

Parish:	Walpole	
Proposal:	Change of use of bungalow from a dwelling (C3) to a children's home (C2) for up to two children	
Location:	10 Folgate Lane Walpole St Andrew Wisbech Norfolk	
Applicant:	Mr T Dumitru	
Case No:	23/00265/CU (Change of Use Application)	
Case Officer:	Clare Harpham	Date for Determination: 18 April 2023 Extension of Time Expiry Date: 12 June 2023

Reason for Referral to Planning Committee – The application has been called in to the Planning Committee by the Assistant Director of Environment and Planning due to the scale of objections. While not formally objecting the Parish Council raised questions of concern.

Neighbourhood Plan: No

Case Summary

The application site is located within the development boundary of Walpole St Andrew which is classified as a Rural Village within Policy CS02 of the Core Strategy 2011.

The site is located along Folgate Lane, at the end of a row of single storey dwellings, before the lane leads out into open countryside. On site is an existing dwelling of prefabricated construction.

The proposal seeks the change of use of the existing dwelling (C3) to a children’s home (C2) for up to two children. The proposed number of children was reduced during the course of the application from ‘up to three’ and an amended description advertised.

Key Issues

- Principle of development
- Form and character
- Impact on neighbour amenity
- Highway safety
- Flood risk
- Any other matters requiring consideration prior to determination of the application
- Crime and Disorder

Recommendation

APPROVE

THE APPLICATION

The application site is located on the northern side of Folgate Lane and is the last dwelling adjacent to the open countryside. On site stands a single storey prefabricated bungalow and at the time of the site visit it was evident that two new access points had been formed onto Folgate Lane along with some fencing and gates and a parking area. Along the northern side of Folgate Lane most of the dwellings have vehicular access to the rear of the dwellings, although some dwellings have also got a vehicular access to the front, directly on to Folgate Lane.

This application is for the change of use of the existing bungalow from a dwelling (Class C3) to a children's home (C2 for up to two children).

SUPPORTING CASE

The following sets out a supporting summary of the application: -

The proposal seeks permission for the change of use of an existing two-bedroom bungalow to a children's home to provide supervised residential accommodation for up to two children with associated non-resident adult supervisors.

The application has been amended from 'up to three children' to two children only.

Members will appreciate that the application should be considered on planning merit alone: The change of use relates to an existing residential property to a very small children's home within, albeit at the edge of, a village location.

The scale of use is not dissimilar to a small family home (two adults and two children).

Significant concern by local residents has been raised with regard to the 'type' of children to be homed at the property. However, it will be appreciated that the planning change of use is only the start of any registration process through Social Services and Ofsted.

All that is known is that the proposed children's home would not comprise a 'secure unit'. It will be for Social Services to determine which children requiring a residential placement would be appropriate and should be accommodated in this rural location.

The children would be aged between 11 and 17 years of age and would be transported by the care provider to schooling (Wisbech or King's Lynn) plus any extracurricular activities such as sports, social and leisure trips etc.

With regard to potential anti-social behaviour, Norfolk Constabulary has not expressed any concern regarding this aspect of the proposal.

From a planning perspective, given the scale of the change of use and the fact that two overseeing adults would be present at the site at any one time, it is not considered that the proposal would give rise to any significant 'nuisance', but, if this was to occur, there are separate legislative means to tackle such behaviour.

The proposal has generated significant concern and objection by local residents, fearing crime, anti-social activity and lack of facilities available locally to cater for the children to be homed. However, it is pointed out that the children requiring homes within a principally rural location would have ready access to transportation for their schooling and other needs not

catered for locally. Social Services will take into account the rural and relatively inaccessible location of the children's home as part of the registration and placement arrangements.

Some children require rehoming through no fault of their own.

The proposal represents a low-key use of an existing dwelling for much-needed accommodation and of a scale similar to a family dwelling.

In planning terms, the proposal would accord with National and local planning policies.

PLANNING HISTORY

No recent planning history

RESPONSE TO CONSULTATION

Parish Council: At the time of writing this report the Parish Council had raised questions, but not expressed whether they support or object to the proposal.

