

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H13-1002-24 **Applicant:** Virtue Therapeutic Care & Education (East Sussex) Ltd.

Proposal: Change of use of a (C3a) dwelling to a children's home & garage conversion into habitable games room - approved under H13-0767-24. Modification of Condition 4 to restrict the number of vehicles rather than staff on site at any one time, provision of Travel Plan & Parking Management Plan

Location: Holly Cottage Fen Gate Moulton Chapel

Terminal Date: 24th January 2025

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
28	The Natural Environment
36	Vehicle and Cycle Parking

National Guidance

National Planning Policy Framework December 2024

Section 5 - Delivering a Sufficient Supply of Homes
Section 8 - Promoting healthy and safe communities
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed places
Section 14 - Meeting the Challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment.

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
SHDC INTERNAL	0	0	1	0

RESIDENTS	0	0	0	1
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CASE OFFICER ASSESSMENT

Proposal

The proposal is for a section 73 application to alter the wording of condition 4 from application H13-0767-24 which restricts the number of staff and visitors to to more than 6 at any one time.

The proposal is to change condition 4 to ensure the maximum number of vehicles at the premises at any one time shall not exceed 5. Thus, the emphasis is placed upon vehicles, not staff or visitors.

This is because the use would be subject to Ofsted regulations, who carry out unannounced inspections, particularly during the initial set up period of the use. Ofsted sometimes arrive with 2 to 3 staff to inspect the premises. The previous condition would mean that Ofsted would be unable to allow the use to operate according to their regulations given that their inspections would be restricted by the number of people allowed at any one time on site. If 3 Ofsted staff members attend, this would exceed the limit of staff in the condition and breach it when considering the normal staffing levels at the site. The current application seeks to vary this condition to make it more flexible, whilst recognising that there is a need to ensure that on highway parking does not take place and that amenity is not affected by visits to the premises.

The frequency of the Ofsted visits will be up to twice a year in the initial period, then relaxing to once a year.

Other visits from other professionals may be necessary at other times, such as tutors, social workers or the police. These do not necessarily have to take place at the same time.

There are three primary carers on site at any one time. There is also a manager who works during the day.

At any one time there are a maximum of four regular staff at any one time.

Two staff stay overnight. The third carer and the manager arrive most weekdays at 9am and leave by 5pm. The overnight staff alternate, working 48 hour shifts. There is one changeover per day of these overnight staff, between 12pm and 12.30 pm. Therefore during the day there will be four members of staff on the property at any one time.

The approved drawing shows space off highway for 5 parking spaces. The parking layout is unchanged from the approval. There is also cycle parking in the garden for up to five bicycles.

The alteration of condition 4 is the only aspect of the proposal that would change.

Site Description

The application site is on the east side of Fen Gate within the countryside. The property comprises a two-storey, five bedroom house with detached two storey outhouse and secure garden. The property benefits from an existing vehicular access and area of hard surfacing to the front of the property for off-street car parking with a central tree. The site is removed from immediate neighbours although Fen Gate Farm exists to the south west also on Fen Gate and Vickers Farm exists to the north east, also on Fen Gate. The farms are on spacious plots and are not in close proximity to each other.

History

H13-0767-24 - Change of use of a (C3a) dwelling to a children's home & garage conversion into habitable games room. Approved 20th November 2024.

H13-0804-98 - Replacement dwelling and garage with games room over including temporary siting

of mobile home. Approved 5 January 1999.

Consultation Responses

Highway and Lead Local Flood Authority

The proposal is for minor amendments to Change of use of a (C3a) dwelling to a children's home & garage conversion into habitable games room - approved under H13-0767-24. Modification of Condition 4 to restrict the number of vehicles rather than staff on site at any one time, provision of Travel Plan & Parking Management Plan. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

No Objections.

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

SHDC Environmental Protection

No observation.

Moulton Parish Council

Would like to reiterate comments made on previous application:

-close proximity of the property to a 60mph road and on a bend. We had our SID machine on this road on many occasions during the year and the data shows this road has more traffic breaking the speed limit than any other road in any three villages that we have our SID machine on. We have been campaigning for a speed reduction for year and will continue to do so. The Clerk has more complaints about speeding on this road than any other in the three villages. There is no footpath on the majority of Fen Gate, if children were to leave the home of their own accord, we believe it would be an accident waiting to happen.

