

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 07 June 2023

(Author: Catherine Sutton - Planning Officer)

Purpose: To consider Planning Application H16-0042-23

Application Number: H16-0042-23

Date Received: 17 January 2023

Application Type: FULL

Description: Change of use of a residential property (C3) to a HMO (C4 or Sui Generis) - re-submission of H16-0737-22

Location: 5 STONEGATE SPALDING

Applicant: Mr D Bowden

Agent: Sharman Architecture

Ward: Spalding St Marys

Ward Councillors: Cllr D R Ashby
Cllr M E Le Sage

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H16-0042-23>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 Referred to Planning Committee from Chairman's Panel.

2.0 PROPOSAL

2.1 This is a re-submission of application H16-0737-22 for the change of use of a residential property (C3) to a HMO (Sui Generis Use) to the property at 5 Stonegate, Spalding.

2.2 The proposal seeks permission for a 9 person HMO (House of Multiple Occupancy) with 7 bedrooms (2 on the ground floor and 5 on the first floor). The proposal therefore seeks a change of use to 'Sui generis', given the quantum of occupants.

2.3 The resubmission of the application includes the addition of a parking survey along with a slight increase in size of 2 bedrooms to the first floor. The bedrooms appear to meet the Nationally Described Space Standards.

3.0 SITE DESCRIPTION

3.1 The property is a detached dwelling situated within the defined settlement limits of Spalding, according to the South East Lincolnshire Local Plan, 2019. The property is located just outside of the Spalding Conservation Area. Stonegate is characterised by frontage development, with dwellings of a variety of ages and design. The dwelling is set forward and does not have a driveway, but has a very small gravelled front garden with a 1m high iron fence as the front boundary treatment. There is access to the rear garden via the north western side.

- 3.2 The dwelling is currently laid out with living room, family room, kitchen, utility at ground floor level and 4 bedrooms on the first floor with bathroom and en-suite. Further clarity from the applicants agent has identified that the property is occupied as a small HMO, that does not require planning permission.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

01 - Spatial Strategy
02 - Development Management
03 - Design of New Development
04 - Approach to Flood Risk
21 - Houses in Multiple Occupation and the Sub-Division of Dwellings
36 - Vehicle and Cycle Parking
Appendix 6 - Parking Standards

National Guidance

National Planning Policy Framework (NPPF), 2019

Planning Practice Guidance (PPG)

Section 12 - Achieving well-designed places

5.0 RELEVANT PLANNING HISTORY

- 5.1 H16-0737-22 - Refused on 15-09-22 - Change of use of a residential property (C3) to a HMO (C4 or Sui Generis) for the following reasons:
- 5.2 "The property is considered to be of an inadequate size to accommodate 9 persons by virtue of small bedroom sizes (bedrooms 1, 2 and 6) in the context of the Nationally Described Space Standards (2015) (NDSS), only a single kitchen and living room, and no separate dining space. This may adversely impact the well-being of occupants or lead to outside gathering with a consequent amenity impact on neighbouring occupants. Overall, the noise and disturbance that would be generated would be uncharacteristic for an area of modest housing in single family occupancy.
- 5.3 It is therefore considered to be contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019, as well as Section 12 of the National Planning Policy Framework (2021). Policies 2 and 3 of the Local Plan set out residential amenity and relationship to existing development and land uses as main considerations when making planning decisions.
- 5.4 Given that the HMO is intended to house 9 persons, there is the potential for 9 vehicles to be associated with the property. The proposal does not include any off-street parking space for vehicles and the property only has a small frontage. It is considered that the proposal would likely result in the indiscriminate parking of vehicles on Stonegate and would have an adverse cumulative impact on the on-street parking situation in the area.
- 5.5 It is therefore considered to be contrary to Policy 3 of the South East Lincolnshire Local Plan, 2019, which requires appropriate parking arrangements to be provided."
- 5.6 H16-0053-07 - Approved on 05-03-07- Proposed single-storey rear extension.