- Questions were raised regarding the suitability of such a rural area with few facilities.
- Concerns have been raised by members of the public regarding issues caused by another 'children's home' in the village and whether the children will be young offenders.

Highways Authority: NO OBJECTION

I have no objection to the principle of the change of use application; however, I did observe that some works at the site have started to provide a new access and parking for the use that would currently not accord with highway requirements.

Firstly, the fencing and gates are erected forward of the frontage boundary and encroach on the highway verge. These features would need to be taken down and re-erected on the correct line. The boundary should be in line with the roadside edge of the adjacent ditch.

There is also two new access points that are being formed with gates and the new points of access need to be hard surfaced back to the gates which should be set back 5m from the near edge of the carriageway. I am of the view that these aspects can be covered by conditions which I recommend be applied to any decision.

Internal Drainage Board: NO OBJECTION

The applicant proposes to discharge surface water to a sewer which is the least sustainable method of surface water disposal within the drainage hierarchy. I recommend you satisfy yourself that this is viable in this location. Foul drainage is proposed to a main sewer, should the proposal change and treated foul water be disposed of to a watercourse, consent is required under Byelaw 3. I note the presence of a Board maintained watercourse (DRN146P0296 – Folgate Drain) adjacent to the western boundary. While not proposed should the applicant's proposal change to include alterations to the watercourse consent would be required under Byelaw 4 and the Land Drainage Act 1991. No works are currently proposed within 9m of the Board maintained watercourse. Should there be any proposed works within 9m of the drain (for instance fencing) then consent will be required under Byelaw 10.

Norfolk Constabulary: NO OBJECTION

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The agent has indicated that their client will consider incorporating Secured by Design principles. General advice given regarding lighting, natural surveillance etc.

REPRESENTATIONS

THIRTY TWO letters of **OBJECTION** from twenty two different people covering the following:-

- Unsuitable due to demographics of the area, Folgate Lane is predominantly retired people, with many living alone.
- The elderly feel intimidated by youths.
- The Local Authority have a duty to safeguard vulnerable elderly people.
- Concern regarding the age of proposed children (11 to 17 year olds).
- Applicant's statement says children will be given support to manage their behaviours and support will be given so then can step-down into foster care or safety return home. These may be troubled teens and this will be a half-way house.
- Will there be staff present at all times?
- Fear of crime. There is another children's home approx. 0.5km from this site and this has caused issues. Vandalism and damage to property as well as verbal abuse.
- There is evidence to show fear of crime is based in reality with the Office for National Statistics (ONS) finding in December 2022 that 'more than 52% of children in had a criminal record by the age of 24.
- Children with BESD (Behavioural Emotional and Social Difficulties) is more prevalent among young people who have interacted with the criminal justice system. 1 in 5 will have been excluded from school and 4 in 5 suspended (ONS).
- Noise and disturbance caused in a very quiet area by troubled youths as well as the disturbance cause by staff arriving / leaving the site.
- Road is narrow and so changeover of staff, deliveries and social care workers etc will cause disruption and disturbance.
- The location is unsuitable, quiet rural location with a narrow dark lane with no streetlights or footpaths (heavy farm traffic often going past).
- Nothing in the area for young people to do, no footpaths, amenities and limited bus service. No local school for 11-17 year olds.
- This could lead to lack of socialisation which could affect children's mental/physical health.
- Have worked with vulnerable young people and would not house them in this type of accommodation or this rural location.
- There is planning approval for a lithium battery storage facility within 0.5km with all the noise and light pollution that will bring.
- The dwelling is a family home and not a place of business or work, which will affect the character of the area.
- The building is unsuitable for the purpose proposed.
- The building is prefabricated and originally built as temporary accommodation to last for 20 years (possible asbestos).
- This building and other prefabs in Folgate Lane had long term tenants who were moved out by Freebridge as the bungalows were considered not to be suitable for human habitation, and Freebridge then sold them. How are they therefore suitable for children to live in?
- Concerns that other bungalows have been bought by the same applicant for the same purpose.
- Size is inadequate, this is only a two-bedroom bungalow, how can 2/3 people stay there? Where will staff stay, especially overnight?

