

<b>Application Number:</b>	2020/0952/C4
<b>Site Address:</b>	Flat 1, 7 The Avenue, Lincoln
<b>Target Date:</b>	25th February 2021
<b>Agent Name:</b>	Martyn Shepherd
<b>Applicant Name:</b>	Scarlett Blakey
<b>Proposal:</b>	Change of Use of First Floor Flat (Class C3) to a House in Multiple Occupation (Class C4).

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

The application proposes 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 road. The application site is situated between a three storey property to the south which has 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. Parking for staff of County Council is located to the rear of the site.

The property is divided horizontally into 3 flats and three separate applications have been submitted to convert each one into a HMO.

2020/0937/C4 - 4 bedroom Ground Floor Flat

2020/0952/C4 - 3 bedroom First Floor Flat

2020/0953/C4 - 3 bedroom Second Floor Flat

Planning data shows the permission was originally granted for the subdivision of the property into 3 flats in 1951.

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.

The application and the other two submitted applications at the property have been brought before Planning Committee given the number of objections they have received.

### **Policies Referred to**

- 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

### **Issues**

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

### **Consultations**

Consultations were carried out in accordance with the Statement of Community Involvement, adopted January 2018.

A number of objections have been received to the proposed change of use. They are listed below and attached to the end of the report in full or can be found on the website: <https://development.lincoln.gov.uk/online-applications/applicationDetails.do?activeTab=makeComment&keyVal=QM729FJFJGD00>

The main concerns raised as part of the consultation process include: over concentration of existing HMOs in the area, increased noise, untidy bins, lack of garden maintenance, parking issues, loss of potential conversion back to family home.

### **Site Visit Note**

There has been no site visit undertaken in person due to the restrictions in place as a result of the Covid 19 pandemic. The proposals have instead been assessed using various online tools together with photographs taken by the applicant or their agent. I am satisfied that there is sufficient information consequently available to assess any potential impact and to make a robust decision on the proposals

### **Statutory Consultation Responses**

Consultee	Comment
West End Residents Association	Comments Received
Lincolnshire Police	Comments Received
Highways & Planning	Comments Received
Lincoln Civic Trust	Comments Received
Councillor Lucinda Preston	Comments Received

### **Public Consultation Responses**

Name	Address
Mrs Shona Smith	204 West Parade Lincoln LN1 1LY
Mrs Helena Mair	290 West Parade Lincoln Lincolnshire LN1 1NB

Miss Mary-ann Phillips	79 Carholme Road Lincoln Lincolnshire LN1 1RT
Mr Robin Lewis	22 York Avenue Lincoln LN1 1LL
Ms Sharon Clark	15 Albert Crescent Lincoln Lincolnshire LN1 1LX
Miss Kathryn Holbrook	41 Victoria Street Lincoln Lincolnshire LN1 1HY
Miss Sarah Jenkins	15 Queens Crescent Lincoln LN1 1LR
Mrs Marie Phillips	2 Chapel House Hampton Street Lincoln LN11NE
Mr Paul Headland	6 Bedford Street Lincoln LN11NA

## **Consideration**

### **Policy Context**

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.

The property is located within the Central Mixed-Use Area as defined by the Central Lincoln Local Plan (CLLP). Policy LP33 is therefore relevant and advises a number of uses in this area are supported in principle including residential uses subject to the development not resulting in the area in which it is located losing its mixed-use character; causing harm to the local environment or neighbouring amenity; or impacting upon levels of traffic and on-street parking.

Specifically relating to conversions to HMOs, Policy LP37 advises that the conversion or change of use of existing dwellings and buildings in other uses 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.

Members will be aware that from 1st March 2016 a City wide Article 4 Direction removed permitted development comprising the change of use from Class C3 (dwellinghouses) to a use falling within Class C4 (houses in multiple occupation occupied by between three to six occupants). Any application for change of use to a HMO is therefore considered against the Supplementary Planning Document (SPD) which outlines the criteria that will be used to determine planning applications for the development of HMOs in the city.

The SPD sets out the assessment criteria when dealing with applications for change of use to HMOs. These include taking account of the existing concentration of HMOs within 100 metre radius, the impact from the loss of a dwelling and the impact on immediate neighbouring properties and wider community. The purpose of the SPD, and the Article 4 direction, is not to restrict the supply of HMOs nor to apply a blanket refusal to all future HMO applications, rather they are intended to manage their future development. Each application for additional HMOs should be assessed on its own merits taking account of all material planning considerations.

### Consideration of the Use

The SPD requires that the concentration of HMOs should be assessed as part of any planning application for change of use to a HMO. The SPD applies a 10% concentration threshold within 100 metres of the application site and states that any further proposed HMOs over this threshold will generally be considered inappropriate. The purpose of this is to prevent high concentrations of HMOs which can lead to an imbalance in residential communities.

