

<b>Application Number:</b>	2019/0079/FUL
<b>Site Address:</b>	8 Top Lodge Close, Lincoln, Lincolnshire
<b>Target Date:</b>	29th March 2019
<b>Agent Name:</b>	Yorke Architecture
<b>Applicant Name:</b>	Mr Khan
<b>Proposal:</b>	Change of use to 7 bed House in Multiple Occupation (HMO) (Sui Generis) (Revised Description).

### **Background - Site Location and Description**

The application property is 8 Top Lodge Close, a two storey detached dwelling located within a cul-de-sac with eight other properties accessed from Doddington Road to the south, close to the junction with Whisby Road. Top Lodge Close is not public highway and is privately owned and maintained. The property has a driveway to the front and a large garden to the side and rear, bounded by approximately 1.8m high fencing. To the east of the site is 9 Top Lodge Close with 6 and 7 Top Lodge Close to the west. To the north are properties on Swaythling Close.

The application is for the change of use from a dwellinghouse (Class C3) to a seven bed House in Multiple Occupation (HMO) (Sui Generis). The six bedroom property is currently vacant. The application proposes to maintain the four bedrooms on the first floor, two on the second floor (within the roof) and create a further bedroom as part of a self-contained unit within the double garage. Works to create this unit have already commenced involving the installation of internal stud walls and the partial bricking up of the garage door openings, creating window openings. The occupants in the main house would have access to a lounge, kitchen/diner, snug and bathrooms.

### **Site History**

No relevant site history.

### **Case Officer Site Visit**

Undertaken on 26th February 2019, also visiting the neighbouring property of 9 Top Lodge Close.

### **Policies Referred to**

- Policy LP9 Health and Wellbeing
- Policy LP10 Meeting Accommodation Needs
- Policy LP26 Design and Amenity Standards
- Policy LP37 Sub-division and multi-occupation of dwellings within Lincoln
- National Planning Policy Framework

### **Issues**

- Use and policy context
- Lack of demand for the dwellinghouse use

- HMO concentration
- Parking and effect on the amenities of the wider area
- External communal space, cycle and bin storage

### **Consultations**

Consultations were carried out in accordance with the Statement of Community Involvement, adopted May 2014.

### **Statutory Consultation Responses**

Consultee	Comment
Highways & Planning	Comments Received
Cadent Gas Ltd	Comments Received

### **Public Consultation Responses**

Name	Address
Mr David Spraggins	7 Top Lodge Close Lincoln Lincolnshire LN6 3JA
Mr David Conroy-Lewis	3 Top Lodge Close Lincoln Lincolnshire LN6 3JA
Miss Nicola Sykes	14 Swaythling Close Lincoln Lincolnshire LN6 3DD
Elizabeth Young	1 Top Lodge Close Lincoln Lincolnshire LN6 3JA
Mr Mike Maloney	4 Top Lodge Close Lincoln LN6 3JA
Mrs Julie McHardy	13 Swaythling Close Lincoln Lincolnshire LN6 3DD

Andrew Young	1 Top Lodge Close Lincoln Lincolnshire LN6 3JA
Mr Philip Thompson	12 Swaythling Close Lincoln Lincolnshire LN6 3DD
Mrs Judith Davids	5 Top Lodge Close Lincoln Lincolnshire LN6 3JA
Mr Richard Sargent	9 Top Lodge Close Lincoln LN63JA
Mr Daniel Gardner	2 Top Lodge Close Lincoln Lincolnshire LN6 3JA
Mr Sammy Liu	6 Top Lodge Close Lincoln Lincolnshire LN6 3JA

### **Consideration**

Letters of objection have been received from all of the neighbouring properties on Top Lodge Close; 1 to 7 and 9. Objections have also been received from 12 and 14 Swaythling Close. The areas of concern relate to the effect on the family character of the close, noise and disturbance as well as overlooking and loss of privacy, due to increased usage of the property and bedrooms. The objectors also consider that the proposal will lead to an increased volume of traffic and visitors. They state that there is insufficient parking; the drive can only accommodate a maximum of four cars, and the additional capacity of the double garage has been lost due to the conversion. This will lead to an increase in on-street parking on the narrow road and, given the location on a bend, will cause a hazard and safety issues. There is specific concern raised by the occupant of 9 Top Lodge Close as there is no boundary between his own driveway and that of the application property.

There is a general comment of support from many of the objectors to this type of accommodation but they consider that this is the wrong location, given there are no local amenities and facilities. Most objectors also note that if the HMO use was authorised, this could then be taken up by any company/owner.

A number of the representations have raised objection on the grounds of the impact on house prices, the credibility of the operator and that the multi-occupancy and the running of a business are in contravention of the deeds. These are not material planning

considerations that can be taken into account. Similarly, the specific nature of the occupancy suggested by the application and the neighbour's concerns associated with this cannot be taken into account, although this is discussed in more detail below.

