DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H01-0029-24**	**Applicant:**	**Florinee Homes Ltd**
Proposal:	Change of Use from Dwelling C3 to Residential Institution C2, including amended vehicular access and associated works - re-submission H01-0651-23		
Location:	Croft House 98 Stone Gate Cowbit		
Terminal Date:	3rd July 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
07	Improving South East Lincolnshire's Employment Land Portfolio
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-making
Section 7 - Ensuring the vitality of town centres
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed and beautiful places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

RESIDENTS	2	1	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a full application seeking permission for the change of use from a dwelling (C3) to residential institution (C2) at Croft House, 98 Stone Gate.

This application is a re-submission of application reference H01-0651-23 which was refused for the following reason:

Section 9 of the National Planning Policy Framework (2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2023) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

The proposal is considered to fail to ensure that safe and suitable access can be achieved for all users and the proposed use would be expected to have an unacceptable impact upon highway safety. This therefore puts the wider community, local residents, workers and any extra visitors at risk and the development is therefore unacceptable in highway safety terms, and is not a suitable or sustainable location for the development.

The development is therefore contrary to Policies 1 and 32 of the South East Lincolnshire Local Plan 2019 and to Paragraph 111 of the National Planning Policy Framework (2023)

Site Description

The site lies outside the settlement boundary of Cowbit as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP) and is therefore classed as being in the countryside. The site is accessed off of the A16 roundabout and is the on the main road heading into Cowbit itself. Croft House is set back from the road by around 15m and the front of the property features large mature trees and hedges which also surrounds also boundaries of the property. The dwelling itself is made of bricks with a tiled roof and white uPVC windows and doors. Opposite the dwelling there is a set of new builds.

History

H01-0220-13 - Proposed extension, alterations to house and fence - Approved

H01-1266-21 - Erection of two storey side extension and single storey rear extensions - Approved

H01-0651-23 - Change of Use from Dwelling C3 to Residential Institution C2 - Approved

Consultation Responses

Cowbit Parish Council

This is a resubmission of a previous application for change of use which was refused due to major safety concerns by Lincolnshire County Council, Cowbit Parish Council and long-term local residents. Though the presentation of the resubmission differs from the original, the PC cannot see any significant difference to the substance of the application; Therefore, the previous objections on safety grounds still stand.

1. There is no pavement linking Croft House with Cowbit Village. The only means of accessing it by foot, is by walking along a very busy road which forms the only route into Cowbit from the A16. This

is why there was a need to put in a wide grass verge at the top of Croft Close, (opposite Croft House), as a buffer between the fast and busy road and the
estate footpath.

2. The application includes a paved 'waiting area' outside the site, for which clearance work appears to have started. Either this is to be used as a pedestrian setting-down or picking up area, which will involve vehicles parking on this busy stretch of road whilst this happens. Alternatively, (or additionally), it could well be intended as a means for staff and residents to cross this busy road to the grassed bank opposite, in order to use the Croft Close estate road to walk into the village. Apart from this footpath being designated for the residents and visitors of Croft Close, using this access to the village is completely unsafe, as the paved area runs out before the village pavement begins, so using this route will necessitate walking in the road or crossing the busy road once again. The stretch of road with no footpath, was recently the site of a serious accident where a van travelling at high speed, crashed into the front garden of a property and ended up embedded in the neighbouring property. Had anyone been walking past at the time, they would not have lived to tell the tale.

3. The application states that staff will be encouraged to use public transport. However, the only mode of public transport serving Cowbit is the No. 37 bus service, with the bus stop at the opposite end of Stonegate, adjacent to the Church, and at its most frequent, runs hourly. Reaching Croft House from this stop, will involve walking on a busy road which, as previously stated, is not safe.

Finally, the application states that whilst only 4 children will be living at Croft House, there will be 13 full-time jobs created. This ratio doesn't appear to be commercially viable, and the PC believes that should this application be approved, the applicant will have no option but to increase the number of residents significantly.

In conclusion, the original application was recommended for refusal by LCC and SHDC accepted that recommendation. Although more 'polished', this application is no different in substance. The proposal remains totally unsafe and therefore the PC believes that it too, must be refused.

The Parish Council do not believe there is enough room to install a footpath along this side of Stonegate, without narrowing the carriageway and causing a 'pinch point' in the traffic. Vehicles traversing Stonegate, especially agricultural, school coaches and HGVs. would have a job to get through and private cars would struggle, as this is a very busy road with vehicles coming from and heading towards the A16 which is a major route between Peterborough and Spalding.

