BOSTON BOROUGH COUNCIL

Planning Committee – 12 January 2016

Reference No:	B/15/0437
Expiry Date:	15-Jan-2016
Application Type:	Full Planning Permission
Proposal:	Application for change of use from dwelling (C3) to House in Multiple Occupation (Sui Generis)
Site:	38, Tower Road, Boston, Lincolnshire, PE21 9AD
Applicant:	Mr S L Epton
Ward:	North
Parish:	Boston Town Area Committee
Case Officer:	Stuart Thomsett
Third Party Reps:	24

Recommendation: GRANT

1.0 Reason for Report

1.1 This application has been presented to the Planning Committee at the request of Councillor Stevens. The application has been called in because Councillor Stevens is concerned that this development will cause substantial harm to the amenities of neighbouring properties and the character of the area.

2.0 Application Site and Proposal

2.1 The application site is located outside the Spilsby Road Conservation Area beyond the Tower Road Academy's playing field to the rear of Tower Road and is without allocation in the Local Plan. It consists of a two storey semi detached property located on the northern side of Tower Road almost opposite Comer Close which was constructed on the site of the former Tower Road Primary School.

2.2 The site is within a residential area and there are residential properties to either side and opposite the site. There are only parking restrictions on both sides of this road near the junction with Freiston Road (the first 100m of the western end of Tower Road). The building is set back about 12m from the highway and the land between forms the front garden of the site that has recently been converted to provide hardstanding for cars. There is a Grade II listed building, 17 Tower Road, some 70m from the application site which will remain unaffected by the proposed change of use.

2.3 This application seeks a change of use of this property from a dwelling (Class C3) to House in Multiple Occupation (*sui generis*). *Sui generis* is a term which refers to a use on its own and is a use which does not fall within any use class within the Use Classes Order.

The submitted layout plan and supporting information indicates that:

- The property will consist of 5 no. double bedrooms, 3 no. of which have en-suite facilities. This will allow 10 individuals to live in the premises. 3 no. doubles to be provided on the ground floor.
- There will be a communal kitchen and bathroom on the ground floor and a lounge area at first floor which will also act as a place of refuge as part of flood risk mitigation strategy.
- The kitchens will have multiple fridges, sinks and hobs.
- The tenants have access to the building through the front and side / rear entrances.
- No extensions are proposed. The internal alterations include new extract fans to serve bathrooms, sound and thermal insulation measures, blocking up doorways and opening new entrances / windows and removal of the chimney which are alterations that could presently be carried out under the property's permitted development rights.
- Bin storage is provided at the rear and there is ample space within the site to provide further bin space should further bins be required.
- The front garden has been cleared to provide of street parking although there does not appear to have been any provision for dropped kerb.

3.0 Relevant History

3.1 No planning applications have been submitted for this site although a drawing submitted as part of this application does state that a single storey rear extension was constructed in 1984 for a disabled persons sleeping accommodation.

4.0 Relevant Policy

Boston Borough Adopted Local Plan

4.1 The development plan consists of the saved policies of the Boston Borough Local Plan (Adopted 1999). S.38(6) of the 2004 Act requires that determination must be made in accordance with the plan unless material considerations indicate otherwise.

4.2 The land is not specified for any purpose within the Local Plan.

4.3 The saved Local Plan Policies of relevance to this application are as follows:

- Policy G1 – Amenity (This policy would grant development that will not substantially harm the amenities of nearby residents or the general character of the area)
- Policy G3 – Surface and Foul Water Disposal (This policy would resist developments that do not provide satisfactory drainage provision)
- Policy G6 – Vehicular and Pedestrian Access (This policy would resist developments that have unsatisfactory pedestrian or vehicular access)
- Policy H8 – Creating Extra Accommodation in Existing Premises (This policy will permit multi-occupancy provided that it would not seriously harm neighbour amenity, or compromise highway safety or amenity as a result of an increase in on-street parking)

5.0 Representations

5.1 As a result of publicity 24 representations have been received from;

15 Orchard Grove

21, 24, 28 (2 no. letters), 30, 34, 36, 40 (3 no. letters), 44, 48 (2 no. letters from same person) and 50 Tower Road. Nos 20, 24, 28 (3 copies), 40, 46, 48 and 52 also submitted a proforma-style letter first submitted by the occupants of 44 Tower Road.

