DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0271-24**	**Applicant:**	**Mr G Wiglusz**
Proposal:	Change of use from C4 House in Multiple Occupation (up to 6 residents) to Suis Generis larger House in Multiple Occupation (7 or more residents) together with associated internal alterations (Retrospective)		
Location:	34-36 Westlode Street Spalding		
Terminal Date:	20th May 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
21	Houses in Multiple Occupation and the Sub-Division of Dwellings
25	Supporting the Vitality and Viability of Boston and Spalding Town Centres
30	Pollution
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 9 - Promoting sustainable transport
Section 12 - Achieving well designed and beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	1	1	0

CASE OFFICER ASSESSMENT

Description of Proposal

The proposal seeks full planning permission for the change of use of 34-36 Westlode Street from a small HMO (C4) to a large HMO (sui generis). The change would take the number of bedrooms from six to twelve. No external alterations are proposed.

Internally, significant alterations would occur. The existing lounge, game room, office, larger dining room, upstairs store and bathroom would all be converted to bedrooms. This would leave a single dining as a communal area. The alterations would result in four communal bathrooms and seven ensuites.

Site Description

The site is within the settlement boundaries of Spalding, as outlined within the South-East Lincolnshire Local Plan, 2019. The site is within the defined Town Centre, although the immediate area features a mixture of uses.

The site is a relatively large property, comprised of an amalgamation of two former dwellings. The western portion, formerly 34 Westlode Street, is clad in white render, while the larger eastern portion is brown brick. The roof material is consistent.

Relevant History

H16-0630-22 - Full. Change of Use from C2 Residential Institution to C4 House of Multiple Occupation including associated internal alterations. Approved 15/08/22.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

SHDC Private Sector Housing

"Housing Standards are satisfied that the property meets the HMO requirements"

Environmental Protection

No comments

Highway and Lead Local Flood Authority

"The proposal is for the change of use from C4 House in Multiple Occupation (up to 6 residents) to Suis Generis larger House in Multiple Occupation (7 or more residents) together with associated internal alterations (Retrospective). They are substituting other room uses into bedrooms increasing from 6 beds to 12. 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. The proposal will not have an adverse impact on the public highway. As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application."

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Key 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.

The adopted South-East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is 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 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which 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 need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy 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 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.

The site is within the settlement of Spalding which is classed as a sub-regional centre within Policy 1. As such development will be permitted that supports Spalding's role as a service centre, helps sustain existing facilities or helps meet the service needs of other local communities.

Where an application involves the sub-division of a dwelling or the creation of a large HMO, Policy 1 is supported by Policy 21. As this is a change of use from a small HMO to a large, this policy is relevant here. Policy 21 outlines eight criteria for an application to conform to. Taking each criterion in turn, the following is considered:

1.As the proposal is currently an HMO, it is considered that the proposal would not result in the loss of a family sized dwelling.

2.The proposal would result in six further residents occupying the property. This would significantly increase the level of noise pollution arising from the property. Given the close proximity of the site to an existing large HMO (the former Queensgate Hotel site), there is a potential increased sensitivity to noise disturbance. The potential for noise pollution is exacerbated by the lack of internal amenity space, which would in turn force residents to spend more time outdoors, where noise would carry further, coupled with the potential for double the current extent of occupation. As such, it is considered the proposal would have an unacceptable amenity impact.

3.As no external alterations are proposed, the potential impact upon the character of the area is low. As there is currently a proliferation of HMOs in the area, the proposal would be somewhat naturalised.

4.No change to the existing refuse storage scheme is proposed. Refuse would be stored within the rear garden and taken to the street side collection point when needed.

5.As stated within the submitted design and access statement, the need for parking is somewhat reduced by the Town Centre location. Residents would have access to the public parking facilities located less than 100 metres from the site.

6.The site is located within the Town Centre of Spalding. Residents would have convenient access

to all Town Centre facilities via sustainable modes of transport. The site is located approximately 500 metres from the bus station and approximately 750 metres from the train station, enabling access out of town via public transport.

7.It is considered that insufficient internal amenity space has been provided. No room has been clearly marked as a living room. As a result, only one dining room and a small room, previously used as storage, would be available for communal mixing. This is considered inadequate given the significant number of residents. The result of this would be either to significantly increase the time residents spend in their bedroom, which is not conducive to mental wellbeing, or to force residents to spend more time in shared garden, which would increase the concerns over noise pollution.

In addition to this, it is considered that inadequate floor space has been provided for some of the bedrooms. Policy 21 of the SELLP requires the application of the Nationally Described Space Standards, which sets a minimum floor space of 7.5sqm per bedroom. Specifically, Policy 21 states: "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". As such, it is clear that a need to assess the development against the Nationally Described Space Standards in respect of Policy 21 is independent to the other criteria outlined within the Policy.

Three of the twelve bedrooms falls under this requirement (bedrooms five, eight and twelve). While this Space Standard primarily refers to dwellings, in any event, The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 requires a minimum floor space of 6.51sqm, which one bedroom (bedroom five) falls under. As a result, some occupants would be living in cramped conditions, unconducive for wellbeing.

