

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H16-0410-23	Applicant:	Mrs F T Mir Javadi
Proposal:	Change of use of residential dwelling to HMO - re-submission of H16-1111-22		
Location:	106 Halmer Gate Spalding		
Terminal Date:	23rd June 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
21	Houses in Multiple Occupation and the Sub-Division of Dwellings
30	Pollution
32	Community, Health and Well-being
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance**National Planning Policy Framework 2021**

Section 12 - Achieving Well Designed 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	0	0
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

Proposed change of use from residential dwelling to 7-bedroom HMO at 106 Halmer Gate. The site is currently used as a 6-bedroom residential dwelling.

A previous application (H16-1111-22) for a 9-bed HMO was refused due to the inadequate size of the property, a lack of amenity space and a lack of parking. This new application has sought to reconcile these issues by reducing the number of bedrooms and creating a living room.

Site Description

The site is situated within the boundaries of Spalding, defined in the South-East Lincolnshire Local Plan, 2019 (SELLP). The site is located on the southern side of Halmer Gate. The street mostly consists of frontage detached/semidetached residential development, with a variety of ages, sizes, and designs. The site is located at the confluence of four roads. Immediately to the east is Halmer Court, a large care home. To the south is Spalding Academy and the Priory School.

The property itself is large, orange brick dwelling, with significant garden space. To the front of the property is a relatively small driveway and grassed area.

Relevant History

H16-1111-22 - Full. Change of use from residential dwelling to HMO. Refused 05/01/23.

Consultation Responses

Private Sector Housing

"Support. Property meets all HMO regulations and is currently a licenced HMO, private sector housing is in support of the application"

Highway and Lead Local Flood Authority

"No objection. Lincolnshire County Council does not have adopted parking standards and considers each application on its own merits. This proposal is a re-submission of H16-1111-22 which now shows 5no. parking spaces, and this is adequate for this development in this location where we consider 2 parking spaces for a dwelling with three bedrooms and 3 parking spaces for a dwelling with four bedrooms or more are provided. Should there be demand for more parking, the adjoining highways are restricted, and drivers would have to park further afield or use alternative modes to access the development. It is therefore not considered that this proposal would result in an unacceptable impact on highway safety"

Resident Comments

2 objections received, summarised below:

- Lack of parking
- Noise disturbance
- Potential damage to highway safety
- Potential for antisocial behaviour

Planning Considerations

Principle of Development

This proposal 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 onstreet 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."

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

1. The property, whilst the size of a family dwelling, is not in a high-density street of terraced / semidetached properties
2. The submitted Design and Access statement states the property would accommodate 7 bedrooms. While this is only an increase by one bedroom, two of these rooms would be double bedrooms. It is therefore highly likely that these rooms would be let to two people, bringing the total occupancy of the house to 9. The previous proposal was refused as it was deemed that 9 people within such a confined space would result in a rise in noise and general disturbance by virtue of an increase in the number of persons residing in the property and associated vehicle movements, coupled with limited internal amenity space. Even if only seven people occupied the house, there would still be a significant increase on the four that the house currently accommodates.

The design and access statements states that the concerns over noise are unfounded and that occupants are vetted to ensure they adhere to rules regarding noise. While this may be the case currently, moving forward if the vetting process was to slip, or the owner was to change, then the potential for noise would increase

Consequently, the proposal is not considered to satisfactorily accord with this criterion

3. The proposal would not materially alter the historic or natural environment or general character of the area.
4. Provisions have been made to accommodate refuse in two large receptacles to the east of the dwelling, one for recycling and one for general refuse. This is an improvement on the previous scheme. As the receptacles will have lids, the potential for pests and noise is low.
5. There are no defined parking standards for HMOs in the Local Plan. It is proposed that five parking spaces would be provided, and that future occupants would be vetted to ensure no more than five vehicles are present. Five parking spaces is woefully insufficient for a property that would have seven or more occupants and no provisions for on street parking. A lack of off-street parking may damage the safety of highway users or the access of other residents.

The property is located close to the mini roundabout at the conjunction of four roads. Therefore, occupiers may have difficulty with pulling onto the road due to its business and a lack of visibility. This concern is compounded by a lack of turning space on the property, meaning it is possible that residents would have to reverse out onto Halmer Gate. Naturally, this is dangerous and unacceptable.

No cycle storage is proposed, further increasing the need for adequate parking.

Therefore, the proposal is not considered to accord with this criterion.

6.No cycle storage provisions are proposed, meaning occupants would be unable to take full advantage of sustainable means of transport.

The property is approximately 1km from the nearest supermarket and is over 1.2km from the town centre. This is approximately a 15-minute walk. While this is suitable for the vast majority of residents, it may not be suitable for those with mobility issues.