South Holland Internal Drainage Board

Consent is required under Byelaw 3 but not currently required under Section 23 and not applicable under Byelaw 10.

Lincolnshire County Council Highways

Comments

The proposal to install a frontage footway along the site frontage will have no bearing on the previously requested reason for refusal. The gap from the application site to the existing footway network will still be as it currently is. Therefore the previous reason for refusal still applies to this application.

Recommendation for refusal:

The Application Site is an existing residential property on the eastern extremity of Cowbit village. It is the last property on the north side of Stone Gate before the A16 roundabout. Accordingly, Stone Gate carries traffic entering the village from the east, north and south. Stone Gate, at the frontage of the Application Site, has a 30mph speed limit that begins just after the exit from the A16 roundabout. There are no footways along the north side (the Application Site side) of Stone Gate between the Application Site and the Mill Drove South junction. A new section of footway has been provided along part of the south side of Stone Gate, by the developers of the new residential estate on the south side of this road, opposite the Application Site. This new section of footway connects the estate's internal footway network to a point along Stone Gate, almost opposite the Mill Drove South junction, where pedestrians can cross to a new section of footway on the east side of the junction, also provided by the residential estate developers, and then cross Mill Drove South and

walk along the existing footway on the north side of Stonegate west of the junction. There is however no footway on the south side of Stone Gate, between the point opposite the westernmost entrance to the Application Site, where residents would most likely cross the Stone Gate carriageway, and the entrance to the new residential estate. There is a footpath within the new residential estate that runs parallel with Stone Gate but this is a private footpath, provided solely for the benefit of residents of the new dwellings that face onto Stone Gate but which are set-back a short distance from the road. Residents and staff of the proposed Residential Institution would not therefore have any lawful right to use this private footpath and would therefore have to walk along the carriageway or along the highway verge to get between the Application Site and the village footway network, that begins at the new residential estate entrance onto Stone Gate. It is acknowledged that the distance between the Application Site frontage and the start of the village footway network is not great but never-the-less, pedestrians sharing this section of frequently busy road with vehicles, where the drivers of those vehicles have just been travelling at the national 60 mph speed limit, is considered by the highway authority to be too great a risk for it to be safe for the subject property to be changed to a residential institution use.

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, both letters of support and objection have been received and have been summarised as follows -

- Too close to main road
- Not comfortable with this around children
- There is no pavement linking Croft House with Cowbit Village
- The application states that staff will be encouraged to use public transport, this will involve walking on a busy road which, as previously noted, is not safe
- The application states that while only four children will be living at Croft House, 13 full-time jobs will be created. This ratio surely cannot be viable commercially
- Though more polished, this application is no different in substance. The proposal remains totally unsafe, and therefore it, too, must be refused.

Further to my previous objection to this proposal, I note that the applicant has now added a plan for a pavement connecting Croft House to the main village network. On the face of it, this would appear to alleviate my main objection to the proposal. However in the absence of any supporting information, and given that this has been added so late, I feel caution is still needed. As things currently stand, there is no evidence that the road here is wide enough to accommodate a 1mtr pavement, and it is also unclear whether the applicant is prepared to fund the entire cost of providing same. Provision of this pavement is absolutely vital for safety and the concern is that permission might be granted with the pavement, bit it to be subsequently discovered that provision of it isn't possible. The best solution might be for this
application to be refused, so that the applicant can try again, but this time with the proposed pavement fully incorporated within the application so that it can be considered as a whole.

I support this, based entirely on the discriminatory objection by the parish council. "Not in my neighbourhood eh".

Evaluation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

Key Planning Considerations

The main issues and considerations in this case are (but not limited to):

- Policy/ Principle
- Layout, design and impact on the character of the area
- Impact on neighbouring residents/ land users/ land use
- Highway Parking and Safety

Planning Considerations

Policy/Principle

Policy 7 dictates the location of commercial development of all scales. The development of new employment opportunities is supported where they can meet the seven criteria laid out within the policy. The proposal here has been assessed against all criteria below-

a) The development does not conflict with neighbouring land uses.
- The majority of neighbouring land uses within the immediate area surrounding Croft House are mostly residential, however further up the road there appears to be a nursery with a large amount of greenhouses within this different plot. It is therefore considered that despite the majority of buildings nearby being dwellinghouses there are more than one land uses and approving such a use as C2 wouldn't appear out of character or conflict in an unacceptable way with the neighbouring land uses.

b) there is no significant adverse impact upon the character and appearance of the area.
- There are minimal external changes being proposed as part of the application, many of which can be carried out without necessarily needing planning permission, and therefore there is not a significant adverse impact upon the character and appearance of the area it is located.