6.0 REPRESENTATIONS

6.1 LCC Highway and Lead Local Flood Authority

6.2 Recommendation: No objection

The proposal is for the change of use of a residential property (C3) to a HMO (C4 or Sui Generis) - re-submission of H16-0737-22 and it does not have an impact on the Public Highway or Surface Water Flood Risk. Our previous comments remain the same as follows:- The site is located in a central urban area where services and facilities are within a reasonable distance to be accessed via sustainable travel options such as walking, cycling and public transport. Future residents of the development will not be reliant on the private car and therefore parking is not essential for this proposal.

6.3 Environmental Protection Officer

No comment in relation to contaminated land.

6.4 Public

2 objections raising the following points:

- Negative impact on the street which are predominantly family homes.
- No off road parking, and will dramatically change the character of the street.
- Busy road at various times of the day, due to schools and high traffic levels.
- Dangerous part of the road to park cars.
- The high levels of waste from the number of occupants that could live at this property is a concern.
- Noise from the existing tenants has an adverse impact of vulnerable and young families in the area.
- Overgrown recreation area to the rear, making it unusable.

7.0 CONSIDERATIONS

7.1 Planning Considerations

7.2 Principle of development

7.3 A HMO can house up to and including 6 people from separate families without the need for a planning application. This application is a resubmission following a previous refusal, seeking an HMO of up to 9 people. It is noted that following further clarification from the applicants agent, it has been clarified that the property has been occupied as a small HMO, utilising the permitted development afforded through Schedule 2, Part 3, Class L (small HMOs to dwellinghouses and vice versa).

7.4 The applicant has sought to overcome the previous refusal reasons via alterations to the layout of rooms/sizes and the submission of a parking survey. The alterations lead to an increase in the floor area of bedroom 3 by approx 0.41sqm and bedroom 6 by approx 0.45sq m). These increases ensure that the individual bedrooms comply with the Nationally Described Space Standards, which describes the need for a single bedroom to comprise a floor area of at least 7.5 sq metres and at least 2.15m wide.

7.5 Given the nature of the proposal, the development is assessed against SELLP Policy 21 which is titled HMOs and the Sub-Division of Dwellings. This Policy states:

"Proposals for the creation of large Houses in Multiple Occupation and the sub-division of dwellings will be permitted provided that, in each case:

1. it would not result in the loss of family-sized dwellings in high density residential streets of predominantly terraced and/or semi-detached properties;
2. it would not significantly harm the amenities of the occupiers of adjoining or neighbouring properties by way of noise, overlooking, general disturbance or impact on visual amenity;
3. it would not have a significant adverse impact on the character and appearance of the area,

including the historic and natural environment;

4. adequate provision is made for the storage and disposal of refuse and recycling;

5. it would not have a significant adverse impact on the surrounding area by way of increased on-street parking, impaired highway safety or by impeding proper access to the area;

6. the site has good access - by walking and cycling - to community facilities, services, public transport and local employment;

7. an adequate standard of residential accommodation and residential amenity is provided for future occupiers; and

8. adequate provision is made for the communal gardens and amenity areas.

Where all of the above criteria are satisfied, the Nationally Described Space Standards (or any successor) will be applied to ensure that the occupiers have adequate floor space."

7.6 When assessed against the above criteria the following can be observed:

7.7 1. The property, whilst the size of a family dwelling, lies within an area comprising a variety of house types and does not lie within an area comprising a high density street of terraced / semi-detached properties.

7.8 2. The supporting Design Statement indicates that permission is sought for use of the dwelling by 9 persons across 7 bedrooms. This is an increase of 3 bedrooms from the existing property, which currently has four first floor bedrooms. It is considered that increasing the number of occupants in the property would not lead to a rise in significant noise and general disturbance by virtue of an increase in the number of persons residing in the property and associated vehicle movements. This consideration differs from the previous refusal reason, primarily due to the submission of the parking survey, with this being very much on balance. The intensification of the use, still has potential to have an impact upon surrounding amenity. However, when considered overall, and reviewing the potential for 6 persons to occupy the site as a small HMO, the proposal is considered to satisfactorily accord with this criterion.

