Planning Inspectorate

Appeal Decision

Site visit made on 4 February 2025

by H Marriott MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2025

Appeal Ref: APP/A2525/W/24/3350060
Croft House, 98 Stone Gate, Cowbit, Spalding, Lincolnshire PE12 6AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Florinee Homes Ltd against the decision of South Holland District Council.
- The application Ref is H01-0029-24.
- The development proposed is for the change of use from dwelling C3 to residential institution C2.

Decision

1. The appeal is allowed and planning permission is granted for the change of use from dwelling C3 to residential institution C2 at Croft House, 98 Stone Gate, Cowbit, Spalding, Lincolnshire PE12 6AH in accordance with the terms of the application, Ref H01-0029-24, subject to the following conditions:

    1) The development hereby permitted shall begin not later than three years from the date of this decision.

    2) The development hereby permitted shall be carried out in accordance with the Site Location Plan (Produced 11-Jan-2024).

    3) The maximum number of occupants residing in the building shall be limited to no more than four children and associated staff.

Preliminary Matters

2. The description of development used in the heading and decision above has been taken from the application form. The Council's decision and the appeal form use a different description which refers to an amended vehicular access and associated works. Even though the appeal form indicates a different description, section E indicates "NO" in response to whether the description of the development has changed from that stated on the application form. Furthermore, detailed scaled drawings of any operational development have not been provided.

3. An additional drawing showing the proposed installation of a footway (Drawing No JDS079/002) on land outside of the appeal site was also submitted to the Council before making its decision. However, the evidence suggests that the appellant requested that the proposed development be determined as originally proposed, as they did not consider such provision to be justified or necessary in any event.

4. Accordingly, I have taken the description from the original application form and considered the appeal on the basis that it is for a proposed change of use only. I consider that no party is prejudiced through the use of this description.

5. Since the determination of the application, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties have been given an opportunity to comment on the changes and I have had regard to the comments received in the determination of this appeal.

Main Issue

6. The main issue is whether the proposed development would be suitably located with particular regard to highway safety.

Reasons

7. Croft House is a two-storey detached dwelling located on Stone Gate, close to a roundabout junction which connects the settlement of Cowbit to the A16. Off-street parking, including a garage, is located to the front and side of Croft House and this is served by a circular driveway connecting two existing vehicle access points.

8. The appeal site lies outside of but near to the settlement boundary of Cowbit, as defined on the Inset Map in the South East Lincolnshire Local Plan 2011-2036 (2019) (SELLP). There is no dispute between the main parties that the site is regarded as being located in the countryside for the purposes of decision making. Even if there was no settlement boundary defined in the SELLP, there is no footway that directly connects Croft House to the village. A hedgerow positioned along the back edge of the highway and a field are located between Croft House and buildings within the settlement. Although there are houses located opposite the appeal site[1] and the road is subject to a speed limit of 30mph, the appeal site is physically and visually detached from the main part of the village.

9. Policy 1 of the SELLP identifies a settlement hierarchy which has been defined following consideration of a number of factors including proximity to local shops, services and community facilities and access to public transport. It requires development in the countryside to be necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. Policy 32 of the SELLP states that development will not be permitted unless it (where possible and appropriate) creates environments which are accessible to all sections of the community.

10. Whilst there is no substantive evidence to suggest that the proposed use is necessary in the countryside, there is no dispute between main parties that the appeal proposal would provide community facilities in the form of the provision of a home for four children in need of care.

11. The evidence indicates that thirteen staff members would be employed, although a lesser number of staff would be present at any one time as they would work in shifts. There is no dispute between the main parties that the appeal proposal would provide sufficient off-street parking and would not result in a highway safety issue as a result of vehicles entering or leaving the site. Whilst accepting that the appeal proposal may generate a greater number of trips than a typical family home, the Council's concerns, in line with advice they received from the Highways Authority

[1] 32 dwellings (Council Ref: H01-0924-18) on land allocated for housing in the SELLP.

(HE), relates to pedestrians entering or leaving the site and the lack of footway connecting the appeal site to the village footway.

