DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0488-22**	**Applicant:**	**A T Property Solutions Ltd**
Proposal:	Change of use of part of residential dwelling to self-contained residential unit - retrospective		
Location:	95 Pilgrims Way Spalding		
Terminal Date:	6th July 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
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 2021

Section 5, 12 and 16 in the National Planning Policy Framework (2021).

Representations:

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

CASE OFFICER ASSESSMENT

PROPOSAL

This is a full (retrospective) application for the change of use of part of residential dwelling to a self-contained residential unit. The unit is sited at the side and rear of the property, which has been used as a HMO, and without planning permission, since 2015. It was formerly a garage/workshop

associated with the dwelling.

Upon undertaking the site visit, it was noted that 5 vehicles were parked within the curtilage and that at least a further 2 vehicles could be accommodated.

SITE DESCRIPTION

The application site is located at 95 Pilgrims Way, Spalding and is a modest sized, detached chalet bungalow set within a reasonably deep plot. It is in a residential part of the town. There are a variety of dwelling styles with both bungalows and two storey dwellings, but mostly detached.

RELEVANT PLANNING HISTORY

H16-0791-15 - FULL - Change of use into 7 person HMO - Refused on 08-12-15.

Reasons for refusal:

1) The use of this modest-sized property as a House in Multiple Occupation, including the loss of the front garden to provide parking spaces, would be contrary to Policies HS18 and SG17 of the South Holland Local Plan 2006 due to over-intensification of the use of the site likely to give rise to noise and disturbance within a residential area characterised by modest housing in single family occupancy. Further the loss of the front garden would be harmful to the visual amenity of the street scene.

2) The application does not provide sufficient evidence to demonstrate that this modest-sized property would be able to provide sufficient off-street parking to accommodate the number of vehicles it would reasonably be expected would be owned or would routinely be used by the seven persons it is proposed would reside at the property. Accordingly it is considered likely that vehicles would routinely be indiscriminately parked on the highway in the vicinity of the property where such parking of vehicles would unreasonably obstruct the safe and free passage of both pedestrians and drivers. As such the proposal would be contrary to Policy SG16 of the south Holland Local Plan 2006.

REPRESENTATIONS

Cllr A M Newton

Concerns over lack of sufficient off road parking and overdevelopment of the site.
Concerns of no cycle park allocation.

Local Highway and Lead Local Flood Authority

Does not wish to restrict the grant of permission.

PLANNING CONSIDERATIONS

Principle

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 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."

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 / semi-detached properties. The proposal is considered to accord with this criterion.

2.It is considered that increasing the number of occupants in the property will lead to a rise in noise and general disturbance by virtue of increased vehicle movements and a lack of internal amenity space. The proposal is not considered to accord with this criterion.

3. The proposal would not materially alter the historic or natural environment and would not impact the character of the area in which are sited predominately 3 to 4 bedroom detached family homes. The proposal is considered to accord with this criterion.

4. Under Section 14 of the application form the agent has answered no to the question "Do the plans incorporate areas to store and aid the collection of waste?". Given the volume of refuse likely to be generated from the property, it is considered that the bin bags outside the property would be acceptable and adequate for the size of the property in comparison to the surrounding dwellings. The proposal is considered to accord with this criterion.

5. Comments have been made in regards to parking. It is considered sufficient off-street parking exists for both the self-contained unit and the HMO albeit as a shared arrangement.

6. The site has good access - by walking and cycling - to community facilities, services, public transport and local employment. The proposal is considered to accord with this criterion.

7. The self-contained unit is considered to provide a substandard level of accommodation by virtue of close relationship with the main dwelling and the lack of internal amenity space for a separate unit. It is therefore not considered to accord with this criterion.

The submitted plans indicate a double bedroom. Whilst not adopted by the Council, the Nationally Described Space Standards are still a useful guide in terms of what can be considered adequate floorspace in amenity terms. The minimum internal dwelling area for 2 bed spaces and 1 person is 37m2, and for 2 persons it is 50m2. The overall floor space of the unit is 21m2 (approx.). The proposal therefore falls well short of the standards set out in the Nationally Described Space Standards (March 2015).

8. The communal garden area is of an adequate size with small internal amenity areas which is only just conducive to the good mental health of the occupants. Private Sector Housing has expressed no concerns when consulted on this application. The proposal is considered to accord with this criterion.

In conclusion, the proposal does not comply with points 2 and 7 of 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; 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.

Attached to the host dwelling, there is a flat roof self-contained unit to the side of the property, set back from the front elevation which has been converted to an additional separate self-contained unit with its own separate kitchen/diner and bathroom facilities.

It is not considered that the separated self-contained unit has a detrimental impact upon the layout and design of the dwelling.

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.

Residential Amenity

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.

Although there have been no neighbouring objections to the retrospective HMO, compared to those received for the previous application H16-0791-15, the general number of occupants in both the host property and the self-contained unit create a combination of over-intensification of the use of the site likely to give rise to noise and disturbance within a residential area characterised by modest housing in single family occupancy.

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.

In light of the above, it is considered to be significant and/or demonstrable 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 21 of the Local Plan in respect of their provisions on residential amenity.

Highway safety and parking

The Local Highway and Lead Local Flood Authority have given no objections.

In terms Policy 36 and Appendix 6 of SELLP 2019, it is considered that the existing access arrangements are considered to be acceptable for the self-contained unit. The main dwelling would be considered a dwelling for the purposes of considering this application and therefore, there would be approx. 4 car spaces available for the dwelling and the self-contained unit.

Taking the above into account, the proposal is considered acceptable on parking and highways grounds, and thus in accordance with Policies 2, 36 and Appendix 6 in this regard.

Planning Balance

Even though the self contained separate unit has been established for a long period of time, including the other 6 bedrooms within the rest of the house, the HMO would not comply with policy, and the additional bedroom which is a self-contained unit, continues to be contrary to policy and National Space Standards.

Conclusion

The proposal is not considered to be in accordance with Policies 2, 3 and 21, as well as Sections 5, 9 and 12 of the National Planning Policy Framework (2021).

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or

other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

RECOMMENDATION

That the application be refused under delegated powers.

N.B. The application was presented to Chairman's Panel on 8th July 2022 and members were content that the application be determined under delegated powers.