

**Present:** Councillor Naomi Tweddle (*in the Chair*),  
Councillor Bob Bushell, Councillor Bill Bilton, Councillor  
Alan Briggs, Councillor Chris Burke, Councillor  
Liz Bushell, Councillor Gary Hewson, Councillor  
Jackie Kirk, Councillor Bill Mara and Councillor  
Edmund Strengiel

**Apologies for Absence:** Councillor Kathleen Brothwell and Councillor  
Rebecca Longbottom

**114. Confirmation of Minutes - 27 January 2021**

RESOLVED that the minutes of the meeting held on 27 January 2021 be confirmed.

**115. Declarations of Interest**

Councillor Naomi Tweddle declared a Personal and Pecuniary Interest with regard to the agenda item titled '7 The Avenue, Lincoln'. Reason: She knew one of the objectors as a close associate.

She left the room during the discussion on this item and took no part in the vote on the matter to be determined.

Councillor Naomi Tweddle declared a Personal and Pecuniary Interest with regard to the agenda item titled 'Flat 1, 7 The Avenue, Lincoln'. Reason: She knew one of the objectors as a close associate.

She left the room during the discussion on this item and took no part in the vote on the matter to be determined.

Councillor Naomi Tweddle declared a Personal and Pecuniary Interest with regard to the agenda item titled '2nd Floor Flat, 7 The Avenue, Lincoln'. Reason: She knew one of the objectors as a close associate.

She left the room during the discussion on this item and took no part in the vote on the matter to be determined.

Councillor Naomi Tweddle declared a Personal and Pecuniary Interest with regard to the agenda item titled 'Garage, Rosebery Avenue, Lincoln'. Reason: She knew one of the objectors as a close associate.

She left the room during the discussion on this item and took no part in the vote on the matter to be determined.

**116. Member Statements**

In the interest of transparency the following Members requested it be noted that they knew two of the Councillors having submitted objections in relation to the planning applications detailed below, however, in a capacity as colleagues only:

**Councillors**

G Hewson  
C Burke  
J Kirk  
E Strengiel  
A Briggs  
B Bushell  
L Bushell  
B Bilton

### **Applications for Development**

Item 5(a) 7 The Avenue Lincoln  
Item 5(b) Flat 1, 7 The Avenue, Lincoln  
Item 5(c) 2<sup>nd</sup> Floor Flat, 7 The Avenue Lincoln  
Item 5 (d) Garage Rosebery Avenue, Lincoln

## **117. Work to Trees in City Council Ownership**

*(Councillor Mara arrived late to the meeting during the discussion of this item due to experiencing technical difficulties which were outside of his control. He sat in the public gallery during the discussion of this item and took no part in the vote on the matter to be determined. He then joined Planning Committee for the remainder of the meeting.)*

Dave Walker, Arboricultural Officer:

- a. advised members of the reasons for proposed works to trees in City Council ownership and sought consent to progress the works identified, as detailed at Appendix A of his report
- b. highlighted that the list did not represent all the work undertaken to Council trees, it represented all the instances where a tree was either identified for removal, or where a tree enjoyed some element of protection under planning legislation, and thus formal consent was required
- c. explained that Ward Councillors had been notified of the proposed works.

Members enquired whether there were enough staff resources to maintain the trees once they were in place.

Dave Walker, Arboricultural Officer highlighted that the Authority maintained all the trees it planted, in addition to looking after those that came under the responsibility of the Highway Authority by means of a contractual agreement with the County Council.

RESOLVED that tree works set out in the schedules appended to the report be approved.

## **118. Confirmation of Tree Preservation Order 159**

*(Councillor Mara joined Planning Committee for the remainder of the meeting.)*

The Assistant Director for Planning:

- a. advised members of the reasons why a temporary tree preservation order should be confirmed at the following site:

- Tree Preservation Order 159: 2 Lime Trees in the front garden (facing Gibraltar Hill) of Lindens, 3 Gibraltar Hill, Lincoln LN1 3BW
- b. provided details of the individual trees to be covered by the order and the contribution they made to the area
  - c. highlighted furthermore that there had been a history of site slippage in this area and the removal of these trees may lead to land destabilisation
  - d. reported that the initial 6 months of protection would come to an end for the Tree Preservation Order on 24 March 2021
  - e. advised that following an extended 34 day consultation period, no objections had been received to the making of the order
  - f. reported that confirmation of the tree preservation order here would ensure that the trees could not be removed or worked on without the express permission of the council which would be considered detrimental to visual amenity and as such the protection of the trees would contribute to one of the Council's priorities of enhancing our remarkable place.