12. I saw on my site visit that the nearest services and facilities in Cowbit are located a considerable walking distance away from the appeal site. The appellant indicates that due to potential disabilities and needs of young people who are placed with them, they would more likely access local services and facilities by motor vehicle. Furthermore, as Cowbit is identified as a Minor Service Centre in the SELLP, trips in any event would likely be required to larger settlements containing a wider range of day-to-day services and facilities. Whilst cycling to work would be encouraged, staff and visitors would more likely rely on use of a motor vehicle, including through car sharing, partly due to shift timings and the availability of public transport options in the area. On this basis, pedestrian movements would be very limited.

13. The appellant has explored the opportunity to create an off-site footpath link. However, there is no substantive evidence before me to suggest this could be implemented. Furthermore, as an existing five-bed dwelling, the building is capable of being occupied by a family which could be occupied by a similar number of persons, including four or more young people, who would equally need to access a wide variety of facilities and services. It is not uncommon for roads in the countryside to have no footway and even though a pedestrian link to the nearest village is desirable, this is an existing situation. Taking this and the small-scale of the children's home into account, the requirement for a footpath link would be too onerous.

14. Whilst the Framework sets out that opportunities to promote walking, cycling and public transport use should be identified and pursued, it is also clear that homes for different groups within the community should also be provided and development should only be prevented or refused on highways grounds if there would be unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

15. Overall, there is no technical evidence before to suggest that the appeal proposal would increase the risk of conflicts between pedestrians and motor vehicles or that it would result in an unacceptable impact on highway safety.

16. I conclude that the proposed development would be suitably located and would not result in an increased risk to highway safety. In this regard it would not conflict with Policies 1 and 32 of the SELLP which require development in the countryside to meet the sustainable development needs of the area and to create environments which are accessible to all sections of the community (where possible and appropriate). I also find no conflict with Policy 2 of the SELLP, which requires development to meet sustainable development considerations specifically in relation to access.

17. Policy 3 of the SELLP has also been referred to in the Council's statement. However this policy, which relates to the design of new development is not relevant to a proposed change of use of an existing building.

Other Matters

18. Reference has been made to the appeal proposal representing a re-submission of a previously submitted planning application (Council Ref: H01-0651-23). While this is noted, I must determine the current scheme as it is before me.

19. An interested party indicates that the appeal site may include land within their ownership. However, I can see no reason why permission would negate or supersede any private legal rights relating to land ownership. Accordingly, issues relating to land ownership have not had any material bearing on my assessment of the planning issues in this appeal. Whether or not any existing foliage from the appeal site has been removed is also not a matter for this appeal.

Conditions

20. The Council has suggested various conditions in the event that the appeal is allowed. I have considered these against the tests set out in the Framework and Planning Practice Guidance (PPG). In some instances, while I have adopted the suggested conditions, I have made changes to wording to add clarity as appropriate.

21. Conditions specifying the timescales for implementation of the development (1), and requiring the development be carried out in accordance with the approved plans (2), are necessary in the interests of planning certainty.

22. However, as already explained under the Procedural Matters, I have not included any plans or documents that refer to proposed operational development since the appeal proposal seeks a change of use only and I have not been provided with any scaled or technical drawings of any such development. Any operational development, including alterations to the vehicle access, is not a matter for me to determine through this appeal and is a matter that for the appellant to address separately if necessary. For the same reason, a condition requiring a car parking management plan is not considered reasonable and necessary since there is no evidence to suggest that adequate parking cannot be provided on the site as existing.

23. A condition (3) limiting the number of children permitted to reside at the children's home to no more than four is considered reasonable and necessary, as a greater number of children living on site could increase overall activity altering the effects considered in this appeal. It is however not considered reasonable or necessary to limit the age of the children or the maximum number of visitors and staff at the premises present at any one time since this would be self-governed through separate Ofsted requirements.

24. I note that the site is located in Flood Zone 2 and the Council raised no concerns in this regard subject to a condition to ensure the development takes place in accordance with the appellant’s Flood Risk Assessment (FRA). However, the appeal proposal would not increase the vulnerability of the use of the site and this condition is not therefore considered reasonable or necessary. In relation to comments received from South Holland Drainage Board, a condition relating to surface water drainage is not reasonable or necessary since the application is for a change of use only.

25. The Council have suggested a personal condition to ensure that site is operated by the appellant only. However, PPG advises that since planning permission runs with the land, it is rarely appropriate to do so. Such a condition would not be reasonable or necessary in this instance given that there are no compelling personal or other reasons for doing so.

Conclusion

26. For the reasons given above the appeal is allowed.

H Marriott

INSPECTOR