7.9 3. The proposal would not materially alter the historic or natural environment or general character of the area.

7.10 4. Concerns were raised by the public over the increase in household waste and that it could be poorly managed. Given the volume of refuse likely to be generated from the property, it is considered that the allocated communal bin storage behind the railings would be adequate enough for the additional number of occupants. The proposal is considered to accord with this criterion. This consideration differs from the previous refusal reason and is also very much on balance. Whilst the previous case officer was of the view this was unacceptable, it did not form part of the refusal reason.

7.11 5. The application site comprises a small frontage which would not be of the size to provide off-street parking. The proposal seeks permission to provide a HMO and it is noted that it is likely that some future residents would have access to a personal vehicle. In such case, it is clear that having no off-street parking for nine potential occupants is not an ideal situation. It is also noted that an objection has been received detailing the limited on-street parking available to the proposal and that within the reason for refusal attached to the proposal previously determined on site, the potential impact of additional parking was detailed; stating that the proposal "would likely result in the indiscriminate parking of vehicles on Stonegate and would have an adverse cumulative impact on the on-street parking situation in the area".

However, it is accepted that there is the possibility that not all future residents would have access to a private or personal vehicle or wish to have this access and the site, in its current form and lawful use, has the future potential for six occupants that each may have individual access to a vehicle. Furthermore, the Local Plan does not specify defined parking standards relating to HMOs. The submission has been accompanied by a parking survey, which was undertaken to illustrate the availability of parking spaces. This survey assessed the parking that was available within a 500m radius of the property, providing a suitable distance for walking to and from the property. The accompanying Design and Access Statement details that the survey

shows a total of 134 spaces being available within 500m of the site on the date of the survey, with in excess of 71 spaces available within a 300m radius of the site; therefore, indicating adequate parking availability within close proximity to the site.

In addition, the site also lies within approximately 400m from Spalding town centre. As such, the site lies within an area that is easily accessible from the town centre and can therefore be accessed by walking or cycling, providing access to nearby shops, public transport, and the town centre as a whole. This may consequently limit the reliance on a vehicle.

Lincolnshire County Council, as Lead Highway Authority, have raised no objections to the proposal on highway safety grounds or parking, detailing that "the site is located in a central urban area where services and facilities are within a reasonable distance to be accessed via sustainable travel options such as walking, cycling and public transport; therefore parking is not essential for this proposal". As a result, it is considered that in this instance, notwithstanding the considerations previously put forward, based on the additional evidence provided, it has been demonstrated that there would not be a significant adverse cumulative impact on the on-street parking situation in the area. This consideration differs from the previous refusal reason and is very much on balance.

- 7.12 6. As highlighted above, the site has good access - by walking and cycling - to community facilities, services, public transport and local employment. There is also the provision of a 9 bike cycle shed to the rear garden of the property, which further promotes the use of active travel methods. The proposal is considered therefore, to accord with this criterion.
- 7.13 7. The standard of residential accommodation and communal amenity space has been adequately provided for the proposed nine occupants. This consideration differs from the previous refusal reason. However, as detailed above, alterations to the layout of rooms/sizes have been forthcoming following the previous refusal. The alterations lead to an increase in the floor area of bedroom 3 by approx 0.41sqm and bedroom 6 by approx 0.45sq m). Whilst relatively minor alterations, these increases ensure that the individual bedrooms comply with the Nationally Described Space Standards, which describes the need for a single bedroom to comprise a floor area of at least 7.5 sq metres and at least 2.15m wide. The proposal is therefore considered, on balance, to accord with this criterion.
- 7.14 8. As shown on the submitted floor plans, there is an adequately sized communal garden and amenity area to the rear of the property. As such, this criterion is considered to be satisfied.
- 7.15 In conclusion, the proposal can be considered to satisfactorily accord with Policy 21 of the SELLP.
- 7.16 Layout, Design, Size and Scale
- 7.17 Paragraph 130 of the National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting; and 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 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.
- 7.18 The dwelling is a modest detached two storey dwelling, with a two storey flat roof rear extension, with a hipped roof over the original dwelling. Currently, the dwelling accommodates 4 large bedrooms and an en-suite and family bathroom to the first floor. The ground floor includes a modest living room, family room and kitchen with an ample rear garden.
- 7.19 Minimal alterations are proposed, comprising of the removal of rear elevation windows to the ground floor, as well as moving the side elevation door to the rear elevation of where the new kitchen is proposed. The alterations to the ground floor layout will include the removal of the existing family room.