- Impact upon surrounding property prices.
- The property will be overseen by NCC and supervised by qualified staff with a large number of people per child, this will be costly for taxpayers.
- Was a site notice put up at the site?
- Works have been carried out at the site without consent, a tall fence was erected with gates directly up against the highway (restricts visibility).
- An underground cable was damaged during renovation works and this caused an inconvenience to surrounding dwellings who had to rely on a generator until a transformer was replaced by energy company.
- Works have been done to the drainage at the site.
- Noise and disturbance during renovation works.
- Loss of privacy in the garden.
- The deeds state that the homes on Folgate Lane should not be used for business purposes, who will they meet this restriction?
- Query regarding the letter of support and how Derby differs from a rural village.
- Query regarding staffing levels and how these have changed over course of application.
- Applaud the applicant's intentions, helping young people, but unsure it is practical.

ONE letter of **SUPPORT** covering the following:-

- Last year proposals to convert 3 domestic properties into children's homes in Derby suburbs were met with petitions and letters of objection citing fear of crime, increase in traffic and noise. Two were approved (61 and 90 objections respectively) and one was refused (100 objections).
- The needs of vulnerable children are ignored. Kids are at rock bottom and need compassion.
- Peter Sandiford, chief executive of ICHA (Independent Children's Home Association) spoke to the BBC and highlighted how applications for new care homes are often greeted by hostility by nearby residents. "People often think about themselves rather than valuing children's wellbeing... children seen as criminals not victims treating children in care as 'the other'. Moving children out of area to other placements can make them pray to abuse.'
- Demand outstrips residential places and care homes are needed.
- Having worked in 6 children's homes in Derby, can attest to relaxed relationship enjoyed between the kids in care and the local residents.

LDF CORE STRATEGY POLICIES

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS10 - The Economy

CS11 - Transport

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM2 – Development Boundaries

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide 2021

National Planning Policy Framework – sets out the Government’s planning policies for England and how these are expected to be applied.

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

PLANNING CONSIDERATIONS

The main considerations are:

- Principle of development
- Form and character
- Impact on neighbour amenity
- Highway safety
- Flood risk
- Any other matters requiring consideration prior to determination of the application
- Crime and Disorder

Principle of Development:

The application site is within the development boundary of Walpole St Andrew as identified within the Site Allocations and Development Management Policies Plan 2016.

The proposal is to change the use of the existing bungalow (Use Class C3) to Use Class C2 (residential use with care). It is important to note that Use Class C3 (Dwellinghouses) includes within it Use Class 3(b) which states ‘not more than six residents living together as a single household where care is provided for residents.’

Case Law as summarised within *Hinckley & Bosworth BC v Chartwell Care Limited* (2011) states that care homes more typically fall under Use Class C2 as use ‘for the provision of residential accommodation and care to people in need of care.’ And the definition of ‘care’ as set out within Article 2 of the Use Class Order includes, ‘the personal care of children.’ There is therefore some overlap between Use Class C2 and C3 in so far as they relate to care homes. Therefore, for a proposal to require planning permission, the change of use has to be a material change of use and this applies to the overall character of the use and not just certain aspects of it.

Therefore, in order to determine whether planning permission is required the council must determine whether the proposed use would fall within Use Class C2 and whether that change of use would be material.

The case of *North Devon DC v FSS and Southern Childcare Ltd* (2003) confirmed the view that carers who provide 24-hour care, but who are not resident, could not be regarded as living together in a household (which would be required in the context of Use Class C3(b)). Therefore, in the case of this application, where the applicant states there will be staff present on site, working in shifts, the use is considered to fall within Use Class C2. The use

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at the site is self-limiting given the size of the existing bungalow, however given the fact that staff will be present at the site, working in shifts, it is considered that a material change of use could occur and this will be discussed below.

The change of use of the existing bungalow (Use Class C3) to a children's home (Use Class C2) is acceptable in principle and would comply with the principles of the NPPF, Policy CS02, CS06, CS08, and CS10 of the Core Strategy 2011 and Policy DM2 and DM15 of the SADMPP 2016.