### Use and Policy Context

The 'Supporting Statement' advises that the use of the property would be for adult disabled persons who wish to work towards living independent lives, in a supported living environment. The property would offer two stages of accommodation prior to clients being able to function fully independently in the wider community. Six occupants would be in receipt of moderate support within the main house, with the seventh occupying the self-contained unit within the garage and receive only minor support. The agent has advised that the support would be in the form of one staff member at a time, visiting for approximately 2 hours per day, with additional on call support available 24/7 as required.

There was some discussion with the agent at the outset of the application regarding the use class that this type of operation would fall within. While there is to be an element of care provided it was agreed that this would not be at a level that would constitute a Residential Institution (C2). The application would therefore be considered as a HMO.

It should also be noted that officers have to consider the use as a HMO, and not the specific operator. The current applicant could choose not to implement the permission, which could then in turn be implemented by different owner, a concern raised by objectors.

The proposal for the HMO use will therefore be considered against the requirements of Central Lincolnshire Local Plan (CLLP) Policy LP37, which advises that the changes of use to houses in multi-occupation will be supported where:

- the existing dwelling is capable of conversion without causing harm to the amenities of future occupants, neighbours and the wider area;
- it can be demonstrated that there is an established lack of demand for the single family use of the property;
- the development will not lead to or increase an existing over-concentration of such uses in the area; and
- adequate provision is made for external communal areas, bin storage and collection and on-site parking and cycle storage. On-site parking and cycle storage may not be necessary if it can be demonstrated that the site is sustainably located on a regular bus route or within walking distance of the City Centre.

The application property is subject to the city wide Article 4 Direction. From the 1st March 2016 the Article 4 removed permitted development comprising the change of use from a use falling within Class C3 (dwellinghouses) to a use falling within Class C4 (houses in multiple occupation occupied by between three to six occupants). While the Article 4 does not apply to the Sui Generis HMO as proposed (having more than six occupants), the associated Houses in Multiple Occupation Supplementary Planning Document Approved Draft (SPD) provides criteria for determining planning applications for the development of HMOs, which are still relevant to this type of HMO.

The SPD outlines the criteria that will be used to determine planning applications for the development of HMOs in the city. The purpose of this, and the Article 4 direction, is not to restrict the supply of HMOs, rather they are intended to manage their future development. This should ensure such developments will not lead to or increase an existing over

concentration of HMOs, which are considered harmful to local communities, or result in the loss of properties from the market where there is a demand for their use as a dwellinghouse.

Paragraph 8 of the National Planning Policy Framework (NPPF) outlines the three overarching objectives of sustainable development and, as part of the social objective, it should be ensured that there is a sufficient number and range of homes that meet the needs of present and future generations.

#### Lack of Demand for the Dwellinghouse Use

Policy LP37 and the SPD state that applications should demonstrate that there is an established lack of demand for the single family use of the property. The SPD specifically requires that evidence that the property has been openly marketed at a reasonable purchase or rental price for a period of at least six months should be submitted, verified by a suitable person in a relevant profession, such as an estate agent. This should ideally also include information of comparable properties for sale/recently sold in the area.

This policy approach has been supported by the Planning Inspectorate, with appeals dismissed where applications have failed to meet this requirement.

No such evidence was submitted as part of the application and officers accordingly requested this during the process. The agent has submitted a revised 'Supporting Statement' although this provides no information of the marketing history of the property or evidence of the lack of demand. Instead the statement emphasises the demand for the specific supported living use proposed, that the nature of the use will limit the potential impact on neighbours and also limit the number of cars as none of the residents will be likely to drive. The statement also references both local and national policy, which encourages local planning authorities to consider the potential for achieving positive mental health outcomes and create balanced and inclusive communities.

Paragraph 91 of the NPPF promotes social inclusivity and social interaction, echoed by CLLP Policy LP10 which aims to achieve balanced and mixed communities. Policy LP9 states that the potential for achieving positive mental health outcomes will be taken into account when considering all development proposals. In line with these policies officers are fully supportive in principle of the provision of this type of accommodation within the city, however, such proposals also need to meet the requirements of other policies, in this case LP37 and the SPD.

The other aspects of this policy and the SPD will be considered later within the report, but in terms of demand for the property as a family dwelling, the application does not provide any evidence of marketing and officers cannot therefore conclude that there is a lack of demand. This would be contrary to Policy LP37 and the SPD. While there is the potential for a positive mental health outcome to be achieved (assuming that the current applicant operates the specific use) it is not considered that this is sufficient to outweigh this policy objection. Officers have to consider the acceptability of the HMO use and not the operator, and would accordingly recommend to members that planning permission be refused on these grounds.

#### HMO Concentration

The SPD requires that the concentration of HMOs should not be over a 10% maximum

within a defined 100 metre radius. A high concentration or percentage of HMOs can lead to an imbalance in the community. There is also a requirement that the proposal should not result in a smaller concentration, specifically from three adjacent HMOs.

In this instance the threshold is not exceeded, indeed there are no other HMOs known to the council within the radius area. Officers are satisfied that the principle of allowing a HMO use would therefore not have an unduly harmful impact on the overall balance of the community.