c) the design is responsive to the local context.
- As mentioned, this use is not common for the area however there are a variety of uses in the immediate area and the minimal external changes means that it won't look out of place.

d) there will be no significant adverse impact on the local highway network.
- Based on the response received from Lincolnshire County Council Highways the proposal is unacceptable and conflicts with Section 9, Paragraph 115 of the NPPF as it causes significant adverse impact on the local highway network. It is therefore considered harmful in this respect. This has been discussed later in more detail.

e) there will be no significant adverse impact upon the viability of delivering any allocated employment site.
- Within the settlement of Cowbit there are no allocated employment sites and therefore there has been no significant adverse impact upon the viability of delivering any allocated employment site as a result of the change of use.

f) proposals maximising opportunities for modal shift away from the private car are demonstrated.
- The proposal is outside any defined settlement boundaries but is still accessible from a variety of means of sustainable transport. There are some concerns regarding the highway safety raised by residents and LCC.

g) there is an identified need for the business location outside of identified employment areas on the Policies Map.
- The proposal is outside any defined settlement boundaries but is still accessible from a variety of means of sustainable transport. There are some concerns regarding the highway safety raised by residents and LCC, this issue will be discussed later within the report.

The proposal therefore is in accordance with five of the seven criteria outlined within the policy. Therefore, the principle of the development is considered acceptable.

Policy 32 states that 'Development shall contribute to: the creation of socially-cohesive and inclusive communities, reducing health inequalities and improving the community's health and well-being. Development will not be permitted unless it - protects and enhances existing public rights of way, and creates new links to the rights of way network and creates environments which discourage

crime and disorder and do not create the fear of crime, encourage healthy eating and local food growing, are accessible to all sections of the community, facilitate walking, cycling and public transport use and encourage community use'.

It is considered that for most part the proposal is in accordance with Policy 32 by benefitting and helping the community, health and well being of the area however, the objection from LCC Highways demonstrates that the site is not a safely accessible location for the community and this is a big factor that puts the proposal in conflict with Policy 32.

Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (December 2023) specifically relates to 'Achieving well-designed and beautiful places' and details that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2023), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

Development proposals should also ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.

Likewise, Policy 2 of the South East Lincolnshire Local Plan outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the National Planning Policy Framework and require that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

From the Planning Statement provided within this application it is apparent of the works that are being carried out. Whilst the application is mainly for the change of use there are some external alterations being carried out, these are listed below:

- Removal of existing foliage that currently blocks road view from all road frontage areas of the property.
- Installation of wooden fence extending the length of the property frontage allowing space for a large electric gate. Fence installation will block the current entrance closest to the roundabout leaving just one entrance further towards the village.
- The space at the entrance to the property through the gate will allow cars to come off the roadway whilst waiting for the gate to open, therefore not causing a highway hazard.
- Installation of CCTV cameras at the front of the property to monitor driveway area.
- Two driveway safety mirrors at the electric gate entrance that allows everyone to see clearly both ways up and down the road without any need to step onto the road.
- 1.5m hard standing pathway across the full frontage of the property taken from our property meterage and maintained by our staff. This will give a safe area for our young people and staff to stand should there be the need to.
- Secure fence surrounding all the property.

- Outdoor security lights.

Some of the proposed works mentioned do not necessarily require planning permission. The proposed 'installation of wooden fence' could potentially be done under Permitted Development Rights so long as they meet the requirements that the distance between the proposed fence and the highway is greater than 2 metres, and the height of the fence does not exceed 2 metres then planning permission would not be required. If the distance between the proposed fence and the highway is less than 2 metres, then the maximum height the fence can be without needing permission is 1 metre. The installation of CCTV cameras must meet these requirements, the camera dimensions cannot exceed 0.75m x 0.25m x 0.25m, cannot protrude more than 1m, cannot be less than 2.5m above ground level, cannot have more than four on one side and cannot have more than 16 overall without the need for planning permission. By removing the foliage this makes it easier to access and exit the property via a vehicle as it improves the view, furthermore the driveway safety mirrors also allow for a better view from the driveway. The 1.5m hard standing pathway must be discussed below in the relevant highway section of the report.

This is all dependent on whether permission is granted.

Impact on Residential Amenity/ Land Users

Paragraph 135 of the National Planning Policy Framework (December 2023) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

Policy 30 of the SELLP states that development proposals will not be permitted where they would lead to unacceptable adverse impacts upon the amenities of the area by way of air quality, noise and light levels.