Form and Character:

The proposal is for the change of use from a dwelling (C3) to a children's home for 2 resident children (C2). No physical changes to the existing dwelling are proposed as part of this application and the development is therefore unlikely to pose significant impact on the form and character of the area.

It was evident from a site visit carried out on 24th February that two new points of access and driveway/parking area had been constructed to the front of the application site onto Folgate Lane, however these do not require planning consent as Folgate Lane is not a classified road and so this can be carried out under Class B, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (consent is required from the Highways Authority).

In addition, fencing and gates had been erected, both of which exceeded 1.0m in height and was adjacent to the highway and therefore required planning permission. Following discussion with the agent it was confirmed that the fencing and gates would be relocated and lowered to no more than 1.0m which would not require planning permission (this would comply with Class A, Part 2, Schedule 2 of the Town and Country (General Permitted Development) Order 2015, as amended). The relocation and lowering of the fencing and gates will be conditioned. The agent has also confirmed that the driveway and parking area will be permeable which could therefore be constructed utilizing permitted development rights.

This application is therefore solely for the change of use of the existing dwelling.

An email from the agent dated 29th April, confirms that due to the size of the bungalow (2 bedrooms) there will a maximum of two children resident at any one time (between the ages of 11 and 17). Two full-time supervisors (non-resident) would be at the property at any one time to oversee the children's care, welfare and transport arrangements to school and clubs etc. The supervisors would operate on a 12 hourly rotational shift arrangement. It is noted that the applicant still needs to apply to Ofsted prior to the children's home becoming operational and therefore these arrangements may need to be altered slightly depending upon the needs of the children at the home.

The applicants statement dated 23rd January states that the intention is to offer residential placements for children and young adults who require support to manage their behaviours and keep themselves safe, supporting them to achieve their potential so that they can step down into foster care or safely return home.

A number of objections have been received relating to the location of the proposal given the rural location and lack of amenities with no street lighting, narrow road etc. It is not for the LPA to make a judgement regarding the suitability of the location for looked after children, the proposal is within an existing residential dwelling the occupants of which would also have to rely upon the same local amenities. The applicant still has to go through the process of

registering the site with Ofsted in line with The Children's Homes (England) Regulations 2015, as amended.

Concern has been expressed that the demographics of Folgate Lane are predominantly elderly, retired people who enjoy the quiet rural location and that the home will alter the character of the area, with neighbours feeling intimidated by youths. However, there would be nothing to stop a younger demographic buying the existing dwelling as the road is not restricted to older people, and an assumption cannot be made that the residents (of which there would be only two children who would be supervised) are going to cause issues.

Objections have also been received regarding the fact that the proposal is a business use in a residential location which would alter the character of the lane. While the applicant will no doubt have financial recompense and will employ staff to care for the children at the site, the aim is to provide a nurturing place for the children to live and therefore it would be expected to locate such homes in residential areas, and not in town centre / business / industrial estate location.

Due to the slightly uncertain nature regarding the number of staff (this will be finalised with Ofsted/Social Services) it is considered that a material change of use could occur for this reason and therefore consent is required. However, given the scale of the proposed development, with 2 children (maximum) and 2/4 members of staff, the proposed development is minor in nature and is considered unlikely to pose a significant impact on the immediate vicinity. Whilst there is no footpath, the scale of the proposal is similar to that of a typical dwelling of this size (the number of trip modes above the existing permitted dwelling use is not likely to be significant) and therefore in this instance it is considered acceptable and similar to its existing use.

The proposal therefore complies with the principles of the NPPF, Policies CS02, CS06 and CS08 of the Core Strategy 2011 and Policy DM2 and DM15 of the SADMP 2016.

Impact on Neighbour Amenity:

Given the nature of the proposed development, which is for a change of use only, there would be no impact upon neighbour amenity with regard to overlooking, overshadowing or being overbearing. As already stated, changes to the points of access, the parking area and fencing can be carried out under permitted development rights.

