

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

**Application for a lawful development certificate
for a proposed children's home (C3(b) use)
at The Shires, The Old Moorings, Eastoft**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform planning committee members about the details of the submitted application for a Lawful Development Certificate for the use of an existing dwelling house as a small children's home and to advise members of the outcome of the assessment of the evidence submitted in support of the application.

2. BACKGROUND INFORMATION

- 2.1 Application PA/2014/1071, for a Certificate of Lawful Development to use an existing dwelling known as The Shires, The Old Moorings, Eastoft as a small children's home, was submitted on 22 September 2014. The application was deferred at the Planning Committee meeting on 17 December to enable the applicant to prepare additional supporting information to expand their case that the development is lawful.
- 2.2 The current authorised use of the property is C3(a) within Class C3 Dwellinghouses of the Town and Country Planning (Use Classes) Order 1987 (As Amended) which is a dwelling. This is defined as those living together as a single household by the Housing Act 2004 (basically a 'family').
- 2.3 Within this use class there are variations of the living arrangements of the occupants which are still considered to be within this classification. This includes C3(b), those living together as a single household and receiving care, with a maximum limit of six people living together in that single household.
- 2.4 The applicant considers that the proposed arrangement of 2 children being supported by 3 carers during the day and 2 at night living together as a single household falls within the C3(b) category, and is therefore lawful development, as a change of use has not taken place. The staff and children live as a family, and the applicant considers that this, together with other activities including car trips, will be similar to that of any other similar size family home.
- 2.5 The applicant is also of the opinion that even if a change of use is considered to have taken place, the change is not so material, in planning terms, that a formal planning application is required, and a certificate of lawfulness should still be issued.

- 2.6 The applicant has submitted copies of decisions made by other authorities whereby it has been decided that similar developments are either lawful, or not a material change of use, and certificates of lawfulness have been issued accordingly. However, every application is determined on its own merits using the particular details of that case to determine the lawfulness of a development.
- 2.7 When considering an application for a Lawful Development Certificate the onus of proof is firmly on the applicant who must demonstrate, on the balance of probability, that the use is lawful.
- 2.8 In this particular case, even after considering the additional supporting information, it is not considered that the applicant has demonstrated that the proposed use falls within Class C3(b) of the Use Classes Order. This is because the adult carers work shift patterns and, although there is some continuity of care, it is not the same carers every day. The property is the main or sole residence of the children but not the adult carers. Therefore it is considered that the adult carers, under the current arrangement, do not form part of the household in planning terms, and the use cannot be classed as being within class C3(b). It is considered that the occupation of the property as set out in the application results in a material change of use requiring planning permission. Therefore, on the balance of probability it is considered that a Lawful Development Certificate cannot be issued in this instance.
- 2.9 It is considered that the use as proposed by the applicant falls within Use Class C2 Residential Institutions, which is considered to be a material change of use requiring a separate planning permission.

3. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

3.1 Financial

3.1.1 None

3.2 Staffing

3.2.1 None

3.3 Property

3.3.1 None

3.4 IT

3.4.1 None

4. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 – CRIME AND DISORDER, RISK AND OTHER)

4.1 Statutory

4.1.1 None

4.2 Environmental

4.2.1 None

4.3 Diversity

4.3.1 None

4.4 Section 17 – Crime and Disorder

4.4.1 None

4.5 Risk

4.5.1 None

4.6 Other

4.6.1 None

5. OUTCOMES OF CONSULTATION

5.1 Being an application for a Lawful Development Certificate, and not a planning application, there is no statutory requirement to notify interested parties, for example neighbouring properties or the parish council, of receipt of such an application. The issues to be considered in the determination of such an application are a matter of fact and degree, and are evidence based. The onus is on the applicant to demonstrate, on the balance of probability, via the application form and submitted evidence, that the use referred to is lawful in planning terms. The planning merits of the case in relation to such matters as residential amenity and impact of the use on the character of the area are not relevant in the determination of an application for a Lawful Development Certificate.

5.2 However, the local community is aware of the application and five letters have been received objecting to the application. One letter of support has also been received which sees the development as a welcome community service. The letters of objection raise issues relating to the use of the building as a children's home being inappropriate in a rural community. Additionally, concern has been raised about the number of vehicles being parked in the area in connection with the property, which at times has been reported as 11 in total. The applicant has confirmed that this was in connection with staff meetings, which will no longer take place, and the level of cars at the property will not exceed 5. No comments have been received which concern the main issue to be addressed, which is whether the use as proposed is lawful.