#### Parking and Effect on the Amenities of the Wider Area

During the process of the application the Lincolnshire County Council as Local Highway Authority (HA) requested additional information regarding vehicle numbers and parking arrangements.

The agent advised that none of the residents will be likely to drive due to the nature of their needs, so the provision of parking on site would be limited to visiting staff and as such would be lower than one would expect from a single family occupying a house of this size. There would be one member of staff at a time, using only one parking space, although the driveway is large enough for three to four cars.

The HA has considered this additional information and is satisfied that the proposal would not cause issues on the highway. The HA consider that vehicle movements associated with the development proposal will be reduced from that of a 6 bedroom family occupied dwelling as existing, although there is also no highway safety concerns for a more generic HMO use at this location. Accordingly the HA do not wish to restrict the grant of planning permission.

While this is the position of the HA from a highway safety point of view, officers have concerns regarding the potential for increased vehicles and on-street parking. The agent has advised that none of the residents are likely to drive, however, it is the HMO use that must be considered as opposed to the operator. The seven bedroom property could therefore be occupied by seven residents, each with a car. The driveway would not be able to accommodate this number of cars resulting in on-street parking. Officers would concur with the objections from neighbours in this respect, and consider that the potential for on-street parking would have significant issues on this small cul-de-sac resulting in a harmful effect on the residential amenities of neighbouring properties. This would be contrary to CLLP Policy LP26 and officers would recommend refusal of the application on these grounds.

In terms of the more general impact on neighbouring properties, objectors have raised concern regarding noise and disturbance, overlooking and loss of privacy.

With regard to noise and disturbance, it is again the HMO use that should be considered and not the specific operator. The City Council's Pollution Control Officer has advised that there is no objection to the HMO use in respect of noise, which is consistent with the officer's advice on other HMOs within the city.

Officers also have no objection regarding overlooking from existing bedroom windows, as these remain as bedrooms and do not therefore result in a new relationship. There is, however, a level of overlooking created from the conversion of the garage, towards the driveway and front aspect of the neighbouring 9 Top Lodge Close. While this is an issue it

could be mitigated with a condition to require a fence to the boundary, and therefore officers would not recommend that this be additional grounds for refusal.

There is no objection from officers to the level of accommodation for future occupants or the impact on visual amenity, as the external works to convert the garage are minor. Some objectors have noted that there is no access to local facilities for future occupants. However, Policy LP37 only requires HMOs to be sustainably located on a regular bus route or within walking distance of the city centre where there is no on-site parking. The application property does provide on-site parking, albeit limited, and is located on a bus route and accordingly officers would not raise objection to the application on these grounds.

#### External Communal Space, Cycle and Bin Storage

There is private garden to the rear of the property. There is no indication that an area for cycle or bin storage is provided within this, however, it is reasonable to assume that these could be accommodated here.

#### Conclusion

In accordance with CLLP Policies LP9 and LP10 officers are fully supportive in principle of the provision of the type of accommodation that is suggested by the application, however, it is the HMO use and not the specific operator that has been considered. The potential for mental health benefits would not therefore outweigh the requirement for the HMO proposal to meet Policy LP37 and the SPD. These both require that applications should demonstrate that there is an established lack of demand for the use of the property as a family dwellinghouse. The application has failed to provide such evidence and officers recommend refusal on these grounds.

Similarly, while the application states that there would be limited vehicle ownership associated with specific use, officers have to consider the potential for a seven bedroom HMO to be occupied by seven occupants, each with their own car. There is no objection from the Lincolnshire County Council as Local Highway Authority in terms of highway safety although officers consider that the potential for increased vehicle numbers and the insufficient parking provision within the application site would result in on-street parking, which would in turn cause harm to the amenities of local residents. Officers would recommend that the application is also refused on these grounds.

Notwithstanding the impact on neighbouring properties through increased on-street parking it is not considered that the principle of the HMO use would result in undue harm to neighbouring occupants or the visual amenity of the wider area. The application would not result in an over concentration of HMOs within the area. The application site also has the potential to provide adequate provision for external communal areas for amenity, cycle storage and bin storage.

Officers would therefore recommend refusal of the application on the grounds of lack of evidence of the demand for the property as a family dwelling and the impact on neighbouring occupants as a result of the potential for on-street parking, contrary to CLLP Policies LP26 and LP37, the SPD and the NPPF.

## **Application Determined within Target Date**

Yes.

## **Recommendation**

That the application is refused for the following reasons:

1. The application fails to demonstrate there is an established lack of demand for the single family use of the application property thereby discouraging owner occupation by families, contrary to Policy LP37 of the Central Lincolnshire Local Plan, the Houses in Multiple Occupation Supplementary Planning Document Approved Draft and paragraph 8 of the National Planning Policy Framework.
2. The proposed seven bedroom HMO could be occupied by seven individuals, each with a car. The driveway within the application site could not accommodate that level of parking which would result in on-street parking. This would have a significant impact on the small cul-de-sac, causing harm to the residential amenities which the occupiers of neighbouring properties may reasonably expect to enjoy, contrary to Policy LP26 of the Central Lincolnshire Local Plan.