There is an objection relating to loss of privacy in the garden, however the application does not physically alter the building, and it still relates to a single storey dwelling which would not cause material overlooking.

There are objections stating that the change of use is likely to lead to anti-social behaviour, which may be exacerbated by the quiet rural location with children becoming bored. This fear of crime is exacerbated by the experience elsewhere within the village where there is a children's home and there have apparently been issues regarding vandalism, damage to property, and verbal abuse. Whilst fear of crime can have an impact upon well-being and objectors state it is the duty of the Local Authority to safeguard the vulnerable elderly people in Folgate Lane, we cannot assume that the future occupants will cause a nuisance and they will be supervised. The proposal is to provide a nurturing atmosphere for vulnerable children, and it should not be predetermined that the children are going to create a disturbance due to antisocial behaviour. In addition, the small scale of the dwelling limits the number of children at the site.

There are objections that there could be additional noise and disturbance created by the increase in vehicle movements generated by the staff and deliveries etc. Given the level of

staff proposed it is not considered that the number of trips generated would be hugely different from a single dwelling, and while there may be times when staff are changing shifts and there are more cars on site, there is adequate room on site for parking and manoeuvring and this is considered to be acceptable and would not cause a dis-amenity due to noise and disturbance.

Overall, the proposal is not considered to cause amenity issues with regard to noise and disturbance, given the level generated by the proposed use which would not be dissimilar to a single dwelling. The proposal therefore complies with para. 130 of the NPPF and Policy DM15 of the SADMPP 2016.

Highway Safety:

No objection was received from the Local Highway Authority. It was noted by the Highways Officer following a site visit that works had been carried out at the site that would not accord with highways requirements.

The fencing and gates that had been erected would need to be re-erected on land that was not highway verge, and it would also be necessary to upgrade the access and set the gates back 5m from the edge of the highway. It was the Highways Officers view, and the view of your officer that the issues relating to the fencing and access can be resolved by condition.

The proposal complies with para. 110 of the NPPF, Policy CS11 of the Core Strategy 2011 and Policy DM15 of the SADMPP 2016.

Flood Risk:

The site is located within a Flood Zone 3 and the area adjacent to the Board maintained drain on the western boundary is located within a Tidal Hazard Mapping area and an area identified as impacted by climate change with regard to surface water and Tidal 0.1% and 0.5%AEP.

Notwithstanding that a flood risk assessment has been submitted it is material that the flood risk vulnerability of the proposal is no different than its current vulnerability classification as a dwelling (both are classed as 'More vulnerable').

Consequently, there is no change in the vulnerability classification as a result of the change of use. An informative relating to the EA flood warning direct service and the preparation of a Flood Evacuation Plan will be placed on the decision notice as it is in an area affected by flooding.

Other matters requiring consideration prior to the determination of this application:

Surface water drainage and foul drainage is as existing and is not amended by this change of use application.

Comments were received from the IDB relating to their Byelaws and restrictions given the proximity of the Board maintained drain along the western boundary. The letter will be referred to as an informative for the applicant's consideration/information.

A number of objections to the proposal were submitted, many of whom are addressed above, however the suitability of the dwelling has also been questioned given it is of prefabricated construction and was sold by Freebridge as it was not considered suitable as accommodation. The fact that Freebridge did not consider the prefabricated buildings economically viable to upgrade does not preclude somebody else from renovating the

dwelling. It would be for Ofsted when registering the home to decide whether it was suitable accommodation.

There have been objections as to whether the size of the dwelling is adequate for the intended purpose. During the course of the application the number of children proposed at the site was reduced from 3 to 2 given the number of available bedrooms. It is also a matter for the regulating authority i.e. Ofsted to determine whether the size of the dwelling is adequate.

Concern has been expressed that the same applicant has bought other prefabricated bungalows in the road and will also use them as children's homes. If this is the case and there is considered to be a material change of use, then planning permission would also be required. If the change was not considered to be material, as in it was the same level of use as a normal dwelling then consent would not be necessary.

