residents.

-The children will not set a good example for our children
-Lack of parking spaces
-Security concerns
-This can affect mental health of residence
- Concerns over the trouble and issues that can come from the children's residential care home.
- Disruptive behaviours.
- There will be increased noise and nuisance from the children living there.
- Anti social behaviour.
- Lowers the desirability of the people living in the local community.

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 dwelling for up to 2 children receiving care.

The submission is requesting an LDC for the change of use from C3 to C2, however, a change of use from class C3 to C2 will not generally be considered material if it does not change the actual daily use and character of the property. This will be a matter of fact and degree in each case, with considerations including noise levels, increased pressure on parking caused by visits from carers, and whether additional security measures such as alarms are installed at the property.

The number of resident children/young people proposed living in the dwelling is two, this relevant as; six children living together is considered higher impact than the average family home, whereas two to three is thought not to have a higher impact.

Within the submission it has been proved that the use as stated does not constitute a material change of use from C3 to C2 and can operate as set out lawfully. Therefore, the site is to be used as detailed, the property will remain as a C3 dwellinghouse.

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.