Members asked:

- Was the Temporary Tree Preservation Order to be extended?
- Should a Tree Preservation Order be imposed on a tree which formed part of a private garden did the Council assist with its maintenance?

Dave Walker, Arboricultural Officer:

- a. confirmed that this application requested imposition of a permanent Tree Preservation Order, to protect the tree for its entirety.
- b. clarified that any tree holding a Preservation Order and located on private land was the responsibility of the land owner.

RESOLVED that Tree Preservation Order No 159 be confirmed without modification and that delegated authority be granted to the Assistant Director of Planning to carry out the requisite procedures for confirmation.

#### **119. Order of Business**

RESOLVED that the order of business be amended to allow the applications for development at 238 Nettleham Road, Lincoln and The Garage, Rosebery Avenue Lincoln to be considered as the next two agenda items respectively.

#### **120. Applications for Development**

##### **121. 238 Nettleham Road, Lincoln**

The Planning Team Leader:

- a. described the application site at 238 Nettleham Road, Lincoln formerly Pizza Hut restaurant (now closed) located on land to the south-east of Nettleham Road, included within the Nettleham Road District Centre as designated by the Central Lincolnshire Local Plan, having existing housing

served by Browning Drive to the south-west and residential apartments to the south accessed from Nettleham Road

- b. advised that planning permission was sought for the change of use from existing restaurant (Class E) to drive-thru restaurant (Mixed Use Class E and Sui Generis) with external modifications to the building to include provision of a drive-thru lane, a minor reconfiguration of the car park, a new condenser compound and associated hard and soft landscaping improvement works
- c. provided details of the policies pertaining to the application, as follows:
  - Policy LP1: A Presumption in Favour of Sustainable Development
  - Policy LP13: Accessibility and Transport
  - Policy LP26: Design and Amenity
  - Policy LP34: Lincoln's District and Local Shopping Centre
  - National Planning Policy Framework
- d. advised members of the main issues to be considered as part of the application to assess the proposal with regard to:
  - Policy Context and Principle
  - Effect on Visual Amenity
  - Impact on Residential Amenity and Neighbouring Uses
  - Access, Parking and Highways
- e. outlined the responses made to the consultation exercise
- f. referred to the Update Sheet which contained further representations received in respect of the proposed development
- g. concluded that :
  - The principle of the use on this site was considered to be acceptable and the application had demonstrated that it had met the policy requirements.
  - The design of the development was acceptable, complementing the architectural style of the local surroundings.
  - It was not considered that the amenities of neighbouring residential properties or neighbouring uses would be unduly harmed by the proposal.
  - Technical matters relating to highways had been appropriately considered by the relevant statutory consultee and could be dealt with as necessary by condition.
  - The proposal would therefore be in accordance with the requirements of Central Lincolnshire Local Plan Policies LP1, LP34, LP13 and LP26 as well as guidance within the National Planning Policy Framework.

Members discussed the content of the report in further detail. The following comments/questions emerged:

- Lincolnshire Police had no objections to the proposals, although they did mention a document of reference within their response.

- What did the condition covering the restriction on hours of operation at the premises involve?
- It was noted that the Update Sheet contained a further representation received with photographs attached which all showed a long queue waiting to access KFC at various times of the day at the business operating on the adjacent site next to the application site.
- Although the Highways Authority had raised no issues to the planning application, there were road marking issues. The entrance to the site was very narrow for two vehicles. There was meant to be a left turn only out of the premises which was not being adhered to. Improved road markings were needed.
- The lighting at the premises was in need of an upgrade.
- There had been complaints regarding rats in the area. Refuse disposal would require sympathetic consideration.
- Reference within the officer's report was made to a recommendation by the Highways Authority to make improvements to the entry to the proposed development including widening of the access. Was this designed to promote the safe manoeuvrability of vehicles on access and egress to the drive-through?