As the property is currently classed as a residential dwelling with no new windows/ doors or significant external works creating new rooms etc there is no concern regarding overlooking or overshadowing and the dwelling is not considered to overbearing on the area.

The home will have up to four children living it in between the ages of 8 - 16 at any one time, this can be considered as a normal amount of children to occupy within a family home and therefore this does not provide any initial concerns. In comparison to this, the proposed staff team in total will be thirteen with the most at any one time being around five (figure taken from the provided table), from the previous application it was taking into consideration for the potential for there to be visits during the day from social works, family members and people attending meetings, as such this must be taken into consideration once again. Including the children, staff members and any external visitors this would mean there is the potential for up to 10+ people to be on site at any given time and therefore this is considered to be a significant amount and much higher than an average household and this could produce a high level of noise. Again, from the previous application the information was supplied stating the home will be staffed' 24 hours a day, 7 days a week, 365 days a year and includes two members of staff sleeping in the home overnight', it is considered the house will be run the same way as the previous proposal, furthermore from the current planning statement is it stated that 'The company structure is such that staff shifts start at 7:30/8am and end around 9:30pm or at the latest, one member of staff will leave at 11pm. Other staff will then remain and sleep in the property and leave shift the next morning around 9:00am'. Firstly, in regard to the hours of operation, of course as it is to be run as a residential institution it must be open 24 hours a day everyday and it would function as a normal home and then during the evening the amount of people would decrease to a level where it is not considered to be unacceptable and therefore there should not be an unacceptable amount of noise generated during the later hours of the day. Additionally, the potential times for visitors would more than likely be during the day time when the children living at the property would be attending school meaning during these hours there would be a minimum of four less people at the property, during the day is also usual working hours and therefore is the most acceptable time for external visitors such as social workers to attend the property. Where there is the potential for noise to be increased, there is just as much potential for this to happen in a normal household with these levels not being considered unacceptable or harmful in this regard.

Policy 2 states that 'Proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to - impact upon neighbouring land uses by reasons of noise, disturbance or visual intrusion'. Policy 30 states a similar thing 'Development proposals will not be permitted where they would lead to unacceptable adverse impacts upon health and safety of the public & the amenities of the area by way of and noise and light levels'. Stone Gate has recently been subject to new development for housing, most notable a new estate constructed across the road once permission was granted in 2018, there are fourteen dwellings 30m directly opposite the existing dwelling 'Croft House' that could potentially be impacted by this development. Public representations have been received objecting this application with the main body of these objections being outlined in the consultation responses section of the report. Despite the proximity and number of dwellings, there has been a minute amount of objections to the application from residents, with them mostly being concerned with highway safety, further justification being made as follows; as discussed already, the potential for noise is mostly during the daytime due to the potential for visitors to be on site and workers to be in and around the property. In any case, the children plus any additional workers would sit at around levels similar to normal householder, albeit slightly more than, and therefore the LPA take the view that the levels of noise that could be generated are low due to these reasons and the ham to residential properties through noise is low and does not warrant a reason for refusal.

The staff and external visitors also have the potential to increase noise pollution through an increase in vehicle movement to and from the application site. From the previous application this was justified by the applicants who stated 'Staff will be encouraged to share lifts into work or use the cycle to work scheme which will keep the carbon footprint low and help keep traffic around the home to a minimum' this is further supported through the new planning statement 'As part of our own company support for sustainable transport, we encourage our staff to use public transport where appropriate as well as cycling to work and car sharing where possible' which emphasises a similar point. If this is followed the amount of cars will be kept to a minimum and the vehicle movement would not be drastic and therefore not cause unacceptable impacts upon the neighbouring properties.

It can be considered that following an approval there would be an increase in noise compared to a normal household however this increase would be minor and minimal and realistically any noise increase could also happen if a family moved into this dwelling as its current use (C3). The proposal therefore conforms with Policy 2, 3 & 30 of the SELLP and Section 12 of the NPPF.

Highway Safety and Parking

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Section 9 of the National Planning Policy Framework (2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2023) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

Within this context, development should give priority first to pedestrian and cycle movements, facilitate access to high quality public transport, address the needs of people with disabilities and reduced mobility in relation to all modes of transport, safe, secure and attractive places, allow for efficient delivery and access for emergency services, and be designed to enable and encourage ultra-low emission vehicles in safe, accessible and convenient locations.

