

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H01-0651-23 **Applicant:** Florinee Homes Ltd.
Proposal: Change of Use from Dwelling C3 to Residential Institution C2
Location: Croft House 98 Stone Gate Cowbit
Terminal Date: 20th September 2023

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 2021**

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 places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	1	0	0	0
RESIDENTS	1	1	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a full application seeking permission for the change of use from dwelling (C3) to residential institution (C2) at Croft House, 98 Stone Gate. There would be no proposed external works taking place as part of the application.

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 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 the 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

Consultation Responses

Cowbit Parish Council

Cowbit Parish Council objects to this proposal on safety and other grounds.

Croft House is on the corner of two very busy roads; the A16 and Stonegate. The A16 is the main route between Peterborough and Spalding and on to Boston and beyond, and Stonegate is the only road into Cowbit from the A16. Both get very busy, especially in the morning and evening rush hours. There is a 30mph speed limit on Stonegate here, but this is widely ignored.

There is also no footpath between Croft House and Mill Drove/Backgate, meaning any residents wanting to access the village shop, playing field or school, or even to get to the school bus stops at the top of the village will need to walk in the busy road for a significant distance, and do this at times when Stonegate is busiest.

We are also concerned about the number of car parking spaces, and the number of vehicle movements; there may theoretically be eight parking spaces within the site, but that would be a massive squeeze, is many times more than the number on the site in the past, and parking on the road outside would create a massive traffic hazard. We also have concerns that the home is close to two family homes which are currently under construction in what was the grounds of Croft House.

We understand the need for a facility of this kind but Croft House is totally the wrong place for it.

Lincolnshire County Council Highways

Initially required additional information to find out how the facility would be safely accessed on foot. 'The Cowbit village footway network does not extend as far as this property and the highway authority would be concerned about the safety of both the resident children and staff walking along the carriageway of Stonegate'. Following this additional information further comments were made -

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 new estate's internal footway network to a point along the south side of 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 point opposite the Application Site frontage and the start of the village footway network is not great, but never-the-less, pedestrians would be 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, and it is considered, by the highway authority, that the risk of harm would be too great for it to be safe for the subject property to be changed to a residential institutional use. It is therefore recommended that Consent for this Application should be refused for the following reason:

The property for which application is hereby being made for a change of use to a residential institution lies outside the South-East Lincolnshire Local Plan village settlement boundary, where there is no footway connection into the village. The property is however close enough to the centre of the village for it to be reasonable to expect that residents and staff of the proposed institution would walk between the property and the services and facilities available within the village. Those wishing to do so would, because of the absence of a footway along part of that route, have to share the carriageway with motor vehicles and would therefore be at risk of conflict with those vehicles and possible injury. The severity of that risk would be increased by the fact that proposed institution would be accessed from a part of Stonegate that connects the village to the A16 and consequently carries not insignificant numbers of vehicles, travelling at speed. This Application therefore 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.

Public Representation

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

- Croft House is a totally unsuitable location for a children's home of any kind.
- It is unsafe and I am surprised that a professional home management company are even considering it.
- The location is on the corner of the very busy main A16 Peterborough to Spalding trunk road and Stonegate which is the only direct road into and out of Cowbit to the A16.
- The road is exceptionally busy in the morning and evening rush hours, presumably the residents will be walking to and from school bus stops in the village.
- There is no pavement or footpath between Croft House and Mill Drove North, the children will have to walk on the road when it is busiest.
- I also have concerns about the increased traffic caused by the stated eight vehicles that will be parking on site.

A letter of support has also been received stating that -

I see no reason why this change of use cannot go ahead. I note the objection from the parish council, whose concerns are somewhat thin. (and dare I say contain a level of unconscious bias). I for one would welcome such a service to our lovely, welcoming community.

Key Planning Considerations

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

- Principle of Development
- Impact on Neighbouring Residents/Land Users
- Highway Safety and Parking

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, 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 (updated 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Planning Considerations

Policy/Principle

The site is situated outside a settlement boundary as defined in the South East Lincolnshire Local Plan, 2019. Therefore, the site is located within the countryside. Policy 1 of the Local Plan states that 'in the countryside development will be permitted that is 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'.