UJPublic

One objection response has been received which raises some or all of the following points:

Response dated 24 December 2024

-site is car dependent, but refers to sustainable transport options. Applicants refer to a school based bus service during term time. Cannot be used if shift ends at 12.30pm. No footpath to the village. Cars speed on the road.

-Home has 5 spaces, one for home EV, remaining 4 will be used by staff. On street parking will occur. Contradicts assertion that on street waiting will not be necessary.

-on street parking will occur affecting safety.

-where will staff move cars to? Tick box exercise. Restriction will be broken.

Planning Considerations

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 (updated December

2024) 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.

The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Principle of Development and Sustainability

The South East Lincolnshire Local Plan (2019) sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan (2019) sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order.

The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development are areas of limited development opportunity including 'Minor Service Centres', with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan (2019) indicates that within 'Minor Service Centres', development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities.

The National Planning Policy Framework, (NPPF) (December 2024) outlines, within Paragraph 61, that "To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay".

Permission has already been granted for a C2 residential use on this site, which is a specific type of housing where the use is for the provision of residential accommodation and care to people in need of care, in this case, vulnerable children.

The Planning Practice Guidance stresses that "the provision of appropriate housing for people with disabilities, including specialist and supported housing, is crucial in helping them live safe and independent lives. Providing suitable housing can enable disabled people to live more independently and safely, with greater choice and control over their lives". It goes on to say "disabilities can include, but are not limited to, people with ambulatory difficulties, blindness, learning difficulties, autism and mental health needs, which may generate a range of housing requirements which can change over time. To enable disabled people to live more safely and independently, local planning authorities will need to consider their variety of needs in both plan making and decision-taking."

The principle of establishing a children's home in this location has been established by the host consent and therefore there is no policy conflict with a children's home in this location.

As such, the proposal is considered to be in accordance with the requirements of Policy 1 of the South East Lincolnshire Local Plan (2019) when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, impact on highway safety and flood risk, which are discussed in turn as follows.

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

Section 12 of the National Planning Policy Framework (December 2024) specifically relates to 'Achieving well-designed 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.

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 (2019) 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 (December 2024), 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 (December 2024) 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.

The previous approval (reference H13-0767-24) established the principle of the use a care home and the main layout of the use. There are no changes to the layout in this proposal. The difference with this current application relates to the fact that the wording of condition 4 prevents acceptance by Ofsted due to way Ofsted regulate premises such as these, especially in the early time period when care homes are established. The applicants have requested a change to condition 4 which still controls the number of vehicles on site at any one time, instead of the number of people present at any one time.

The proposed children's home would serve a maximum of five vulnerable young people who would be assisted and supervised by a team of professional carers and support staff. There will be 2 staff stay overnight ,every night. During the day, there would be 4 staff members present at any one time (3 carers and one manager in total).

A 1.8m close boarded fence is proposed around the perimeter with secure barn style 1.8m gates. A turning area with parking space is incorporated outside of the fences but not on the public highway. Cycle parking is within the garden area along with bin stores. There is parking to provide for 4 cars inside the boundary fence. There will be no parking within the public highway. Thus the property can accommodate 5 car parking spaces.

The proposal includes a bin store, and EV charging points. The parking arrangements will involve the loss of a tree in the centre of the parking area. A replacement tree is proposed in the garden area. The site has an outhouse/garage which is used for storage, originally a garage, with a home gym at first floor. The proposals involve the use of the outhouse as a games room, which would be particularly suited to teenagers. The existing garage is not of a modern enough design to house cars. The ground floor garage doors will be replaced by domestic windows. These aspects have already been approved.

Ofsted could make surprise inspections to the site premises with no warning and may have additional staff over and above the 4 staff on site, such as staff undergoing training. It is not unusual for 3 staff members to arrive.

This application includes a Parking Management plan and Travel Plan to discourage staff travelling to the site in single occupancy vehicles, so that there is more capacity on site for visitors such as Ofsted.