- 7.20 The re-submission has acknowledged the previous reason for refusal and has sought to address concerns over room sizing, which now ensures each bedroom meets the minimum requirement of 7.5sq. metres. Therefore, all bedrooms appear to now meet the National Described Space Standards.
- 7.21 As such, the proposed external changes are considered to comply with the aforementioned policies on design, layout and impact upon the character of the local area. Taking the above into account, the proposed change of use is deemed to comply with Policies 2 and 3 in the SELLP, 2019 and Section 12 in the NPPF, 2021 in terms of layout, design, size and scale.
- 7.22 Residential Amenity
- 7.23 Paragraph 130 of the National Planning Policy Framework (2021) amongst other matters seeks places with a high standard of amenity for existing and future users. Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) set out residential amenity and relationship to existing development and land uses as main considerations when making planning decisions.
- 7.24 Representation has been received from neighbouring occupiers, raising concerns regarding noise. However, given that the dwelling is already a HMO as clarified by the applicants agent, the addition of three bedrooms would suggest that the rise to noise and disturbance would not be significant enough to impact upon the area of single dwellings.
- 7.25 With regards to loss of privacy, the scheme does not propose any new window openings directly facing any neighbours therefore there are no loss of privacy concerns.
- 7.26 The proposal would result in the addition of two further bedrooms to the ground floor and one additional bedroom to the first floor. The re-submission has acknowledged the previous reason for refusal and has sought to address concerns over room sizing. All bedrooms appear to now meet the National Described Space Standards.
- 7.27 In light of the above, it is considered there are no significant adverse impacts relating to residential amenity that would warrant refusal of this proposal. The proposal is considered to comply with Policies 2, 3 and 30 of the Local Plan in respect of their provisions on residential amenity.
- 7.28 Planning Balance
- As detailed, the criterion of Policy 21 has been assessed, which on occasion, are considered very much on balance. It is considered that the changes made through this proposal, following the refusal of the previous application, which includes a minor increase in bedroom sizes (2x bedrooms) and the addition of the parking survey are considered sufficient to weigh the planning balance in favour of the proposal in this instance.
- 7.29 Conclusion
- 7.30 Following the addition of a full parking survey to this application and the amendments to the bedroom sizes which allow each bedroom to meet the Nationally Described Space Standards, the planning application for the proposed change of use to a nine occupant HMO (a Sui Generis Use) is now considered to be in conformity with the South East Lincolnshire Local Plan, 2019, in particular Policies 2, 3 and 21, as well as the NPPF and PPG.
- 7.31 **Additional Considerations**
- 7.32 Public Sector Equality Duty
- 7.33 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.

8.0 RECOMMENDATIONS

8.1 That the application be approved subject to those conditions listed at Section 9.0 of this report

9.0 CONDITIONS

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The occupation of the property shall be limited to no more than 9 residents.

Reason: To define the terms of the permission and to ensure a satisfactory level of amenity for future residents.

This Condition is imposed in accordance with Policy 21 in the South East Lincolnshire Local Plan, 2019.

3. The development hereby permitted shall be carried out in accordance with the following approved plans and/or documents:

ST/15/A
ST/16/B
ST/17/A
Site Location Plan
Existing Site Plan
ST/11/A
ST/12/A
ST/13/A
ST/14/A

Reason: For the avoidance of doubt and in the interests of proper planning.

4. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

Background papers:- Planning Application Working File

Lead Contact Officer

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Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title

