

Application Number:	2017/1162/C4
Site Address:	39 Foster Street, Lincoln.
Target Date:	19th December 2017
Agent Name:	Sahaja Planning Consultancy
Applicant Name:	Mr David Allen
Proposal:	Change of use from Dwellinghouse (Use Class C3) to a House in Multiple Occupation (Use Class C4).

Background - Site Location and Description

Site Location

The application site is situated on the northern side of Foster Street, within the Boultham Ward of the city and within Flood Zone 2. The property is a mid-terrace 3-bedroom dwelling accessed by a shared passageway and incorporates a bay window at street level. The ground floor is occupied by a lounge, dining room, kitchen and bathroom. The first floor is occupied by three bedrooms.

Application Description

This application for planning permission proposes to change the use of the house from a single dwelling, which falls within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended), to a House in Multiple Occupation (HMO), which falls within Class C4. This was a permitted change of use until the introduction of the City-wide Article 4 direction as of March 1st 2016, after which time the change of use came under the control of the Local Planning Authority. Consequently, changes of use of this nature now require an application for planning permission.

There are no changes proposed to the use of the rooms within the house.

Site History

Reference:	Description	Status	Decision Date:
2017/0136/CLE	Continued use of property as 3 no. bedroom HMO (Class C4). (Application for Certificate of Lawfulness).	Refused	7th April 2017

Case Officer Site Visit

Undertaken on 15th November 2017.

Policies Referred to

- Policy LP37 Sub-division and multi-occupation of dwellings within Lincoln
- National Planning Policy Framework
- Supplementary Planning Guidance (Houses in Multiple Occupation)

Issues

The issues raised by the application relate to the Houses in Multiple Occupation Supplementary Planning Document Approved Draft, firstly in relation to the principle of the development and then the impacts of the use itself in terms of amenity and flood risk.

The purpose of the Article 4 direction, as explained within the draft document, *“is not to restrict the supply of HMOs, rather [it is] intended to manage the future development of HMOs to ensure such developments will not lead to or increase existing over-concentrations of HMOs that are considered harmful to local communities.”*

Consultations

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

Statutory Consultation Responses

Consultee	Comment
Environmental Health	Comments Received
Highways & Planning	Comments Received
Lincolnshire Police	Comments Received

Public Consultation Responses

Name	Address
John Harrod	86 Foster Street Lincoln Lincolnshire LN5 7QF

Consideration

The issues raised by the application are those contained within the Policy LP37 of the Central Lincolnshire Local Plan and particularly those within the aforementioned SPD, which has been developed from a strong and robust evidence base and gives a clear direction for the consideration of applications that are submitted as a consequence of the Article 4 direction.

1) Planning Policies

The National Planning Policy Framework (the Framework) is relevant:

Para 50 seeks to “*deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable inclusive and mixed communities.*”

Para. 58 seeks to ensure that developments “*will function well and add to the overall quality of the area....respond to local character and history and reflect the identity of the local surroundings and materials.*”

Meanwhile, the Framework sets out a strategy for dealing with flood risk in paragraphs 93-108 Inc. which involves the assessment of site specific risks with proposals aiming to place the most vulnerable development in areas of lowest risk and ensuring appropriate flood resilience and resistance.

Central Lincolnshire Local Plan – Policy LP37: “*the conversion or change of use of existing dwellings and buildings in other uses to self-contained flats or shared accommodation including houses in multiple occupation will be supported where:*

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

The issues identified below are based upon the groupings of issues referred to in the Supplementary Planning Document and relevant planning policies, starting with the issues that affect the principle of development:

2) The Principle of Development

a) Relevant Site History

Members will note that the property has been the subject of an application for a Certificate of Lawfulness to establish whether the property is lawfully an HMO.

Council Tax records suggest that the property was a company let HMO for homeless/vulnerable people from October 2011 to February 2017. In light of this, the decision of officers was that the use of the property by Framework Housing Association, as tenant, did not constitute an HMO.

Moreover, given that they operate as a non-profit registered provider of social housing, as defined under Schedule 14, Section 254 of the Housing Act 2004 and subsequently the Town and Country Planning Use Classes Order (as amended), whilst the

occupation was in a multi-occupation format the use could not technically be classified as an HMO. This is because use of properties in this manner by providers of this nature, alongside Local Housing Authorities, are excluded from the definition of HMOs.

b) The Implications of the Previous Use

It is clear that the previous use of the property has functioned in the same manner as an HMO would but could not technically be classified as such by the aforementioned relevant legislation. As such, use of the property as an HMO would not in itself be an unacceptable use for the property, as there would not be a material change in the way in which the property is occupied.