The proposal is for the change of use from dwelling (C3) to residential institution (C2). Given the nature of the development, the proposal would be better suited in an area that is near infrastructure and accessible via pathways and highways, whilst not being too close to residential properties to avoid the potential for the increase in noise. It can be considered that it meets the sustainable development needs for the area. The proposal would provide employment opportunities as carers for the children within the development and increase in people coming into the area following this, although minimal, will help improve the economy. As outlined in the 'Supporting Statement' it is the intention of the application 'that our staff will be building relationships with the local education provisions as soon as possible' and that they will 'encourage our children and staff members to give back to the local community by spending time volunteering and attending local clubs' therefore they will be utilising facilities within the local area and helping out the local community.

Given that the intention of the applicant is for the home to function as similar to a normal family unit as is possible, it is not considered that there are grounds to refuse the application solely on 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 neighbouring land uses within the area surrounding Croft House is mostly residential use, however further up the road there appears to be a nursery with a large amount of greenhouses. It is therefore considered that despite the majority of buildings nearby being dwellings there are more than one land uses and therefore approving such a use as C2 wouldn't appear out of the character for the area.

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 and therefore there is not a significant adverse impact upon the character and appearance of the area it is located.

c) the design is response 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.

- Following a consultation with Lincolnshire County Council Highways department it is based on their recommendation that the proposal is unsafe and will cause a significant adverse impact on the local highway network by way of not sufficiently demonstrating the safe and suitable access can be provided to the development for all users (NPPF Paragraph 110b). It is therefore considered that there will be a significant adverse impact on the local highway network.

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.

- As previously mentioned, there are no identified employment areas within Cowbit on the Policies Map and therefore any development proposing a new business would be outside the employment areas. In this instance, it can be considered that there is an identified need for the business in this area as it will be one of few within Cowbit and therefore provides necessary care for children. It is also within an area with adequate infrastructure with viable transport routes despite the concerns about access as outlined before.

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'.

From the documents provided it is outlined that they will try and conform with this policy through implementing a '1.5m hard standing pathway cross the full frontage of the property taken from our property meterage and maintained by our staff' and 'We will work closely with the Parish Council and the Highways team should there be an opportunity to create a footpath between Croft House and Mill Drove North if there are additional residential properties created along Stone Gate' this directly relates to protecting and enhancing the existing public rights of way and creating new links to the rights of way network alongside making it accessible to everyone from the community and facilitating walking. This proposed footpath would create access and conform with all the mentioned sections within Policy 32 and therefore benefiting the community. They will ensure that they also encourage community use as mentioned in the documents 'It is our intention that our staff will be building relationships with the local education provisions as soon as possible' & 'Florinee Homes has always encouraged our children and staff members to give back to the local community by spending time volunteering and attending local clubs'. Furthermore, they also state that they will attempt to work closely with the Parish Council and Highways to support plans to enforce and improve the situation surrounding many vehicles ignoring the current speed limit in the area, finally by 'developing a close working relationship with the local police teams' this also benefits the community whilst discourage crime and disorder amongst the children and the community.

It is therefore 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

Paragraph 130 of the National Planning Policy Framework (NPPF), 2023 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, that they are visually attractive, as a result of good architecture, and are sympathetic to local character. Likewise, Policy 2 of the SELLP, states 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. 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.

The development solely relates to the change of use and therefore minimal external or internal changes are proposed as well as no proposed new developments. As a result of this the property will remain largely the same and therefore will be in keeping the local area and the existing dwelling.

A second statement provided later in the application states that some changes will be made within the curtilage, these include -

- Removal of existing foliage that currently blocks road view from all road frontages areas of the property
- Installation of wooden fence extending the length of the property frontage allowing space for large electric gate wide enough to allow two cars to pass at the same time. Fence installation will block the entrance closest to the roundabout
- Installation of CCTV cameras at the front of the property to monitor driveway
- Two driveway safety mirrors at the electric gate entrance
- 1.5m hard standing pathway across the full frontage of the property taken from our property meterage
- Secure fencing surrounding 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. This is all dependent on whether permission is granted.

Impact on Residential Amenity/Land Users

Paragraph 130 of the National Planning Policy Framework (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.

Policy 2 of SELLP (2019) states that proposals requiring planning permission for development will be permitted provided that considerations are met, specifically in relation to impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion, among others. Likewise, residential amenity is one of the factors to take into account when designing new development in accordance with Policy 3 SELLP (2019).

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 dwelling currently acts as a home and no external works are proposed then there is no concern regarding overlooking or overshadowing and the dwelling is not considered to be overbearing on the area. It therefore conforms with Policy 2 & 3 of the SELLP and Section 12 of the NPPF.