Simon Cousins, Planning Team Leader offered the following points of clarification to members:

- Hours of operation would be conditioned the same as the current opening hours of the KFC drive-through next door with a closing time off 11.00pm for the drive-through and 12 midnight closure of the business. Waste disposal and delivery hours would also operate the same as that of KFC.
- He was uncertain what document Lincolnshire Police had referred to within their representation although it was likely to be similar to a proper persons test which was a legal matter and not within the remit of Planning Committee.
- The Highways Authority had requested that the access to the drive-through premises be widened to ease access/egress which was also supported by the Planning Authority.
- Additional lighting requirements would be investigated by Pollution Control Officers which would produce a more efficient lighting system.
- In respect of any structural alterations required to the building, a structural engineer had been employed by the applicant to deal with this.

RESOLVED that planning permission be granted subject to the following conditions:

- 3 Year time limit of the permission
- Development in accordance with approved plans
- Details of vehicular access
- Details of external plant
- Implementation of acoustic barrier
- Details of any extraction/filtration systems
- Assessment of off-site impact of lighting
- Restriction on opening hours
- Restriction on hours for commercial deliveries
- Restriction on hours for waste collections
- Hours of construction

**122. Garage, Rosebery Avenue, Lincoln**

*(Councillor Tweddle, Chair exited the zoom proceedings at this point for the remainder of the meeting having declared a personal and pecuniary interest in the items to be discussed. She took no further part in the matters to be determined.)*

*(Councillor B Bushell, Vice Chair, took over as Chair of Planning Committee).*

The Planning Team Leader:

- a. described the application property, a long standing garage building located to the east side of Rosebery Avenue, within the West Parade and Brayford No.6 Conservation Area
- b. reported that although there was no known date of the construction of the garage, it had been established that the building was originally constructed between 1880 and 1900 with a later addition between approximately 1930 and 1960 to form the outline that remained to the present date and the structure as it currently stood had been present in its form or similar for a significant period and as such was lawful
- c. added that an application for conversion of the existing garage had been granted planning permission in 2018, following further investigation by the owners of the existing structure it was established that the walls to be previously retained were of poor condition and in places severely bowed, and subsequently, a revised application had been submitted for consideration
- d. advised that the application proposed the demolition of the existing building and the rebuilding of a new dwelling to form a three bedroom property within Use Class C3 – which was as a single dwelling; the proposal remained almost identical in footprint, scale and massing to that previously approved
- e. provided details of the policies pertaining to the application, as follows:
  - National Planning Policy Framework
  - Central Lincolnshire Local Plan
  - Policy LP1: A Presumption in Favour of Sustainable Development
  - Policy LP21: Biodiversity and Geodiversity
  - Policy LP25: The Historic Environment
  - Policy LP26: Design and Amenity
- f. advised members of the main issues to be considered as part of the application to assess the proposal with regard to:
  - Accordance with National and Local Planning Policy
  - Impact on Residential Amenity
  - Impact on Visual Amenity and the Character and Appearance of the Conservation Area
  - Highway Safety, Access and Parking
  - Communal Space Bin Storage and Other Factors
  - Ecology and the Protection of Habitats and Species

- Other Matters

- g. outlined the responses made to the consultation exercise
- h. referred to the Update Sheet which contained additional responses received in respect of the proposed development and a further suggested condition to be imposed on grant of planning permission
- i. concluded that :
  - The proposed conversion to a residential dwelling would not have a harmful impact on the amenities of neighbouring properties and would enhance the character and appearance of the conservation area.
  - The application facilitated the redevelopment of brownfield land into a more sustainable use through the addition of a new dwelling, in accordance with policies LP1 A, LP21, LP25 & LP26 of the Central Lincolnshire Local Plan and the National Planning Policy Framework.
  - The application before Committee proposed a building of the same height, scale and design to the conversion of the existing building that was granted planning permission in 2018.
  - The proposal would result in a dwelling which has an almost identical appearance.