In light of this, officers are satisfied that this application would not necessarily result in the loss of an existing family home, particularly as the property is currently vacant. Nonetheless, the application property is currently being marketed for sale with a local estate agent at a reasonable price (£127,000).

The case of the application property is not commonplace and it is clear that the property was previously occupied in a manner identical to an HMO for a number of years. Consequently, officers would recommend to Members that it would be reasonable to suggest that the full marketing exercise need not be undertaken for the property given the previous use of the property as families would not be precluded from buying or renting the property as a C3 dwelling for single-family use.

c) Flexible Use

The draft Supplementary Planning Document includes advice in relation to a planning condition which would give the applicant flexibility over the use of property for a period of ten years. This would allow the property in question to change freely from a C4 HMO use to a C3 dwelling (a permitted change) and back to a C4 use (needs planning permission as a result of the Article 4 direction). Although the applicant has not specifically requested this condition be imposed, should Members be minded to grant approval for the application this would allow the applicant or subsequent owners to respond to changing local housing market circumstances over a period of ten years. Therefore this would ensure that the property could return to a dwelling should there be a need in the future.

d) Summary on this Issue

The fact that the property has been used on a multiple-occupancy basis in the past is important in considering the impact of an HMO in the area, as well as the need for marketing. In terms of the former, there would not be a material change in the way in which the property is proposed to be occupied. In terms of the latter, although marketing is underway, officers would advise that it is not necessarily important to the consideration of the acceptability of the proposed use given the previous use.

3) Concentration of HMO Uses in the Area

A high concentration of HMOs can lead to an imbalance in the community. Recently gathered evidence suggests there is some correlation between increasing numbers of HMOs and the following symptoms of imbalance within parts of the city;

- High levels or absence of any specific tenure
- High levels of turnover of housing vacancies
- Abnormally high or low house prices and rents
- A population that is highly fixed or transient
- A local economy that is largely dependent upon a large group of people
- Falling school rolls or changes in the nature of school rolls

The database developed in support of the Article 4 direction has been designed to allow, as far as is possible, to assess the concentration of HMO uses within the particular area and, in accordance with the draft Supplementary Planning Document. The criteria set out in the draft SPD is that there is likely to be an over-concentration if, within a 100m radius, there is a concentration of more than 10% of properties in a HMO use. The 10% threshold does need to be applied reasonably and is not an absolute, but does give a good indication as to whether HMO uses are particularly prevalent in a particular area.

In the case of this application, the 10% threshold has not been met (7.97%) and would not be met with the proposals (as each property only increases the percentage by 0.61%). However, as officers have alluded to elsewhere, the property has previously been utilised in a multiple-occupancy manner so the impacts of this numerical change would not necessarily impact upon the balance in tenure.

Notwithstanding this, it would still be necessary to consider the indirect implications of the proposals in terms of the potential harm that could be caused by the proposed change in tenure of the property. This is dealt with below.

4) Effect on the Amenities of the Wider Area

Turning to the indirect implications of the proposals in terms of the potential harm that could be caused by the proposals, this section will deal with aesthetics, highways and residential amenity.

a) Character and Appearance

The use of the property as proposed will not result in any external physical alterations, the ground floor frontage of the building is set sufficiently back from the highway that the use of this room as a bedroom would not, in itself, cause harm to the appearance of the area, particularly as the room has been used for sleeping accommodation with the previous use.

b) Impacts upon Residential Amenity

In terms of the impacts of the proposals upon the existing and future occupants of existing properties and the property the subject of this application, as all the other properties within the wider area, the property is served by a small rear yard area. This is considered to be appropriately sized for the proposals as there would be sufficient shared space for the occupants of the four rooms proposed to be occupied independently of one another. In addition, the potential use of the rear yard should not in practice be any more harmful than a normal residential context.

The property has operated and would continue to operate, utilising the standard domestic refuse arrangements so there should not be harm caused to occupants of the property or those either side, as the secure passageway to the side of the property would provide access for presenting bins for collection. The issues raised by a resident in relation to the presentation and storage of bins in the footway is a management issue and can be investigated by the Council's Public Protection and Anti-Social Behaviour team.