When Ofsted visit, it is likely to be twice a year initially, so this would not happen regularly. They are highly likely to arrive in one car. In general layout terms, even if all four regular staff travel to and from the site in single occupancy vehicles, there is still space on the site to accommodate a 5th car. It is not considered that the change the condition will affect the layout or character of the use, or impact the locality significantly.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) and Section 12 of the National Planning Policy Framework (December 2024).

Impact on Residential Amenity/Land Users

Paragraph 135 of the National Planning Policy Framework (December 2024) 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.

Since the principle of a care home has now been established the issue to consider is whether or not the use, with an amended condition, would result in adverse impacts on the amenity of nearby local residents.

The premises are situated on a country road, with ribbon development occurring along Fen Gate with good separation distances in between properties. The nearest residential premises from the care home are 102 metres away to the south west. The neighbour to the north east is 170 metres away. Extensive screening also exists in the garden. Given that the premises is a large five bedroom house with an ancillary games room, and given the high staff to child ratios, that they would be supervised when outside, it is not considered that the use would generate sufficient general noise and disturbance that significantly impacts neighbouring residential properties taking into account the distance from neighbours.

The change in the proposed condition to restricting cars, rather than people, means that more visitors could attend at any one time potentially. If travelling to the site via mini bus, this does give the opportunity for more people to attend - for example children's birthday parties. This is unlikely to be significantly greater activity compared with a large multi-generational family - who would be expected to be able to have family gatherings in the garden. The distances from neighbours means that even if social gatherings took place more often within the gardens, noise from voices are unlikely to be at a level that causes significant disturbance when situated at distances in excess of 100 metres from the nearest neighbour. Should music be played beyond a level normal households were to expect, environmental protection legislation exists to deal with statutory nuisances. This is considered sufficient distance as to mitigate any noise from children playing as a result.

Whilst other professional visits may take place, in terms of residential amenity, these visits are likely to be focussed upon discussions inside the building, and would not be likely to result in raised voices or music externally. Thus, visits from Ofsted, social workers or even the police, are unlikely to result in any significant adverse impacts to neighbouring properties.

It should be noted that whilst the Parish Council and a local resident objects to the scheme, noise and disturbance is not listed as a concern.

It is therefore not anticipated that the relaxation of the condition would generate such a level of additional external activity as to substantiate a refusal in amenity impact terms.

It is still prudent to reimpose a condition restricting the number of children cared for at the premises to remain at 5. Imposing a condition ensuring no more than 5 vehicles on the site, with no highway parking, would not result in a significant adverse impact on amenity.

It is considered that there would be no significant or unacceptable impact on the residential

amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework (December 2024), and Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2024) specifically relates to 'Promoting sustainable transport'. Paragraph 116 of the National Planning Policy Framework (December 2024) 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, following mitigation, would be severe, taking into account all reasonable future scenarios".

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.

Furthermore, Policy 36, to be read in conjunction with Appendix 6, of the South East Lincolnshire Local Plan (2019), sets out minimum vehicle parking standards and requires at least one space per 3 residents for car parking and once cycle parking space per 3 employees. Therefore 2 parking spaces are required for the residents and 2 cycle parking spaces. The layout provides more car and cycle parking than the standards.

As observed in the previous approval, while the change of use from a private residential dwelling to a children's home would be somewhat different to a conventional dwelling due to the rotational staff and increased comings and goings, the property has a large driveway which is set to block paving. The site plan remains as approved, with 5 car parking spaces situated off the highway and cycle parking in the garden, together with a replacement tree.

Concerns expressed from the Parish Council and an objector focus upon highway safety, so ensuring cars do not park on the highway, blocking a 60mph road, is considered important so as not to obstruct the safety and free flow of traffic. Even if 3 Ofsted members were to suddenly arrive to carry out an emergency inspection, additional parking is possible if cars are blocked in for the relatively short period of time that an inspection were to occur. However, the submitted Parking Management/Travel Plan indicates that the applicants are aware of the need to ensure parking does not occur on the highway or become excessive. The Travel Plan's specific objective is to reduce single occupancy vehicles to and from the site, thereby reducing travel demand, promoting sustainable travel and manage vehicles on site, as opposed to people. The operator of the Care Home is not asking for an increase in staff ratios. The operator will take measures to move other vehicles off site to leave excess vehicles in a safe, legal place to secure compliance with the proposed revised condition should the need arise. A Parking Management/Travel Plan Co-ordinator role will be assigned to one of the existing staff to ensure compliance with the policy.