Many previous applications for additional HMOs within the City which have been refused based on high concentration of HMOs in that particular area. These are 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 cause or add to a community imbalance. In this case, officers consider the location and specific characteristics of the application property are key considerations in determining whether the change of use causes harm, despite being in an area defined as having a high concentration of HMOs.

Firstly, the property is located within the Central Mixed-Use Area as defined by the CLLP. By definition this area is mixed in character rather than being a neighbourhood of residential properties which the Article 4 was brought in to protect. The application site is located within an area of mixed uses including office, care home and some residential. The concentration of HMOs within the 100 metre radius of this property is high but this is because the calculation has taken in those properties on Whitehall Terrace and Newland Street West. Both of these streets sit within the neighbourhood of the 'West End' of the City. Officers consider that the context in which the application property sits is distinctly different to that of the characteristically residential West End.

Secondly, the characteristics of the property and location are relevant in considering whether the change of use is acceptable. The property is a large, detached property, not in single residential use and is bounded by car parking/ offices to the north and east and flats/an existing HMO to the south which means that it can be converted without causing harm to its immediate neighbours. Being located on the edge of the Central Mixed Use Area and on the east side of The Avenue, close to the City Centre would also mean that the general noise and disturbance the West End has received in the past from students returning to their homes late at night is unlikely to be an issue here. The property also benefits from on site parking as well as a rear garden including space for cycle and bin storage.

The SPD also considers harm caused from the loss of family homes to HMOs. The property is larger than the average family home and has been previously subdivided. In this case, the change of use would not result in the loss of the single-family use of the property as it has been in multiple occupation as flats. Evidence to demonstrate that the property has been marketed as a single family home is therefore not required in this case.

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

There is private external space to the rear of the property. An area for bin and cycle storage is identified on the proposed plans.

A parking space has been provided for each HMO. In any case, given the centrally located site, parking is not required as the property has good access to the City Centre and public transport. The Lincolnshire County Council as the Local Highway Authority has raised no objections to the application. The provision of parking and the sustainable location would therefore meet the requirements of CLLP Policies LP33 and LP37, and accordingly officers have no objection in this regard.

#### Visual Amenity and the Conservation Area

No external alterations are required for the change of use therefore officers consider the character and appearance of the conservation area would accordingly be preserved by the proposal.

#### Planning Balance

Officers consider the property's location within the Central Mixed Use Area rather than a predominately residential area is a key factor in considering this application.

While the concentration threshold is a material consideration, it should not result in an automatic refusal on such applications where harm through community imbalance is not present. Such a high concentration of HMOs would be considered harmful in other areas where residential properties are more predominant. However, officers consider that in this particular case, given the surrounding uses, the property's characteristics and the location mean that such a change of use would not cause harm to the community balance within the area.

The SPD also requires that the proposal should not result in a smaller concentration of HMO uses, specifically from three adjacent HMOs. This does not occur in the case of the application property as the neighbouring properties are occupied as flats and offices.

The use of a flexible planning condition to allow the lawful use of the property to change between C4 and C3 is proposed. This allows the property owner the ability to respond to changing local housing market circumstances by letting the flat as either C3 or a C4 HMOs, without the need to apply for planning permission. It should also be noted that allowing a flexible use of the property is likely to reduce the chance of the property sitting vacant; as some landlords may otherwise choose to leave the property empty rather than rent it to a family and lose the C4 status, which would be of benefit to the visual amenity and character of the area

Furthermore, whilst the layout of the first floor would remain unchanged with 3 bedrooms, it is considered appropriate to impose a condition on an approved application to restrict the number of occupants of this HMO to 3 unrelated people. Whilst this is not a condition ordinarily used on changes of use to HMOs, in this particular case it is considered to be necessary when taking account of the other pending applications for the ground and second floor within the property with a potential occupation of 6 occupants per HMO should the rooms be occupied by more than one resident.

### Unilateral Agreements

New student accommodation in certain areas of the City, namely the 'West End' have been subject to Section 106 agreements preventing properties being occupied by students. These were in the interests of maintaining a balance and mix of tenure types within that ward, which has previously been identified as having a large proportion of a certain type of property. Notwithstanding this, S106 have not been applied to other properties on The Avenue given its mixed-use character. It is not considered to be justified to apply this restriction in this case.

On balance officers are satisfied that the change of use of the first floor of the property from a flat to a HMO would not therefore 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.

### **Application Negotiated either at Pre-Application or during Process of Application**

No.

### **Financial Implications**

None.

### **Legal Implications**

None.

### **Equality Implications**

None.

### **Conclusion**

The change of use of the first floor flat from C3 to C4 is 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.

### **Application Determined within Target Date**

Yes.

### **Recommendation**

That the application is granted subject to the following conditions:

- 01) 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.

- 02) 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.

- 03) 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.

- 04) 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.