Objections were received relating to works carried out at the site prior to planning permission being sought. This application is for a change of use and any renovations to the dwelling are not impacted by this application. Any issues that arose during the renovations, i.e. damaging an underground cable, are unfortunate and can occur when building work is carried out, but do not relate to this application. The works which were done regarding the points of access, parking and fencing will be addressed via condition.

An objection has been received regarding noise and disturbance caused during the renovation of the dwelling, however this does not relate to this change of use application.

There is an objection that the proposed change of use will impact upon property values. The increase or decrease in value of properties surrounding an application site is not a material planning consideration.

A query has been raised regarding whether a site notice was put up at the site. Two site notices were erected at the site, the first on 24th February and the second one on 4th May after there had been a change in the description of the application reducing the number of proposed children to two. Neighbour/objector letters were also sent out corresponding with the aforementioned dates.

There is an objection on the basis that the deeds relating to the homes on Folgate Lane state that they should not be used for business purposes. This is civil matter and is for the applicant to determine whether they are complying with any other legal requirements relating to their site.

There is an objection on the basis that the home will only support two children and that the number of staff required will not be very cost effective in relation the public paying tax for children's homes. The numbers of staff required to supervise the children at the home will presumably be determined by the regulations relating to children's homes. This is not material to this application.

Crime and Disorder:

There are a number of objections from the neighbouring dwellings relating to 'fear of crime' issues relating to the proposed change of use. The planning application should not be prejudged on this basis as the future occupants are not known at this time and will also be supervised. Comments were received by the Police Architectural Liaison Officer which provided general advice regarding 'Secured by Design' principles.

CONCLUSION

The scale of the proposed C2 use is of a size which would be similar to the existing use of the site as a dwelling (C3). There are no physical changes proposed to the building and therefore there would be no impact on the character and appearance of the countryside. Additionally, while it is possible that there would be slightly more visitors to the site due to staffing over and above a normal dwelling, there would be no material impact on highway safety or neighbour amenity and therefore the proposal is considered acceptable and complies with the principles of the NPPF, Policies CS06, CS08, CS10 and CS11 of the Core Strategy 2011 and Policies DM2, DM15 and DM17 of the SADMPP 2016 and the application is therefore recommended for approval.

RECOMMENDATION:

APPROVE subject to the imposition of the following condition(s):

- 1 Condition: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 1 Reason: To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition: The development hereby permitted shall be carried out in accordance with the following approved plans 'Location / Site Plan' received by the Local Planning Authority on 25th April 2023, and 'Floor Plan' received by the Local Planning Authority on 21st February 2023.
- 2 Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 Condition: Within eight weeks of the date of this decision, the fencing and gates that exceed 1.0m in height and encroach upon the highway verge, shall be removed and the land reinstated to its former condition.
- 3 Reason: For the avoidance of doubt and to ensure that the unauthorised development is removed in a timely manner.
- 4 Condition: Prior to the first use of the development hereby permitted the vehicular / pedestrian / cyclist accesses / crossings over the verge shall be constructed in accordance with the highways specification TRAD 5 and thereafter retained at the position shown on the approved plan. Arrangement shall be made for surface water drainage to be intercepted and disposal of separately so that it does not discharge from or onto the highway.
- 4 Reason: To ensure construction of a satisfactory access and to avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety.
- 5 Condition: Any access gates / bollard / chain / other means of obstruction shall be hung to open inwards, set back, and thereafter retained a minimum distance of 5 metres from the near channel edge of the adjacent carriageway. Any sidewalls / fences / hedges adjacent to the access shall be splayed at an angle of 45 degrees from each of the outside gateposts to the front boundary of the site.

- 5 Reason: In the interests of highway safety enabling vehicles to safely draw off the highway before the gates/obstruction is opened.
- 6 Condition: Prior to the first occupation/use of the development hereby permitted 2.0 metre wide parallel visibility splay (as measured back from the near edge of the adjacent highway carriageway) shall be provided across the whole of the site's roadside frontage (and additionally along the flank frontage of the adjacent property as outlined in blue on the submitted details).The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 1.02 metres above the level of the adjacent highway carriageway.
- 6 Reason: In the interests of highway safety in accordance with the principles of the NPPF.