Tara Bond, local resident addressed Planning Committee in opposition to the proposed development, covering the following main points:

- She spoke on behalf of local residents at 8 properties on Rosebery Avenue and West Parade.
- She lived at No 1 Rosebery Avenue.
- The properties were currently boarded by the boundary wall of the current garage at the bottom of the garden which was the subject of the planning application.
- The only access was to the front west elevation.
- The proposal to demolish the garage would impact on all 8 properties opening up their gardens and causing structural work.
- Reference was made to Policy LP26 – noise nuisance would be caused during construction work.
- The timeline for the work would be longer than that of the previous planning permission granted in 2018 due to demolition of the existing garage.
- The passageway to the properties was not shared with the owner of the garage therefore building work could not take place.
- The development would cause issues for neighbours in relation to bin storage and inconvenience during construction work.
- The passageway was currently shared by the occupants of 288 - 294 West Parade and not the current garage owner.
- There was an emergency access at the south wall but this was not safe as it led to a locked gate.
- The tree to the north wall of one of the resident's properties would be affected by the demolition of the building, which convened policy LP25.
- The existing garage was in good condition and could be restored.

- The roof of the existing garage was in a sound position and the walls were not cracked.
- The existing garage was over 100 years old and should be retained.
- It was common practice for older buildings to be highly insulated.
- Bats had been using the building as a rest area and great care would need to be taken during the alterations. The new build may not be suitable for the bats to return.
- Access to the existing building was awkward, but to demolish and rebuild it would cause negative impacts to the neighbouring residents and their homes.
- Local residents did not wish the garage to be demolished.

Ellie Krisson, applicant, addressed Planning Committee in support of the proposed development, covering the following main points:

- Application for conversion of the existing garage was granted planning permission in 2018.
- There had been a delay in progressing the proposals forward due to her husband having cancer. He had received surgery and was now well.
- Progress had been further hampered by COVID in 2019 which had stopped development work.
- The existing garage was falling down/unstable.
- The replacement build now being applied for would offer a stable and long lasting structure.
- The new building would be available for future generations' benefit and be a much more attractive proposition.
- The new plans for the build would hardly change the appearance of the area.
- The height and footprint of the building was not increased.
- Through cooperation between neighbours and use of reputable builders it was hoped that an amicable solution to issues raised by neighbours associated with the Party Wall Act could be arrived at.
- The owners wished to make improvements to the character/appearance of the street scene with the offer of a new environmentally friendly sustainable home to enhance the local area.
- It was hoped that any remaining concerns could be dealt with through cooperation and that planning permission would be granted.

Members discussed the content of the report in further detail. The following comments/questions emerged:

- There was no reason to refuse planning permission.
- It was hoped that the Council would keep an eye on the health of the tree close to the site as it would be awful if it was damaged during construction work.
- The concerns of neighbours were appreciated however, these concerns did not fall within the remit of Planning Committee.
- Was it possible to revert back to the original application submitted in 2018 which would alleviate neighbour concerns?  
Planning permission was granted in 2018 and normally remained active for 3 years. Had it expired?
- The demolition of the building would cause too much disruption to neighbours as they would lose their gardens during construction work.

Councillor Bob Bushell, Vice Chair (*in the Chair*) reminded Planning Committee of its remit to consider the planning application in front of it this evening. Concerns associated with the party wall were outside of the remit of Planning Committee.

Simon Cousins, Planning Team Leader offered the following points of clarification to members:

- The planning application submitted in July 2018 was still live. However, as previously stated, the remit of Planning Committee was to determine the planning application in front of it this evening.
- The applicants would be required to address the concerns regarding the party wall with neighbours separately moving forward as it was their responsibility to do so. The grant of planning permission would not have any further influence on the applicant's ability to resolve the party wall agreement.
- The tree identified was outside of the application site however the roots may have spread within the site itself. The tree was in a Conservation area but not the subject of a tree preservation order. A reasonable applicant would be expected to carry out excavation work in a manner that did not damage the tree and the grant of planning permission would be conditioned accordingly to protect it.