5.2 The objections and comments can be summarised as follows;

- The existing houses on Tower Road are mainly small family homes and residents keep their properties and gardens clean and well-maintained. This is unlikely to be the case with a commercially managed HMO
- HMOs already exist in the area. A further large HMO is likely to lead to increased noise, vehicle traffic and alter the local community balance of family housing
- Potentially there will be up to 10 people living at the property all of whom would need transport to get to their place of work and with visitors will result in further on-street parking which is already stretched by existing residents who have not got enough off-street parking. If permitted, this will impact upon highway safety
- The additional residents will place extra pressure upon water, gas electricity and sewerage

- 10 wheelie bins will result in an offensive smell and will also obstruct citizens including schoolchildren
- Effect on listed building and conservation area
- Safety of properties and belongings due to increased crime rate
- HMOs in Boston are often rented to land and factory workers who work a variety of shift patterns, alongside 10 vehicles there will also be vans and other vehicles at the premises
- Has fire risk been properly assessed and the necessary precautions taken?
- The licensing application is displayed a good distance from the property on the other side of the road. I assume this was not deliberate
- This application lacks a management plan
- Is the requirement for double bedrooms on an HMO property not to be a minimum of 15m2 internal floor area?
- Could it be possible that the change of use will increase subsidence issues? Would it be prudent for the developer to commission a structural report?

6.0 Consultations

6.1 The County Highway Authority does not wish to object to the application subject to the applicant liaising with the Divisional Highways Manager relating to any dropped kerb access works.

6.2 Environmental Health has no objections.

6.3 The Environment Agency has decided *'not to formally pursue an objection in this instance'.* Flood risk implications are discussed in detail below.

6.4 The Principal Private Sector Housing Officer did not wish to object to the scheme as he says he has worked closely with the agent to attain the best possible layout for future residents. Amongst his detailed comments he says:-

"Each bed-sitting room is of a more than adequate size, bearing in mind the presence of a common lounge and there is no cause to seek the provision of a dining area as well as a common lounge and experience shows that common lounges tend to be under-used and frequently abused as there is not a great deal of cultural demand for common facilities of this nature and in most HMOs a common lounge is a mixed blessing and if it actually works is largely a matter of good fortune or chance dependent upon the mix of tenants. I would be most reluctant to ask for a dining room as there is no precedent nor is there justification under the Housing Act.

The quality of the development is significantly better than the majority of the innumerable small and largely unregulated HMOs that exist throughout the Borough and if the Local Authority had managed to meet the criteria for additional licensing of HMOs, this property would without doubt exceed any licensing criteria."

7.0 Planning Issues and Discussions

7.1 The key issues in the determination of this application are:

- Planning Policy
- Impact on the character of the area
- Impact on residential amenity
- Flood Risk
- Highway safety and parking implications

8.0 Planning Policy

8.1 The full text of saved Local Plan Policy H8 states:

"Within settlements, the division of dwellings and suitable non-residential buildings into multi-occupancy residential use will receive planning permission, provided that;

1. The proposal will not result in an increase in on-street parking which would either detract from the amenities of the area, impair highway safety, or impede proper access to the area; and

2. The amenities of neighbouring residents will not be seriously harmed by noise or other disturbance."

8.2 Local Plan Policy G1 in part mirrors Policy H8 and would resist development which would cause substantial harm to the amenity of the area, the general character of the area because of its nature, scale, density, layout, appearance or levels of traffic generation.

8.3 There is no policy within the Local Plan or within the NPPF which specifically places a percentage on the amount of HMOs, bedsits or flats that may be allowed within a specified area. Whether such development will cause harm to the character or amenities of an area is thus a judgement based on development control criteria in policies G1 and H8.

8.4 It is permitted development to change the use of a dwelling (Class C3) to Class C4 (small HMO of 3-6 residents). Planning permission is however required to change the use of a dwelling-house to a large HMO where more than 6 people would occupy the building.

9.0 Issues

Impact on the Character of the Area

9.1 A condition is recommended that requires refuse and recycling bins to be stored at the rear of the property and not within the front garden area at all times other than on days when they are presented for collection, in order to protect the environment and the character of the conservation area.

9.2 It would appear that no recent planning applications have been submitted for the conversion of any other dwellings along this street to HMOs, flats or bedsits. However there may be such uses which have either not been recorded or have been undertaken without planning permission or under permitted development rights. In visual terms, there does not appear to be an over dominance or concentration of such uses along this road.

