DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H23-0674-22**	**Applicant:**	**Mr D Johal**
Proposal:	Change of use of residential dwelling (C3) to dwelling for use by not more than six residents living together as a single household (including a household where care is provided for residents) (C3b)		
Location:	Rose Lodge Stockwell Gate North Whaplode		
Terminal Date:	1st September 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

Not applicable for a s192 application as it is a legal determination.

Representations:

	Object	Support	No Obj.	Comments
RESIDENTS	6	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is an application for a Lawful Development Certificate to confirm that the use of the property for no more than six residents living together as a single household (including a household where care is provided for residents) (C3b) does not require planning permission.

Site Description

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

The dwelling sits within a spacious plot and is set back from the main road, with a gated entrance to the property. The surrounding dwellings are on similar sized spacious plots and are mostly detached, varying in ages and designs. To the north of the site are open agricultural fields.

History

H23-0237-04- Approved on 05-04-04- Proposed garage extension.

Consultation Responses

Public comments (5)
- Concerns over the trouble and issues that can come from the children's residential care home.
- There are lots of elderly and vulnerable people living down this road.
- Disruptive behaviours.
- There will be increased noise and nuisance from the children living there.
- Fostering family close by with vulnerable children.
- Lowers the desirability of the people living in the local community.
- Anti social behaviour.

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 6 residents living together as a single household (Use Class C3b).

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 proposal is for a maximum of 6 people aged between 17 and 18 years old, whom will receive care from one carer that will reside there permanently.

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, it is considered that there would be no material differences in planning terms between the proposal and a typical residential household.

Due to the proposal being in accordance with the Use Class Order, it does not require planning permission and is solely a legal determination for a Lawful Use Certificate. The public comments raised include concerns over the anti social behaviour and disruptive behaviour within the local community from the 17 and 18 year old residents. However, the comments raised do not hold a strong justification to refuse the Lawful Development Certificate, as this application can only make reference to the change of use from C3 to C3b which is within the Permitted Development Rights, regardless of the public comments about anti social behaviour.

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.

The recommendation is therefore that a Lawful Development Certificate (LDC) be granted.

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.