6. RECOMMENDATIONS

6.1 The applicant has failed to demonstrate to the satisfaction of the local planning authority that the use proposed falls within Class C3(b), and consequently the lawful development certificate should be refused.

HEAD OF DEVELOPMENT MANAGEMENT

The Civic Centre
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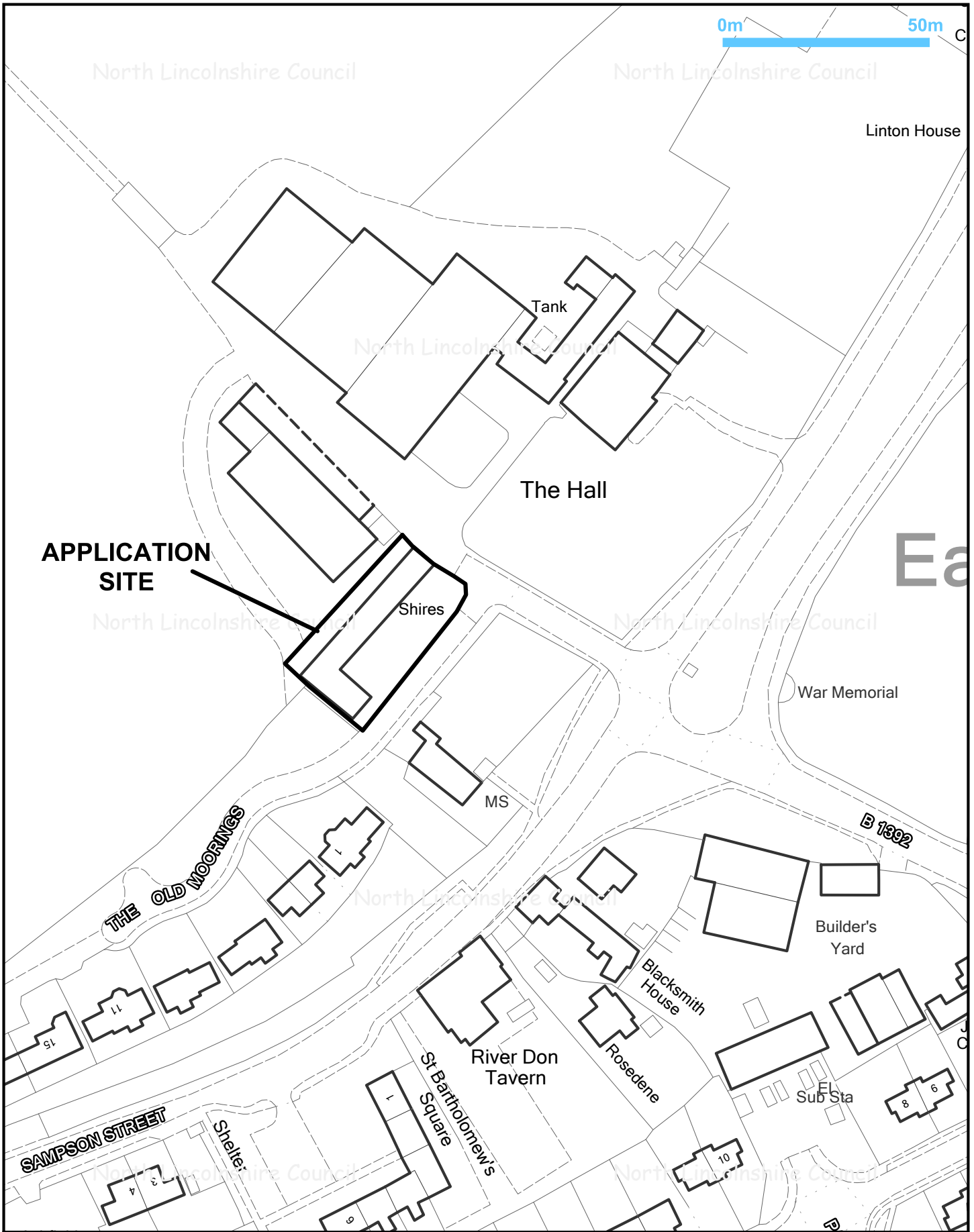
Author: Emma Stanley
Date: 16 April 2015

Background papers used in the preparation of this report

The Town and Country Planning (Use Classes) Order 1987 (As Amended)

Department For Communities and Local Govt Circular 08/2010 – Changes to Planning Regulations for Dwellinghouses and Houses in Multiple Occupation

PA/2014/1071



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