

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H22-0494-21 **Applicant:** The Cambian Group
Proposal: Use of site as residential - C3(b) (small care home)
Location: 42 Austendyke Road Weston Hills Spalding
Terminal Date: 30th June 2021

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

This is an application for a Lawful Development Certificate to confirm that the use of the property as a small childrens care home (Class C3(b)) does not require planning permission.

Site Description

The property is a large residential house located in a linear row of residential properties on the northern side of Austendyke within the settlement of Weston Hills. A pair of semi-detached houses are situated to the east and a detached house to the west. Residential properties are situated opposite.

History

H22-1292-87 - Full - Extension and renovation to existing dwelling - Granted 19 January 1988.

Consultation Responses

None.

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 small care home under Class C3 (Dwellinghouses) of The Town & Country Planning (Use Classes) Order 1987 (as amended).

In the Use Classes Order, Class C3 is defined as:

Use as a dwelling house (whether or not as a sole or main residence) by:

- (a) a single person or by people to be regarded as forming a single household;
- (b) not more than six residents living together as a single household where care is provided for residents (e.g. supported housing schemes such as those for people with learning disabilities or mental health problems); or
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

The supporting statement submitted with the application indicates that the property would accommodate three children aged between the age of 11 and 18, who would be supported by up to three staff during the day and two at night. One of the day staff would work typical day time hours with the other two staff working 24-hour shifts. Staff would operate on a shift basis and there would be a continuity of care and clear rotas, allowing the child to build a close relationship with their carers. Visits by parents would be infrequent and the carers would effectively become the child's surrogate parents. The staff and child would live together as a single household like any other family. Facilities would be shared, and the living mode would be communal.

The statement stresses that the home would not materially differ from a C3(a) dwellinghouse and would not affect the existing residential character of the area. Daily car trips to and from the property would be akin to a family home and include school runs. It contends that the nature of the young adult's care home provided by Cambian would ensure that the use falls within Category (b) of the C3 use class.

As this is a small-scale care facility with 3 children and a maximum of 3 carers at any one time its model emulates a household rather than the traditionally viewed large scale care facilities. It is therefore considered that the proposal has the scope to fall under C3(b) given that it would not, as described, be substantially different from that of a normal household with similar 'comings' and 'goings'. Furthermore, this 'small family home' concept provides the security and safety needed for the specialist care the children require.

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. Although there would be some internal changes the property will still retain the form of a single residence. Communal rooms would be provided such as a lounge, reception room, garden room, kitchen/dining room and bathroom. Facilities would be shared much like a family unit. Taking all matters into account, it is considered that there would be no material differences in planning terms between the proposal and a typical residential household.

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

It is considered that the proposal falls within Class C3(b) of The Town & Country Planning (Use Classes) Order 1987 (as amended) and as such does not constitute a material change of use. Consequently, it does not amount to development as set out in S.55 of the Town and Country Planning Act 1990. It is therefore recommended that a lawful development certificate be granted.