In terms of noise and disturbance, officers are mindful that the occupants of the rooms could result in independent adults living together with comings and goings, including at unsocial hours, by these occupants, their friends and other visitors. The balance of probability would suggest that this would be more likely to be greater than with a single family household. However, given the long linear nature of the street, the dense configuration of properties either side of the street and its close proximity with High Street, one could argue that an element of general noise would not be unexpected in this location from the residents living within the wider street. As such, it is considered that it would not be reasonable to resist the application upon the basis of the impact upon wider amenity.

In terms of the future occupants of the property and those neighbouring, the applicant has confirmed that there are 225mm solid brick party walls with original wet plaster finish; and internal walls consist of 112mm single brick with wet plaster finish. Officers have clarified with relevant colleagues that the Council has no record of any complaints being made regarding noise emanating from the building and that the aforementioned construction is sufficient to meet the Building Regulations in terms of acoustic insulation.

Notwithstanding this, in the interests of the future occupants of the property, it would be appropriate to restrict the number of occupants to four unrelated residents due to the scale of accommodation, including the communal spaces inside and outside the property. In addition, Lincolnshire Police offer pertinent advice regarding the proposals which should be passed on to the applicant should the application be successful.

c) *Traffic and Parking*

Vehicular traffic on Foster Street is two-way and there is unrestricted parking to either side. The street is narrow as a result and with multiple occupancy of the premises, there is potential for traffic generation and parking to also be intensified. However, given that the site is close to the High Street, where there are numerous bus routes into and out of the city centre; and the street is not controlled by a resident permit scheme, officers would recommend to Members that it would be difficult to afford too much weight to this issue. Moreover, it would be possible for anyone to park on the street so it would be difficult to determine whether HMOs cause this problem. Indeed, a resident has suggested that commuters and shoppers are part of the problem.

Although issues such as this are regrettable, without a coherent approach to the control of parking, it would be difficult to object to the proposals upon this basis as the site is located close to the city centre and other means of transport are possible. In addition to this, as the property has been used on a multiple-occupancy basis in the

recent past, officers would advise Members that it may be perceived as unreasonable to suggest that this issue should be reappraised.

It is therefore considered that the parking and traffic generation associated with the proposals would be unlikely to cause harm to the amenities of the wider area so there would not be justification to resist the application upon this ground, particularly as the Highway Authority does not object to this application.

Notwithstanding this, with controls over the number of occupants, the parking requirements would not become any greater than a family home.

d) Summary

In light of the above, officers are satisfied that the residential use of the premises, particularly in a shared capacity would not result in a change in circumstances that would be sufficiently harmful to the amenities that the occupants of the property or those adjoining would expect to enjoy to warrant refusal of the application. Moreover, the occupancy of the property could be restricted to three persons overall to the existing bedrooms within the property.

5) Flood Risk

Environment Agency flood maps indicate that the property is located within Flood Zone 2, where there is a 'Medium Probability' of flooding. The Sequential Test does not need to be applied for applications for changes of use, however, the local planning authority must be satisfied that the proposed development can be safely and sustainably delivered.

The existing layout includes living spaces at ground floor but the previous use of the property also included sleeping accommodation. Ordinarily in circumstances where a property is located within a Flood Zone, in the interests of the safety of future occupants, the Council would normally insist that there is not sleeping accommodation at ground floor. However, due to the fact that the previous use of the building incorporated sleeping accommodation at ground floor, it is considered that it would not be reasonable for officers to recommend such a restriction, as there would not technically be an increase in the risk to life.

Application Negotiated either at Pre-Application or During Process of Application

Yes, additional information provided regarding layout.

Financial Implications

None.

Legal Implications

None.

Equality Implications

None.

Conclusion

Although the use of the property as a HMO would technically result in a new HMO, the property has been utilised in the past on a multiple-occupancy basis so there would not be harm caused to the physical and social character of the residential area in relation to the nature and composition of the local community. Similarly, due to the previous occupation of the property, there would not be a need for marketing in relation to the demand for the property as a family home, as it has not been used as such in the recent past.