The home will have up to four children living in the home at any one time which can be considered

as a normal number of children for a family home and therefore not provide any initial concerns. Six children living together is considered higher impact than the average family home, whereas two to three is thought not to have a higher impact and this proposal is around this mark. The proposed staff team will have eleven people with an average of five people working on shift at one time, 'there is however every chance that there will be various visits (social workers, family members, meeting attendees) specifically during officer hours will increase these numbers' This would mean that there is the potential for up to 10+ people to be on the site at any time and therefore this is considered to be a significant amount that could provide a high level of noise. 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', these hours are what a normal home would function like and can be considered that during the evening/night hours there will not be an unacceptable amount of people on site and there should therefore not be an unacceptable amount of noise generated during these hours. Where there is the potential for this to happen, there is just as much potential for this to happen in a normal household.

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'. There are 14 dwellings 30m across the road that could potentially be impacted by this development being carried out. As mentioned in the statement 'The two-family homes under construction are being built by the previous owner of Croft House who was fully aware of the children's home plan when he sold us the property. Hence, no objection to the planning application from these properties.'. The potential for noise mainly during the daytime can be considered significant due to the high amount of people on site at any time as this could be up to 10+ people, as mentioned at any one time there will never be any more than four children living in the home, any children in a home aged between 8-16 whether it be those in care or a normal family setting could generate high levels of noise and therefore the concerns regarding the children is low especially as the unit acts as a dwelling currently and this amount of children could live here at any time in a normal family environment.

A normal household an average would consist of around 4-6 people being present whereas this application would have an average of 10+ including workers, children and visitors etc. This would be during office hours and the normal working day, it can therefore be considered that the high amount of people would be on site during the day and therefore acceptable and usual working hours. During the evening these numbers would drop and as mentioned at night there will only be two members of staff on site.

The people also have the potential to generate noise through the increase in vehicle movements. In response to this, the applicant has stated that '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' acting as an LPA it would be difficult to enforce the vehicle movement in regards to how people travel to and from the site, however, if this is followed then it can be considered that the potential increase in 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

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 Lincolnshire County Council Highways Department have strongly objected to this application on these grounds stating that 'Those wishing to do so would, because of the absence of a footway along part of that route, have to share the carriageway with motor vehicles and would therefore be at risk of conflict with those vehicles and possible injury. The severity of that risk would be increased

by the fact that proposed institution would be accessed from a part of Stonegate that connects the village to the A16 and consequently carries not insignificant numbers of vehicles, travelling at speed. This Application therefore 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.'. Based on their response to clearly outlines that there is an identified high risk that an issue could occur if the residents or workers needed to walk anywhere and therefore it directly contradicts Section 9 of the NPPF and does not demonstrate that safe and suitable access can be provided to the development for all users. Another section of their objection states that 'There is 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' which demonstrates that despite their being a footpath near the development it is not within the 'lawful rights' to use this private footpath and would have to stay walking on the road.

This detailed response from LCC Highways Team clearly and effectively outlines the issues the application faces when compared to Section 9 of the NPPF and its highway safety. The application directly conflicts with this, therefore the application should be refused on highway grounds.

Additionally, Policy 36, to be read in conjunction with Appendix 6 of the SELLP, sets out minimum vehicle parking standards and requires at least one space per three residents for residential care homes (C2). There will be no more than four residents at any one time and it is considered that there is upwards of 5 spaces and therefore there is an adequate amount of spaces. Due to the residents age and the rules set out within the care homes it would appear that the residents themselves won't be driving and therefore the spaces will be needed for the shift workers and potential visitors. On average there will be five shift workers on site with the potential for visitors to arrive (social workers, family members etc) the workers themselves will be encouraged to share a vehicle when going to site and thus reduce the amount of cars parked up at any one time. This will provide more room for these potential visitors. This proposal is therefore in accordance with Policy 36 (Appendix 6) of the SELLP.

Planning Balance

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

Despite largely conforming to Policies 1, 2, 3, 7, 32 and 36 of the SELLP, the proposal significantly falls short of the requirements of Section 9 of the NPPF which is a key factor to a development of its kind. 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. The proposal therefore represents unsustainable development as defined in Section 2 of the NPPF.

Conclusion

Taking into consideration these factors, the proposal is considered to comply with Policies 1, 2, 3, 7, 32 and 36 (Appendix 6) of the SELLP. However, the proposal would fail to confirm to Section 9 of the NPPF. Therefore, in considering all the matters raised above the planning balance is against the proposal and the application should be refused.

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.

Recommendation

The recommendation is for a delegated refusal.