In a similar light to the previously refused application, Lincolnshire County Council Highways have submitted on objection and recommended refusal for this application. Within their comments they have stated 'The proposal to install a frontage footway along the site frontage will have no bearing on the previously requested reason for refusal. The gap from the application site to the existing footway network will still be as it currently is. Therefore the previous reason for refusal still applies to this location'. It is therefore considered that this application should be refused for the same reason as the previous. Furthermore, their comments go into more detail regarding the site 'There is

however no footway on the south side of Stone Gate, between the point opposite the westernmost entrance to the Application Site, where residents would most likely cross the Stone Gate carriageway, and the entrance to the new residential estate. There is a footpath within the new residential estate that runs parallel with Stone Gate but this is a private footpath, provided solely for the benefit of residents of the new dwellings that face onto Stone Gate which are set-back a short distance from the road. Residents and staff of the proposed Residential Institution would not therefore have any lawful right to use this private footpath and would therefore have to walk along the carriageway or along the highway verge to get between the Application Sit and the village footway network, that begins at the new residential estate entrance onto Stone Gate'. Finally, ' It is acknowledged that the distance between the Application Site frontage and the start of the village footway network is not great but never-the-less, pedestrians sharing this section of frequently busy road with vehicles, where the drivers of those vehicles have just been travelling at the national 60 mph speed limit, is considered by the highway authority to be too great a risk for it to be safe for the subject property to be changed to a residential institution use'.

The response received from LCC Highways is detailed and robust and clearly details why the issues with this application are unacceptable and would be harmful if approved. It directly conflicts Section 9 Paragraph 115 of the National Planning Policy Framework 2023 which states 'Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe' In this instance it can be considered that this proposal conflicts with this section of the NPPF and causes an unacceptable impact on highway safety of the area and the impacts would be severe in this instance and thus should be refused.

It is important to note that correspondence was carried out between the case officer, Florinee Homes (Applicant) and Lincolnshire County Council Highways. Following on from the objection detailed above, Florinee Homes attempted to submit new amended plans which included a footpath running along the front boundary of the site in an attempt to combat these aforementioned issues, initially a footway plan was submitted with two options; proposed footway Option A was 1m wide with Option B also being 1m wide to west, 1.8-2m wide to east. These plans were sent over the Highways for their comments in which they stated 'They cannot achieve the minimum 1m along the full length of the footway option. The width is very restricted and it is clear to see that it cannot be achieved. This is the absolute minimum' it was then decided that Florinee Homes must draw up new plans that meet Highways requirements in order for a new positive comment to be received. No new plans were received with the application stating they wish to receive the decision based on the initial highway comments. As such, the case officer in support of Lincolnshire County Council believe this application is in direct conflict with Section 9, Paragraph 115 of the NPPF and should be refused for this reason.

Flooding Considerations

Section 14 of the NPPF requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 162 details "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

The site lies within Flood Zones 2 of the Environment Agency's Flood Maps. These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial

strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

The site is located within an Environment Agency Food Zone 2 and a no danger hazard zone within the South Holland Strategic Flood Risk Assessment. As the property is already an existing dwelling for use as a residential property a normal household could reside at Croft House and the LPA could not limit this or specifically request flood risk mitigation measures. Due to the aforementioned location of the site in relation to flooding and danger zones, there is a relatively low risk of flooding at this site with all the habitable bedrooms being located on the first floor and away from the ground floor. The flood risk assessment provided is not necessarily of high detail but despite this it is still considered an adequate analysis can be made in relation to the flood risk.

Overall, when considering the development on balance, it is considered that given the mitigation measures detailed and recommended by condition, it is considered that the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan and the intentions of the National Planning policy Framework in this regard.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal represents inappropriate development outside the defined settlement boundary.

The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, however causes significant and unacceptable harm to the highway and is direct conflict with Section 9 of the NPPF which outweighs the other aspects of the application when viewed as a whole.

In this instance, these are material considerations that weigh against the proposal and as such, the planning balance is against the development.

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

Taking the above considerations into account, the proposal is considered to be in accordance with Policies 1, 2, 3, 4, 7, 32 and 36 (including Appendix 6) of the South East Lincolnshire Local Plan (SELLP) (2019). The proposal is not in accordance and does not meet the requirements set out in Section 9 of the National Planning Policy Framework (NPPF) (December 2023) which is a key factor in determining this application. The proposal fails to ensure that safe and suitable access can be achieved for all users and the proposed use would be expected to have an unacceptable impact upon highway safety. This is considered to be a material issue that outweighs the conforming policies. This is a significant factor in this case that indicates against the proposal and outweighs the consideration in favour of the proposal and the policies referred to above.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be refused under Delegated Authority.