In addition, the proposals would not cause harm to the amenities that the occupants of nearby properties would expect to enjoy as a result of noise and disturbance or car parking; and control over the number of residents would ensure that the occupants of the property would not be harmed. Finally, given the previous use, it would not be reasonable to impose controls over the use of rooms at ground floor within the property in terms of the risk of flooding to sleeping accommodation.

Recommendation

The recommendation is to grant the change of use subject to the conditions outlined below.

Planning Conditions

The following Planning Conditions are recommended:-

Standard Timeframe for Implementation (3 years)

Approved Plans

Flexible Use Condition

The use hereby approved is permitted to change from C4 to C3 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. The use of the premises at the expiry of ten years shall then be the use of the premises from that point forwards.

Reason: In order to enable the applicant / owner of the property to respond to market conditions, without the need for multiple planning applications.

Restriction on Occupants when a HMO

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

property whilst it is in use as a C4 dwelling house (house in multiple occupancy whereby the premises is occupied by unrelated individuals who share basic amenities).

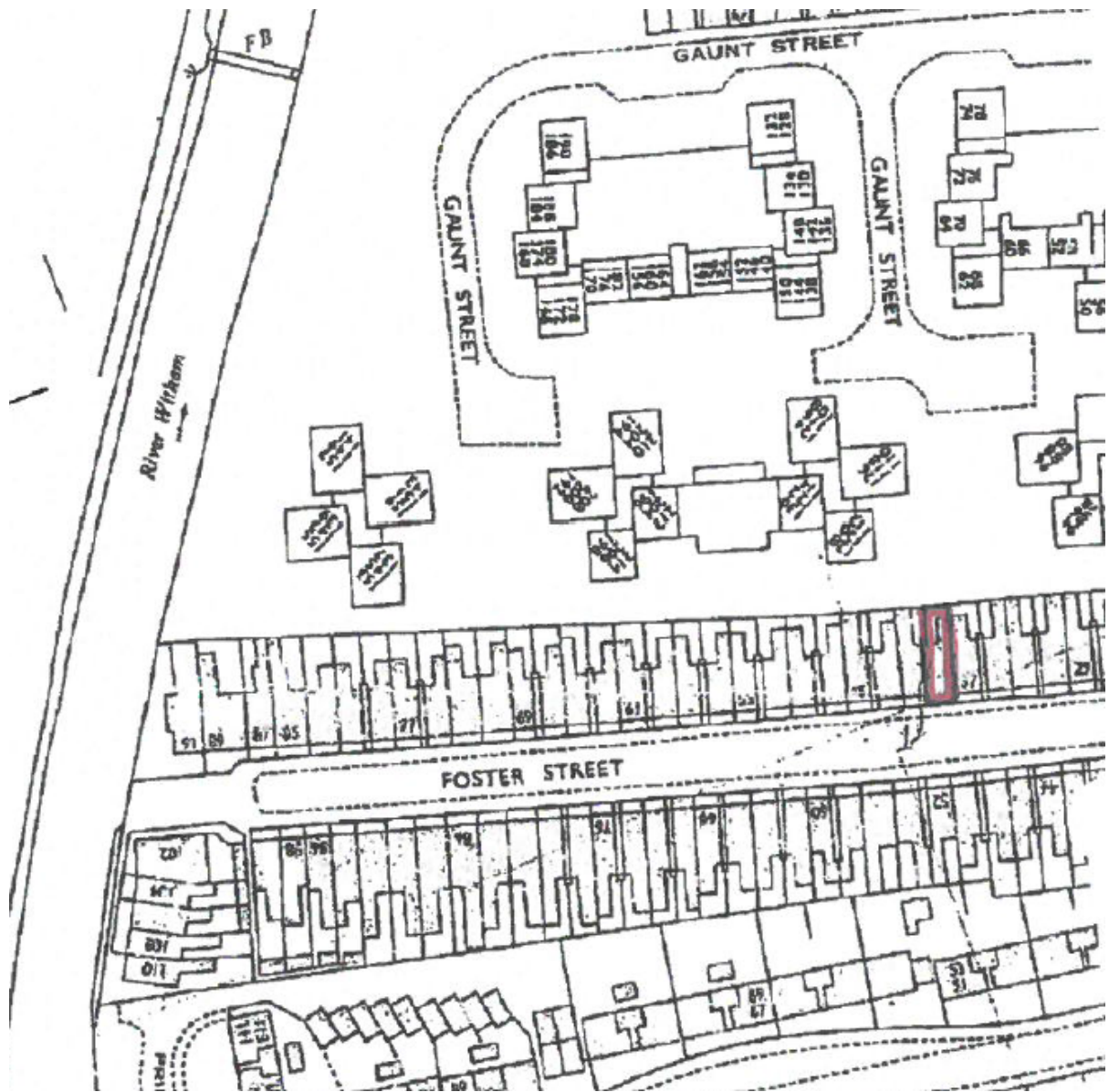
Reason: The occupancy of the property by more than four residents could be harmful to amenity.