RESOLVED that authority to grant planning permission be delegated to the Planning Manager subject to:

- The signing of a section 106 agreement to ensure no student occupation of the property
- The conditions listed below.

### **Standard Conditions**

- 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

- 2) With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the drawings listed within Table A below.  
The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans.

### **Conditions to be Discharged before Commencement of Works**

- 3) Samples of all external materials to be used in the development shall be submitted to and approved by the Local Planning Authority before the development commences. The approved materials shall not be substituted without the written consent of the City Council as Local Planning Authority.

Reason: In the interests of visual amenity.

- 4) No development shall take place until an investigation and risk assessment has been completed to assess the nature and extent of any contamination on the site and a written report of the findings submitted to and approved in writing by the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with the Environment Agency's 'Land Contamination: Risk Management (LCRM) Guidance' (available on [www.GOV.UK](http://www.GOV.UK)).

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

- 5) No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared, submitted to and been approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 6) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, submitted and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### **Conditions to be Discharged before use is Implemented**

None.

### **Conditions to be Adhered to at all Times**

- 7) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 4 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition 5, which is to be submitted to and be approved in writing by the Local Planning Authority.  
Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 6.  
Where no unexpected contamination is found written confirmation of this must be provided to the Local Planning Authority prior to any occupation of the site.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out.

- 8) The dwelling hereby granted shall be used as a residential dwelling (Use Class C3) and for no other purpose within the Schedule of the Town and Country Planning (Use Classes) Order 2015 or any subsequent amendment or re-enactment thereof).

Reason: In order to protect amenity.

- 9) Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any subsequent re-enactment or revocation thereof) the dwelling hereby approved shall not be enlarged, improved or otherwise altered without the prior consent of the City Council as Local Planning Authority.

Reason: In the interests of the privacy and amenity of neighbouring residents.

- 10) The construction of the development hereby permitted shall only be undertaken between the hours of 08:00 to 18:00 Monday to Friday (inclusive) and 08:00 to 13:00 on Saturdays and shall not be permitted at any other time, except in relation to internal plastering, decorating, floor covering, fitting of plumbing and electrics and the installation of kitchens

and bathrooms; and

Any deliveries associated with the construction of the development hereby permitted shall only be received or despatched at the site between the hours of 08:00 to 18:00 Monday to Friday (inclusive) and 08:00 to 13:00 on Saturdays and shall not be permitted at any other time.

Reason. In the interests of the amenity of neighbouring properties.

11) Tree protection measures

Reason: To protect the health of trees during construction work.

**Table A**

The above recommendation has been made in accordance with the submitted drawings identified below:

Drawing No.	Drawing Type	Date Received
05 729RA 03 EPE	Elevations	3rd February 2021
04 729RA 04 PSP	Floor Plans - Proposed	3rd February 2021
RA-267 / 02 A	Other	23rd October 2020
RA-267 / 01 A	Other	23rd October 2020

**123. 7 The Avenue, Lincoln**

The Assistant Director for Planning:

- a. advised that planning permission was sought for a change of use from a ground floor flat (C3) to a House in Multiple Occupation (HMO) at No. 7 The Avenue, a 3 storey property located on the east side of the road
- b. described the application site situated between a three storey property to the south which had been converted into 6 flats, including 1 HMO and a commercial property to the north previously granted consent to be used as offices by Lincolnshire County Council, with parking for County Council staff located to the rear of the site
- c. advised that the property was divided horizontally into 3 flats and three separate applications had been submitted to convert each one into a HMO, the other planning applications included for consideration elsewhere on tonight's agenda as follows:
  - 2020/0937/C4 – 4 bedroom Ground Floor Flat
  - 2020/0952/C4 - 3 bedroom First Floor Flat
  - 2020/0953/C4 - 3 bedroom Second Floor Flat
- d. reported that Planning data showed that permission was originally granted for the subdivision of the property into 3 flats in 1951
- e. highlighted that a previous application was granted for the conversion of the garage into a 1 bedroom flat under application 2020/0271/FUL, this application also approved some internal alterations to the existing property

including removal of an internal staircase and addition of a bedroom at ground floor

