

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H16-1111-22      **Applicant:** Mrs F T Mir Javadi  
**Proposal:** Change of use from residential dwelling to HMO  
**Location:** 106 Halmer Gate Spalding  
**Terminal Date:** 11th January 2023

### 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 12- Achieving well-designed places.

### Representations:

|                            | Object | Support | No Obj. | Comments |
|----------------------------|--------|---------|---------|----------|
| WARD MEMBER                | 1      | 0       | 0       | 0        |
| HIGHWAYS & SUDS<br>SUPPORT | 0      | 0       | 0       | 1        |
| OTHER STATUTORY<br>BODIES  | 1      | 0       | 0       | 0        |
| RESIDENTS                  | 3      | 0       | 0       | 0        |

### CASE OFFICER ASSESSMENT

## Proposal

This is a full planning application, seeking planning permission for the change of use from a residential dwelling to a HMO at 106 Halmer Gate, Spalding.

## Site Description

The site is situated within the settlement of Spalding, according to the South East Lincolnshire Local Plan, 2019. The site is located on the southern side of Halmer Gate and the street mostly consists of frontage detached/semi detached residential development, with a variety of ages, sizes and designs. There is a large care home to the east/south-east.

## History

No relevant planning history.

## Consultation Responses

Cllr R A Gibson, South Holland District Council

The rooms seem very small in size. Residents wellbeing should be considered before maximising profit. 9 rooms equals at least 9 people, could be more if they have partners - for only 3 designated parking spaces on a busy school road. It looks to be too much for the property/location.

Sir John Hayes MP

Not in keeping with the current demographic and residential dwellings in the area. Increase in traffic movements and dangerous parking on a busy road. This type of housing can cause anti-social behaviour. The number of proposed occupants would also result in the loss of amenity space.

Local Highway and Lead Local Flood Authority

No Objections- Lincolnshire County Council does not have adopted parking standards and considers each application on its own merits. This proposal has 3 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.

## Public Objections(4)

- Family dwelling
- The road is a collection of single household dwellings
- This could start a precedent in the area
- Increased noise and disturbance.
- Fear for safety.
- Lack of off-road parking. Not enough off street parking.
- A large amount of the garden is occupied by a swimming pool, reduces the overall amenity spaces and imposes increased risk of safety.
- Lack of amenity space.
- There are Nationally Described space standards describe minimum 6.51m<sup>2</sup> for a person over 10 years of age in addition to any built in storage - this application an average room size of only 9.8m<sup>2</sup> and has 2 rooms below 7m<sup>2</sup> with no built in storage. The intended occupants are clearly single occupant adults and this must be seen a very small for such a use. Additionally, the amenity space within the house itself is inappropriate for the use of nine letting bedrooms. There is just one communal space which is not adequate for the HMO use suggested but is suited to a single family dwelling for which the property was built and has been used since.
- The single kitchen space for nine occupants will encourage cooking in small rooms and increase the fire risk.
- Increased use of the vehicular entrance to 106 Halmer Gate would be an increased risk to pedestrians and to road traffic. The current drive for 106 Halmer Gate is only big enough to accommodate two or three vehicles and this is evidently too few for a house of nine adults living independently.

- There is a need for occupants to have a private vehicle, given that services are over 600m away.
- Parking in lay-by causing access problems.

## 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 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.
2. The supporting Design and Access Statement indicates that the property would be adapted to accommodate 9 bedrooms. This is an increase of 3 bedrooms on existing (6 existing bedrooms specified on application form). 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 an increase in the number of persons residing in the property and associated vehicle movements, coupled with limited internal amenity space. 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. Given the volume of refuse likely to be generated from the property, it is considered that the amount of bin bags outside the property would be unsightly and may generate odour. The proposal is not considered to accord with this criterion.
5. An objection has been received about limited on-street parking being available. There are no defined parking standards relating to HMOs in the Local Plan, but 3 off-street parking spaces for 9 bedrooms is not an ideal situation. It is accepted that possibly not all occupants will have vehicles but the property only has a small frontage and vehicles are not seen to park on the street, given that Halmer Gate is a busy road. Whilst the Highway Authority have not objected on highway safety grounds, clearly an increase in on-street parking will impede traffic flow on a road that is particularly busy during school arriving and leaving times and would be an inconvenient arrangement.
6. The site has good access - by walking and cycling - to community facilities, services, public transport and local employment. There does not appear to be any cycle parking provision on the property. This would need to be secured if permission were to be forthcoming.
7. The bedroom sizes are not considered acceptable. All of the ground floor bedrooms can only be for a single bedspace and, to the first floor, there are two bedrooms which do not comply with the Nationally Described Space Standard (2015), with only one room to the first floor which is sufficient

as a double room. There is no communal living room and only one kitchen and dining room for 9 bedrooms. This will not be conducive to well-being and will likely lead to outdoor gathering, which could have a consequent amenity impact on neighbouring properties. Therefore, the proposal is not considered to accord with this criterion.

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; 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.

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 and 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.

The alterations comprise of converting the existing living room into two separate bedrooms, the existing dining room will be converted into another bedroom, creating a new rear entrance. A new window will be formed to the south east elevation on the ground floor, for one of the proposed bedrooms.

The proposed external changes are minor, and 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 appearance.

### 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.

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.

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 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.

### Planning Balance

Whilst the site lies within the settlement boundary of Spalding it is considered that the proposed change of use from a residential dwelling to a HMO would be unacceptably harmful in amenity terms and would result in an inconvenient parking arrangement.

The planning balance therefore lies against the proposal.

### **Conclusion**

Based on the reasons outlined above, the proposal is considered to be contrary to Policies 2, 3 and 21 in the South East Lincolnshire Local Plan, 2019, as well as Section 12 of the National Planning Policy Framework (2021).

The recommendation is therefore for a delegated 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 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 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.