9.3 However, whilst no planning applications for change of use to HMOs have been received on Tower Road, applications have been approved at the following addresses in the near vicinity: -

- 31 Spilsby Road (B/15/0061)
- 4 Freiston Road (B/15/0151)
- 6 Freiston Road (B/15/0151)
- 3 Willoughby Road (B/09/0037)

9.4 It is not known if these permissions were implemented.

9.5 It is considered that the proposed change of use will not, subject to the condition regarding bin storage, have an adverse impact on the character of the existing dwelling or character of the area.

Flood Risk

9.6 The Environment Agency decided ‘not to formerly pursue an objection’ given that the principle of residential use on this site has been established and that this application is for the change of use of an existing dwelling where there is limited opportunity to raise floor levels.

9.7 The Agency says that for development incorporating ground floor sleeping accommodation, they typically seek to ensure that no flood water should enter the property. The incorporation of demountable defences on the doorways as part of flood mitigation could prevent ingress of flood water to a height of 0.6m. However such provisions, they say, cannot be relied upon because they are dependent on residents installing the barriers during the flood event.

9.8 In this instance, maximum predicted flood depths are in excess of the height of demountable defences. The layout plan does show 2 bedrooms on the ground floor. The development does include a safe refuge on the first floor which would be used by the occupiers in the event of a flood. It is considered that should permission be granted, conditions should be imposed which require the installation of flood barriers in any event and the provision and retention of a safe refuge at first floor.

Impact on residential amenity

9.9 Whilst HMOs are not perceived to be as popular as more conventional dwellings they are a type of accommodation that serves a useful purpose, particularly within urban areas. It is proposed to provide two bedrooms at first floor, each with en-suite facilities, a corridor serving the bedrooms plus a place of refuge to be available for use during a flood event. Three bedrooms are proposed on the ground floor. The applicant states that the complete party wall including corridors and bedrooms have been lined with 15mm gypsum soundboard and skim coat of plaster which is in excess of the Building Regulation requirement.

9.10 Whilst activity within the building will intensify due to the number of independent units on the site I consider that these activities at the property would not, in terms of noise and disturbance, be sufficiently detrimental to occupiers of surrounding dwellings as to warrant refusal of the application. The proposed works will not harm amenity and can presently be carried out under the property's permitted development rights.

Highway safety and parking implications

9.11 The site is located along Tower Road and there are only parking restrictions on both sides of this road near the junction with Freiston Road (the first 100m of the western end of Tower Road). The building is set back about 12m from the highway and the land between forms the front garden of the site that has recently been converted to provide hardstanding for cars. There is no guarantee that all or any of the residents will have a motor car especially given that the site is located within a sustainable location and within easy walking distance from the town centre. It is not anticipated that this development would generate additional traffic movements which would cause harm to highway safety or impede proper access to the area. The County Highways Authority has no objections.

10.0 Summary and Conclusion

10.1 This application will not affect highway safety, residential amenity or the character of the area. Whilst there is some evidence of similar uses in this area of town, there does not appear to be an over concentration of such uses within the area sufficient for this application to substantially change the characteristics of the area, contrary to Policies G1 and H8.

11.0 Recommendation

11.1 It is recommended that this application is Approved subject to the following conditions and reasons: -

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

   Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans, Design and Access Statement and Flood Risk Assessment

   - Block plan scale 1/500 (1/4)
   - Site Location Plan, Proposed Floor Plans and Section ref 8656/1 rev A (2/4)
   - Further Section ref 8656/2 rev A (3/4)
   - Proposes Side Elevation ref 8656/3 rev A (4/4)

   Reason: To ensure the development is undertaken in accordance with the approved details and to accord with Adopted Local Plan Policy G1.

3 Refuse and recycling bins to serve this development shall be stored at the rear of the property and not within the front garden area at all times other than on days when they are presented for collection.

   Reason: In the interests of protecting the residential and visual amenities of residents and the character or appearance of the area and to accord with the objectives of Local Plan policies H8 and G1.

4. Fixings to allow demountable flood barriers to a height of 600mm above finished floor levels shall be fitted on all external doorways before occupation and the place of refuge at first floor level as shown on plan 8656/1 rev A shall be provided before this use is implemented and retained as a safe haven thereafter.

   Reason: To ensure the occupants are safe in the event of a flood and to accord with the objectives of the NPPF (2012)

In determining this application the authority has taken account of the guidance in paras 186 – 187 of the NPPF (2012) in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.

Note:
You should provide details relating to access works within the Public Highway. Prior to submission of these details, you should contact the Divisional Highways Manager on 01522 782070 for application, specification and construction information.

Paul Edwards
Development Control Manager