- f. stated that this application and the other two submitted applications at the property had been brought before Planning Committee given the number of objections they had received
- g. provided details of the policies pertaining to the application, as follows:
  - Policy LP33 Lincoln's City Centre Primary Shopping Area and Central Mixed-Use Area
  - Supplementary Planning Document: Central Lincolnshire Developer Contributions
  - Policy LP37 Sub-Division and Multi-Occupation of Dwellings within Lincoln
  - National Planning Policy Framework
- h. advised members of the main issues to be considered as part of the application as to whether the application met the requirements of the Houses in Multiple Occupation Supplementary Planning Document (SPD) and Local Plan Policy
- i. added that officers considered the property's location within the Central Mixed Use Area rather than a predominately residential area as a key factor in considering this application
- j. highlighted that:
  - Many previous applications for additional HMOs within the City which had been refused based on high concentration of HMOs in that particular area were often located within the heart of the 'West End' or streets located off the High Street of the City, characterised by being predominately residential in character, lined with terraced or semi-detached properties where the impact of a concentration of such uses would be significant and caused or added to a community imbalance.
  - In this case, officers considered the location and specific characteristics of the application property were key considerations in determining whether the change of use caused harm, despite being in an area defined as having a high concentration of HMOs.
- k. outlined the responses made to the consultation exercise
- l. concluded that the change of use of the ground floor flat from C3 to C4 was acceptable and would not harm the residential amenities of neighbouring properties, would not have an unduly harmful impact on the overall balance of the community or the mixed-use character of the area, in accordance with the CLLP Policy LP33, LP37 or the SPD.

Members discussed the content of the report in further detail. The following comments/questions emerged

In objection:

- The whole purpose of Article 4 was to reduce high density of HMO's in the Carholme area. This application represented blatant disregard to this.
- There was a need for further housing stock across the City but not in this location due to over density.
- The suggestion that the development would not take away further residential property was incorrect, as other families may be attracted to the property should planning permission for a HMO be refused.

General:

- The house having been split into 3 units plus development in the garage at the rear amounted to a substantial number of bedrooms, 10 in total. What would be the occupancy limits of the bedrooms on all three floors as this was a concern?
- Article 4 was set up to prevent residential properties being taken over from family homes and changed to HMO's, however, this property was already split into 3 separate floors for multiple occupation.
- The report referred to the property being used by mature 2<sup>nd</sup>/3<sup>rd</sup> year students. There were currently over 1,000 people on the waiting list for homes in the City. The property should be a family homes.
- Could clarification be given that the 10% threshold for HMO's in the area had not been exceeded?
- There was potential for up to 11 students to reside in the property. The provision of 3 car parking spaces within the scheme was not sufficient.
- Would the residents be liable for Council Tax or come under the business rate scheme?
- This planning application raised challenges due to Article 4 direction. There was an argument for a balance to be struck between the loss of family housing and the fact that this property was located in a mixed-use area although it exceeded the 10% threshold for HMO's.

Kieron Manning, Assistant Director of Planning offered the following points of clarification to members:

- In terms of occupancy numbers, any grant of planning permission would be conditioned to restrict the number of occupants in each unit, in this case a maximum of 4 people.
- The Article 4 threshold had been exceeded in the location of the proposed development, and stood at approximately 34%. However, the threshold of 10% was designed as an indicator of potential social imbalance. However, the application site was on the edge of the Central Mixed Use Area and in context was different to the West End. The remit of Planning Committee was to consider any potential impact/harm on the area. The nature of the street was not predominantly family housing.
- Parking was an issue in every planning application. As the site was located within the City Centre the same methodology should apply in this case as similar previous planning applications granted. Residents parking in the area would prevent residents finding parking elsewhere in local streets.
- As far as he was aware, occupants of the property would be exempt from Council Tax and business rates.

