

<b>Application Number:</b>	2019/0369/C4
<b>Site Address:</b>	88 Yarborough Crescent, Lincoln, Lincolnshire
<b>Target Date:</b>	6th July 2019
<b>Agent Name:</b>	None
<b>Applicant Name:</b>	Mr Tim Clark
<b>Proposal:</b>	Change of use from existing HMO (Class C4) to a flexible use as a dwelling (Class C3) and/or a HMO (Class C4)

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

The application premises is 88 Yarborough Crescent, a two storey semi-detached dwelling. The property is flanked by residential properties to the north, east and east, to the south is Yarborough Crescent allotments. The property is located within Castle Ward.

The 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 (HMO).

The application is for the change of use from an existing House in Multiple Occupation (HMO) (C4) to a flexible use as a dwellinghouse (C3) and/or a HMO (C4). The property accommodates six bedrooms, a kitchen, living room, down stairs toilet and bathroom. The application advises that the property has been used as a HMO prior to the implementation of the Article 4 Direction and is accompanied by evidence to support this

### **Site History**

No relevant site history.

### **Case Officer Site Visit**

Undertaken on 03/07/019.

### **Policies Referred to**

- Policy LP37 Sub-division and multi-occupation of dwellings within Lincoln 86
- National Planning Policy Framework

### **Issues**

To consider whether the application meets the requirements of the Houses in Multiple Occupation Supplementary Planning Document and Local Plan Policy.

### **Consultations**

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

### **Statutory Consultation Responses**

Consultee	Comment
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Environmental Health	Comments Received
Highways & Planning	Comments Received
Shane Harrison	No Response Received
Lee George	No Response Received
Enforcement	No Response Received
Lincolnshire Police	Comments Received
Kate Bell	No Response Received
Councillor Donald Nannestad	No Response Received
Councillor Jim Hanrahan	No Response Received
Councillor Loraine Woolley	No Response Received

### **Public Consultation Responses**

Name	Address
Mrs Bernice Simpson	90 Yarborough Crescent Lincoln LN1 3LX
Elisabeth Hoggard	
Glenis Pearson	86 Yarborough Crescent Lincoln Lincolnshire LN1 3LX
Mrs Sally Hope-Hawkins	92 Yarborough Crescent Lincoln LN1 3LX
Eddy O'Dwyer	
Mrs Beverley Bolton	71 Yarborough Crescent Lincoln Lincolnshire LN1 3NE

## **Consideration**

### **Policy Context**

Central Lincolnshire Local Plan (CLLP) Policy LP37 (2017) advises that the change of use of existing dwellings to houses in multiple 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. Applications for student accommodation should have university/college facilities accessible by walking, cycling and public transport.

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.

Paragraph 72 of the NPPF advises that there should be a variety of homes to meet the needs of different groups in the community.

In this case the application property is currently in use as a HMO and the Council Tax records and tenancy agreements dated 2015-2018 provide evidence that the property was occupied before and after the introduction of the Article 4 direction, and that the use continues to the present day. The submitted floor plans show the tenants share basic amenities including a lounge, bathroom and kitchen. This would meet the tests used for the consideration of a Certificate of Lawful Use application. It is therefore considered that it has been demonstrated, on the balance of probability, that the property was lawfully a house in multiple occupation prior to the Article 4 Direction being implemented on the 1st March 2016 and that there has been no material change in circumstances that would suggest that a different conclusion should be reached.

Accordingly the policy tests that would usually be applied are not strictly relevant in this case. Firstly, it would be unreasonable to require evidence of marketing to demonstrate that there is an established lack of demand for the property as a family home due to the fact that the property has a historic use as a HMO. The SPD also requires that the concentration of HMOs should not be over a 10% maximum concentration within a defined 100 metre radius. A high concentration or percentage of HMOs can lead to an imbalance in the community. It is considered it would not be reasonable to strictly apply this test or refuse the application on these grounds given the established use. Furthermore, granting permission for a flexible use so the property can transfer between a HMO and a dwellinghouse means the property's potential use as a dwelling would be of benefit to this concentration.

There is also a requirement that the proposal should not result in a smaller concentration of HMOs, resulting from three adjacent HMOs. However, as outlined above, the

established use of the property as a HMO means that it would not be reasonable to strictly apply this test or refuse the application on these grounds.

### Effect on the Amenities of the Wider Area

There have been several letters of objections from neighbours to the application in relation to the use of the property as a HMO and anti - social behaviour taking place at the dwelling whilst being occupied as a HMO (C4). It should be noted by members, the property is an established HMO and this application seeks only for a flexible use between a HMO (C4) to/and or as a dwelling house (C3). In terms of anti - social behaviour taking place at the dwelling this would be a matter for the Council's Public Protection and Anti-social Team to investigate.

The City Council's Pollution Control (PC) Officer has confirmed that he has no observations to make regarding noise or other environmental impact over and above those contained in the Council's Article 4 Direction for HMOs and associated Supplementary Planning Document. The PC Officer (Force Designing out Crime Officer) has also not raised any concerns to the application.

Therefore, given the established use of the property, officers are satisfied that allowing a flexible use would not be unduly harmful to the amenities of neighbouring properties or those in the wider area. The amenities for occupants is also considered acceptable as they have the benefit of reasonably sized bedrooms, a communal area and external amenity space.

There is no objection in terms of the use having an unacceptable impact the appearance of the property or the character of the wider area.

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

There is private external space to the front and a reasonable sized garden to the property. There is no indication that an area for cycle storage is provided within this, however, it is reasonable to assume that this could be accommodated here. Bin storage could also be accommodated within the rear garden.

The applicant has stated there is space for off street parking for three vehicles. The property has good access to services, facilities and public transport. It is also within walking distance of the University (BG).

The Lincolnshire County Council as the Highway Authority (HA) has raised no objection to the application. The HA's general advice in relation to HMOs is that they would not usually object to an application for an HMO as the number of bedrooms does not necessarily mean that there will be the same number of cars associated with the property. The potential number of cars is also likely to be reduced in fairly central locations with pedestrian and bus facilities in the area, as is the case with the application property.

### **Conclusion**

The evidence provided of the existing use of the property as an HMO would meet the tests for the granting of a Certificate of Lawful Use, and therefore it is considered that the HMO use of the property is established. Accordingly a number of the tests of CLLP Policy LP37 and the SPD are not strictly relevant, necessary or reasonable in this case. Therefore

there is no objection in principle to the proposal for a flexible use of the property, and the option for the use as a dwellinghouse has the potential to have a positive effect on the area. There will not be a harmful effect on visual amenity and the property provides adequate provision for external communal areas for amenity, cycle storage and bin storage for either the use as a dwelling or a HMO. It is therefore considered that the flexible use of the property is acceptable and, considering the established use, would be in accordance with the requirements of Local Plan Policy LP37, the SPD and guidance contained within the NPPF.

**Application Determined within Target Date**

Yes.

**Recommendation**

That the application is granted conditionally.

**Standard Conditions**

- 01) 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**

None.

**Conditions to be discharged before use is implemented**

None.

**Conditions to be adhered to at all times**

- 02) 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.

**Table A**

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

Drawing No.	Version	Drawing Type	Date Received
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