Report by: Planning Manager

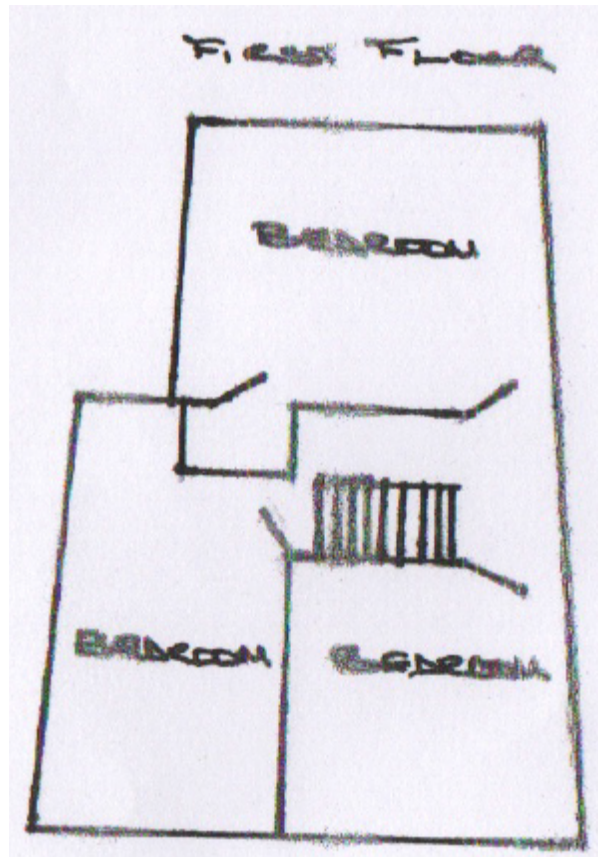
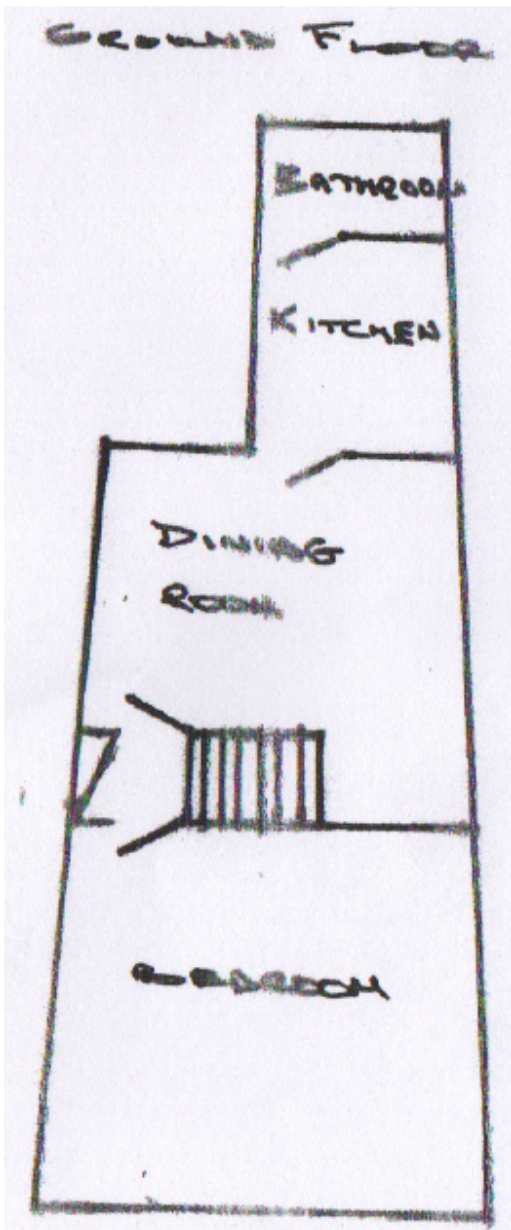
Site Photos