RESOLVED that planning permission be granted subject to the following conditions:

## **Standard Conditions**

- 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

- 2) With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the drawings listed within Table A.

The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans.

- 3) The C4 (Houses in Multiple Occupation) use is permitted to change from C4 to C3 (Dwellinghouses) and back again to C4 without the need for a further application for planning permission for an unlimited number of times for a period limited to ten years hence from the date of this permission.

Reason: In order that the owner can reasonably respond to local housing market circumstances for a period of ten years.

- 4) Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 (SI 2010/653) or any Order amending, revoking or re-enacting that Order, no more than 4 residents shall at any time occupy the House in Multiple Occupation hereby approved whilst it is in use as a C4 (whereby the premises is occupied by unrelated individuals who share basic amenities).

Reason: In the interests of protecting residential amenity.

### **124. Flat 1, 7 The Avenue, Lincoln**

The Assistant Director for Planning:

- a. advised that planning permission was sought for a change of use from a first floor flat (C3) to a House in Multiple Occupation (HMO) at No. 7 The Avenue, a 3 storey property located on the east side of the road
- b. described the application site situated between a three storey property to the south which had been converted into 6 flats, including 1 HMO and a commercial property to the north previously granted consent to be used as offices by Lincolnshire County Council, with parking for County Council staff located to the rear of the site
- c. advised that the property was divided horizontally into 3 flats and three separate applications had been submitted to convert each one into a HMO, the other planning applications included for consideration elsewhere on tonight's agenda as follows:.

- 2020/0937/C4 – 4 bedroom Ground Floor Flat

- 2020/0952/C4 - 3 bedroom First Floor Flat
  - 2020/0953/C4 - 3 bedroom Second Floor Flat
- d. reported that Planning data showed that permission was originally granted for the subdivision of the property into 3 flats in 1951
- e. highlighted that a previous application was granted for the conversion of the garage into a 1 bedroom flat under application 2020/0271/FUL, this application also approved some internal alterations to the existing property including removal of an internal staircase and addition of a bedroom at ground floor
- f. stated that this application and the other two submitted applications at the property had been brought before Planning Committee given the number of objections they had received
- g. provided details of the policies pertaining to the application, as follows:
- Policy LP33 Lincoln's City Centre Primary Shopping Area and Central Mixed-Use Area
  - Supplementary Planning Document: Central Lincolnshire Developer Contributions
  - Policy LP37 Sub-Division and Multi-Occupation of Dwellings within Lincoln 86
  - National Planning Policy Framework
- h. advised members of the main issues to be considered as part of the application as to whether the application met the requirements of the Houses in Multiple Occupation Supplementary Planning Document (SPD) and Local Plan Policy
- i. added that officers considered the property's location within the Central Mixed Use Area rather than a predominately residential area as a key factor in considering this application
- j. highlighted that:
- Many previous applications for additional HMOs within the City which had been refused based on high concentration of HMOs in that particular area were often located within the heart of the 'West End' or streets located off the High Street of the City, characterised by being predominately residential in character, lined with terraced or semi-detached properties where the impact of a concentration of such uses would be significant and caused or added to a community imbalance.
  - In this case, officers considered the location and specific characteristics of the application property were key considerations in determining whether the change of use caused harm, despite being in an area defined as having a high concentration of HMOs
- k. outlined the responses made to the consultation exercise
- l. concluded that the change of use of the first floor flat from C3 to C4 was acceptable and would not harm the residential amenities of neighbouring properties, would not have an unduly harmful impact on the overall

balance of the community or the mixed-use character of the area, in accordance with the CLLP Policy LP33, LP37 or the SPD.

Members discussed the content of the report in further detail. Similar comments applied as to those outlined in the previous associated agenda item.

RESOLVED that planning permission be granted subject to the following conditions:

- 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

- 2) With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the drawings listed within Table A.  
The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans.

- 3) The C4 (Houses in Multiple Occupation) use is permitted to change from C4 to C3 (Dwellinghouses) and back again to C4 without the need for a further application for planning permission for an unlimited number of times for a period limited to ten years hence from the date of this permission.

Reason: In order that the owner can reasonably respond to local housing market circumstances for a period of ten years.