7.There is a small communal living room and kitchen proposed. While the addition of a living room is an improvement over the previous scheme, one living room and kitchen is insufficient for seven plus people and would lead to residents primarily using either outdoors or their rooms as amenity space. If the outdoor space is favoured, the potential for noise pollution would increase further. If the bedrooms are favoured as amenity space, there may be a detrimental impact on the mental health of residents.

Similarly, there are only two communal bathrooms and one ensuite. It can be assumed the ensuite bathroom would only be used by the occupant of the relevant bedroom. Therefore, there would be two bathrooms between at least six people. Again, this is not an ideal situation.

While there has been a new double bedroom created, the majority of proposed room sizes are extremely small. This will not be conducive to well-being.

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.

In conclusion, the proposal does not satisfactorily accord with Policy 21 of the SELLP

Layout, Design, Size and Scale

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. 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.

The dwelling is a modest detached two storey dwelling, with a pitched roof over the original dwelling. Currently, the dwelling accommodates 6 bedrooms, utility and shower room and a family bathroom to the first floor, with one of the bedrooms including an en suite. The ground floor currently includes a modest living room and dining room with an ample rear garden.

No external changes are proposed, and therefore, there would be no aesthetic impact via development.

The area is predominantly comprised of residential dwellings. There are no other HMOs within the Halmer Gate area. As such, the change of use would be out of keeping with the prevailing character of the area.

Taking the above into account, the proposed change of use would be incongruous to the character of the area.

Impacts Upon Resident Amenity

Paragraph 130 of the NPPF amongst other matters, seeks places with a high standard of amenity for existing and future users. Policies 2 and 3 of the SELLP set out residential amenity and relationship to existing development and land uses as main considerations when making planning decisions.

There have been neighbouring objections regarding concerns over noise. It is considered that the use of the dwelling as a HMO is an over-intensification of the use of the site in a predominantly residential area, giving rise to noise and disturbance that is uncharacteristic for an area of modest housing in single family occupancy. Again, while the Design and Access statement states occupants would be vetted and told to reduce noise, this cannot be assured long-term.

With regards to loss of privacy and overlooking, the scheme does not propose any new window openings directly facing any neighbours therefore there are no loss of privacy concerns. No exterior or alterations are proposed; therefore, no overshadowing would occur as a result.

In light of the above, it is considered there are adverse impacts relating to residential amenity that would warrant refusal of this proposal. The proposal is not considered to accord with Policies 2, 3 and 30 of the Local Plan in respect of their provisions on residential amenity.

Flood Risk

The property is within Flood Zone 3. It is within the "Danger for All" hazard category within the local Strategic Flood Risk Assessment, with flood depth expected to reach 2 metres. The proposal would add bedrooms to the ground floor, bedrooms that would be severely at risk of flooding. As HMOs are often occupied by the most vulnerable members of society, the impact of flooding would be felt particularly severely on this site.

No mitigation is proposed to reduce the impact of flooding. It has been stated that the applicant would ensure that residents would sign up for the flood warning system, however, this cannot be guaranteed and would not necessarily reduce the impacts of flooding.

The proposal therefore does not satisfy the requirements of Policy 4 of the SELLP.

Highways, Parking and Transport

As discussed above, the proposed parking arrangements are unacceptable. Five spaces are provided, however, the spaces marked four and five would be extremely difficult to park in. It is expected that there would be up to nine residents, each potentially needing a vehicle, potentially leading to a deficit of four spaces.

No turning space would be provided, potentially resulting in occupiers reversing onto a busy road, on a bend.

No cycle storage is provided, reducing the ability of future occupiers to travel sustainably. This would lead to an increase emphasis on the use of personal vehicles, which as discussed previously, is unacceptable.

There have been two objections from residents, both citing concerns over the parking and highway safety arrangements. Despite the Highway authority's lack of objection, it is considered that the parking facilities onsite are insufficient to meet the requirements of the SELLP.

The proposal fails to achieve the aims of Policies 33, 36 and Appendix 6 of the SELLP.

Planning Balance

The proposal fails to achieve the aims of Policy 21 of the SELLP. It would lead to an over intensification of the area that would create excessive noise pollution, harming neighbouring amenity. The proposal would create a cramped living arrangement, not conducive to mental or physical wellbeing.

The parking arrangements proposed are woefully insufficient. Resident objections have stated that this may potentially lead to on street parking and damage to highway safety. In addition, the lack of parking for cycles would lead to an increased emphasis on motor vehicles, which directly contradicts the aims of Policy 33 of the SELLP.

The proposal would result in vulnerable people facing an undue risk of flooding and the potential difficulties arising as a result of this. Due to this lack of flood risk mitigation, the proposal fails to accord to Policy 4 of the SELLP.

It is considered that there have not been sufficient alterations to the previously refused proposal in order to merit an approval. As such, the proposal fails to accord to Policies 2, 3, 4, 21, 30, 32, 33, 36 and Appendix 6 of the SELLP. The planning balance is against the proposal.

Conclusion

The recommendation is for refusal.

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.