It is noted that objectors cite highway safety concerns about the existing highway, but the principle of development has been accepted subject to the layout.

It is acknowledged that an objector considers the condition will be breached on the first day, but this is on the assumption that all staff will arrive by car in single cars. If the measures in the Parking Management Plan/Travel Plan are carried out it is considered the impacts could be successfully mitigated.

It should be noted that there are no recorded Personal Injury Accidents (PIA) in the vicinity of the access in the last five years. A revised Design and Access Statement has been submitted to clarify details of the proposal and staff ratios. Two carers, working on a rota basis, would effectively live at the dwelling house to provide 24-hour care via 48 hour shifts, as a single household, with two other staff during the day. The additional space could accommodate visitors.

Paragraph 116 The National Planning Policy Framework (December, 2024) is clear in its advice, that developments should be resisted or refused only where the residual cumulative transportation impacts are severe, or that the development would have an unacceptable safety impact. This is not

the case from this application, as the overall impact of vehicle trips created by the development on the highway network will be negligible and therefore it is considered that the proposed development would not have a severe residual cumulative impact on highway safety or capacity issues in accordance with the NPPF. The Lead Local Flood and Highway Authority do not object to the application or the revised condition.

Given the maximum number of staff on site at any given point would be 5 children and 4 adults, the Local Planning Authority are satisfied that there is adequate provision for off-street parking. The comments of the objectors are fully taken into account, but in this instance, the lack of a Highway objection on road safety grounds, or due to the impact on the highway network means that refusing planning permission on highway grounds would not be sustained at appeal or reasonable.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3 and 36 the South East Lincolnshire Local Plan (2019), and Section 9 of the National Planning Policy Framework (December 2024).

Flooding, Climate Change, Biodiversity Net Gain Considerations

There are no changes as part of this application that affect flooding, climate change or biodiversity net gain which are material to this application - these matters were dealt with as part of the host consent and were found to be acceptable. Changing condition 4 as part of this application has no bearing on these matters so these are not discussed at length in this report.

Conditions on Original Approval

As this application is a Section 73 application a comparison with the original conditions is necessary:

Original conditions:

Application H13-0767-24 had 4 conditions which were as follows. A comment explaining if the conditions are to be altered or re-imposed is included for clarity:

Condition 1 - standard time condition. Condition 1 is re-imposed but the date of the original approval is included. Development has to start within 3 years after 20th November 2024.

Condition 2 - standard approved plans. The relevant plans in the original approval and this approval are included.

Condition 3 - maximum number of children. This is re-imposed exactly as the original.

Condition 4 - maximum number of visitors. As per the application the maximum number of vehicles is inserted instead of visitors.

Informatives: The notes on the original approval are re-imposed.

New Conditions:

Condition 5 - This is a new condition to ensure the need for the cycle and car parking is in place prior to the children residing at the property begins and so that the Travel Plan can be fully enacted. This is needed as a result of increased emphasis on vehicles rather than visitors.

Condition 6 - This is a condition to ensure that as the Care Home will be altering the on site parking, that it is replaced in the garden as per the approved plan and maintain it as a replacement.

It is considered that the altered and new conditions are appropriate for this application.

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 appropriate development as per the host consent. The revised condition is

not considered to materially harm the character or appearance of the locality, amenity of nearby residents, and provides adequate control of visitors to the site so as to not promote on highway parking. As such the proposal conforms with the South East Lincolnshire Local Plan (2019) and the provisions of the National Planning Policy Framework (December 2024) when viewed as a whole.

In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is in favour of 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 2, 3 and 36 (including Appendix 6) of the South East Lincolnshire Local Plan (2019), along with the identified sections contained within the National Planning Policy Framework (December 2024). There are no significant factors in this case that indicate against the proposal and outweigh 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 approved under Delegated Authority.