- 4) Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 (SI 2010/653) or any Order amending, revoking or re-enacting that Order, no more than 3 residents shall at any time occupy the House in Multiple Occupation hereby approved whilst it is in use as a C4 (whereby the premises is occupied by unrelated individuals who share basic amenities).

Reason: In the interests of protecting residential amenity.

#### **125. 2nd Floor Flat, 7 The Avenue, Lincoln**

The Assistant Director for Planning:

- a. advised that planning permission was sought for change of use from a second floor flat (C3) to a House in Multiple Occupation (HMO) at No. 7 The Avenue, a 3 storey property located on the east side of the road
- b. described the application site situated between a three storey property to the south which had been converted into 6 flats, including 1 HMO and a commercial property to the north previously granted consent to be used as offices by Lincolnshire County Council, with parking for County Council staff located to the rear of the site

- c. advised that the property was divided horizontally into 3 flats and three separate applications had been submitted to convert each one into a HMO, the other planning applications included for consideration elsewhere on tonight's agenda as follows:
- 2020/0937/C4 – 4 bedroom Ground Floor Flat
  - 2020/0952/C4 - 3 bedroom First Floor Flat
  - 2020/0953/C4 - 3 bedroom Second Floor Flat
- d. reported that Planning data showed that permission was originally granted for the subdivision of the property into 3 flats in 1951
- e. highlighted that a previous application was granted for the conversion of the garage into a 1 bedroom flat under application 2020/0271/FUL, this application also approved some internal alterations to the existing property including removal of an internal staircase and addition of a bedroom at ground floor
- f. stated that this application and the other two submitted applications at the property had been brought before Planning Committee given the number of objections they had received
- g. provided details of the policies pertaining to the application, as follows:
- Policy LP33 Lincoln's City Centre Primary Shopping Area and Central Mixed-Use Area
  - Supplementary Planning Document: Central Lincolnshire Developer Contributions
  - Policy LP37 Sub-Division and Multi-Occupation of Dwellings within Lincoln 86
  - National Planning Policy Framework
- h. advised members of the main issues to be considered as part of the application as to whether the application met the requirements of the Houses in Multiple Occupation Supplementary Planning Document (SPD) and Local Plan Policy
- i. added that officers considered the property's location within the Central Mixed Use Area rather than a predominately residential area as a key factor in considering this application
- j. highlighted that:
- Many previous applications for additional HMOs within the City which had been refused based on high concentration of HMOs in that particular area were often located within the heart of the 'West End' or streets located off the High Street of the City, characterised by being predominately residential in character, lined with terraced or semi-detached properties where the impact of a concentration of such uses would be significant and caused or added to a community imbalance.
  - In this case, officers considered the location and specific characteristics of the application property were key considerations

in determining whether the change of use caused harm, despite being in an area defined as having a high concentration of HMOs.

- k. outlined the responses made to the consultation exercise
- l. concluded that the change of use of the second floor flat from C3 to C4 was acceptable and would not harm the residential amenities of neighbouring properties, would not have an unduly harmful impact on the overall balance of the community or the mixed-use character of the area, in accordance with the CLLP Policy LP33, LP37 or the SPD.

Members discussed the content of the report in further detail. Similar comments applied as to those outlined in the previous associated agenda item.

RESOLVED that planning permission be granted subject to the following conditions:

- 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

- 2) With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the drawings listed within Table A.  
The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans.

- 3) The C4 (Houses in Multiple Occupation) use is permitted to change from C4 to C3 (Dwellinghouses) and back again to C4 without the need for a further application for planning permission for an unlimited number of times for a period limited to ten years hence from the date of this permission.

Reason: In order that the owner can reasonably respond to local housing market circumstances for a period of ten years.

- 4) Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 (SI 2010/653) or any Order amending, revoking or re-enacting that Order, no more than 3 residents shall at any time occupy the House in Multiple Occupation hereby approved whilst it is in use as a C4 (whereby the premises is occupied by unrelated individuals who share basic amenities).

Reason: In the interests of protecting residential amenity.