8.The proposal would provide adequate communal garden space.

For the above reasons, it is considered that the proposal fails to conform to criteria 2 and 7 of Policy 21. As such, the proposal is deemed to be contrary to Policy 21 and Policy 1 and the principle of development is not considered acceptable.

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

Section 12 of the NPPF, "Achieving well-designed and beautiful places", states 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 NPPF, 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. Developments 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, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP 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 NPPF 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.

Within the immediate area is a comparably large HMO. This HMO would help to naturalise the proposal, ensuring it does not appear out of character. No external alterations are proposed, reducing the character impact of the proposal.

Taking account of the design, scale, and nature of the development, as detailed above, beyond the aforementioned concerns, 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 SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 135 of the NPPF 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.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions. Both policies are supported by Policy 30 of the SELLP, which seeks suitable control of sources of pollution, including noise pollution.

While the site is within the town centre, the immediate area features a number of residences. As such, the site is relatively sensitive to increases in noise pollution. This sensitivity is exacerbated by the site being adjacent to an existing large HMO. Due to this, any increase in noise levels would have the potential to significantly detrimentally impact upon the amenity of nearby residents. This potential for a significant impact is increased via the lack of internal amenity space, which would force residents to spend more time outside, where noise would carry to a greater extent.

As the site is within the defined town centre, there are a number of commercial properties in the area. Of particular note is the relationship between the 34-36 Westlode Street and the adjacent Graffiti Bar and Restaurant (37 Westlode Street). This bar is open until 11pm Sunday-Thursday and 12am on Friday and Saturday. The proposed increase in residents would make the site more sensitive to noise disturbance. As such, there is a high likelihood that potential occupants would be disturbed by patrons/ music from the adjacent bar, resulting in a reduced standard of residential amenity. This impact would be most severely felt by the potential occupants of bedrooms two, three and four which adjacent to the street. No further information in this regard has been provided, nor has mitigation of potential noise impacts been proposed.

As discussed above, three of the twelve bedrooms would fail to achieve the floor space required under the Nationally Described Space Standards. In addition to this, inadequate internal shared amenity space has been provided, with only a dining room and small former storage space being indicated as communal space. This is considered unacceptable and would result in unsuitable living conditions.

As no external alterations are proposed, the potential for additional overlooking or overshadowing is low. No new views into neighbouring properties would be created.

As detailed above, the proposal is considered to have an unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users. In addition, it is considered that residents would themselves suffer from an inadequate standard of residential amenity. Therefore, the proposal is considered to be contrary to Policies 2, 3 and 30 of the SELLP, as well as, Section 12 of the NPPF.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 115 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".

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. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the SELLP, in conjunction with Appendix 6, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

The site is within the defined town centre of Spalding. As such, the tangible need for parking facilities is reduced. Residents could easily access all necessary facilities via sustainable methods of transport. Furthermore, the site is approximately a 600-metre walk from the bus station and a 750-metre walk from the train station, enabling easy access to public transport for trips outside of the settlement. Nevertheless, some on street parking facilities are available along Westlode Street and a public car park is nearby if required.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 9 of the NPPF.

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: applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 168 of the NPPF states " 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". The sequential approach is 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 Zone 3 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 SELLP 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 SFRA as a basis to apply the sequential test.

Within the SFRA the site is not classed as at risk of flooding.

The proposed new use would be more sensitive to flooding as opposed to the current use. The proposal would introduce sensitive ground floor bedrooms to the site. That being said, moving bedrooms to the ground floor could feasibly be achieved through internal alterations without the need for planning permission. As such, the weight given to this increased sensitivity is reduced. In any event, if a flood was to occur, residents could utilise the upstairs as a safe haven.

Overall, when considering the development on balance, it is considered, given the mitigation measures detailed, that the proposal accords with Policies 2, 3 and 4 of the SELLP and the intentions of the NPPF with regards to flood risk.

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 proposed fails to provide adequate internal amenity space for the potential occupants. Three of the proposed bedrooms fail to conform to the Nationally Described Space Standards, specified under Policy 21 of the SELLP. Moreover, insufficient communal amenity space has been provided, resulting in inadequate living conditions for the occupants. In turn, this would result in residents spending more time in their rooms, which has an unideal arrangement, or in the garden space, which increases the potential amenity impacts of the proposal.

Furthermore, due to the proximity of the site to sensitive uses, it is considered that the potential amenity disturbance arising from this development would be unacceptable. The proposal would detrimentally impact upon the amenity of nearby residences via increased noise disturbance. In addition, residents themselves would be subject to an unacceptable level of noise pollution via the nearby commercial uses.

Conclusion

Taking these factors into consideration, the proposal is considered to contradict Policies 1, 2, 3, 21 and 30 of the SELLP, as well as Section 12 of the NPPF. The planning balance is against the proposal.

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

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.