Site Location Plan



Floor Plans



Correspondence

Mr. J. Harrod (86 Foster Street)

There are now a considerable number of houses with multiple occupation (though not necessarily in the form of this application) in Foster Street. From my experience as a long standing resident they invariably attract people who have no interest in or consideration for the local community. The lifestyle & lack of consideration they adopt with regard to their comings & goings impacts on other residents on a daily basis. Also the owners of such premises with regard to students do not appear to worry too much about the state of the property until of course it is time for the next intake. This is usually obvious by it being immediately preceded by the arrival of the property maintenance team van and intensive activity that ensues!

However I realise that these general points will almost certainly conveniently be outside the scope of the planning application and that I am in effect wasting my time with this missive.

Having said that I strongly feel that the proliferation of this type of accommodation does impact significantly as follows:-

Wheelie Bins

The introduction of wheelie bins I welcomed but sadly some people seem to think that it is ok to leave them on the pavement far longer than is required for emptying and in some cases on a permanent basis. I along with other residents have complained about this to the City Council on a number of occasions with no lasting effect. Obviously houses of multiple occupation have multiple wheelie bins and are already one of the chief offenders in this respect! These are also a Health and Safety issue and more so with regard to limitation on Street Lighting with which I have no other problem.

I respectfully suggest that the City Council should adopt a more robust policy for dealing with this problem and pursue any means possible to get rid of this dangerous eyesore.

Street Parking

Foster Street is prime day time parking for both non-resident workers and shoppers in significant numbers. The piecemeal introduction of 'Resident Parking ' such as in Alfred/Gaunt Street whilst creating a luxurious number of unused places there has merely moved the problem elsewhere! Obviously multiple occupation of properties exacerbates this issue further. I have personally observed cars of students parked without movement for weeks at a time.

I respectfully suggest that the subject of extending the Residents Parking Scheme should be revisited. I know of a number of long standing residents who have been opposed to this in the past who would now welcome such a scheme.

Any comments welcome.

Lincolnshire County Council, as Highway Authority and Lead Local Flood Authority

NO OBS - Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable. Accordingly, Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) does not wish to object to this planning application.

Lincolnshire Police – Force Crime Prevention Design Advisor

Thank you for your correspondence and opportunity to comment on the proposed development. I would request that you consider the following points that if adhered to would help reduce the opportunity for crime and increase the safety and sustainability of the development.

Historically HMOs can become vulnerable to crime and anti-social behaviour therefore it is important that the best security arrangements and provision are planned for such premises.

Lincolnshire Police has no formal objections to the planning application in principle but would recommend that the initial advisory recommendations are implemented.

The new regulations in respect of approved windows and doors may apply to this development and presume that compliance will be ensured by way of Building Regulations.

External doors and windows

Building Regulations (October 1st 2015) provides that for the first time all new homes will be included within Approved Document Q: Security – Dwellings (ADQ).

Approved document Q applies to all new dwellings including those resulting from **change of use**, such as commercial premises, warehouse and barns undergoing conversions into dwellings. It also applies within Conservation Areas.

This will include doors at the entrance to dwellings, including all doors to flats or apartments, communal doors to multi-occupancy developments and garage doors where there is a direct access to the premises. Where bespoke timber doors are proposed, there is a technical specification in Appendix B of the document that must be met.

Windows: in respect of ground floor, basement and other easily accessible locations.

The secured by design requirement for all dwelling external doors is PAS 24:2016 (doors of an enhanced Security) or WCL 1 (WCL 1 is the reference number for PAS 23/24 and is published by Warrington Certification Laboratories).

All ground floor windows and doors and those that are easily accessible from the ground must conform to improved security standard PAS24:2016 or equivalent approved standard

Please do not hesitate to contact me should you need further information or clarification.

Please refer to *New Homes 2016* which can be located on www.securedbydesign.com New Homes 2016 36.1 this includes details of the criteria for bespoke window fittings that may apply to this development.

Crime prevention advice is given free without the intention of creating a contract. Neither the Home Office nor the Police Service takes any legal responsibility for the advice given. However, if the advice is implemented it will reduce the opportunity for crimes to be committed.

Yours sincerely,

John Manuel MA BA(Hons) PGCE Dip Bus.

Force Crime Prevention Design Advisor