

REPORT SUMMARY

REFERENCE NUMBER: 24/503344/FULL		
APPLICATION PROPOSAL: Change of use of the existing residential accommodation on the upper floors of the building to a 7-bedroom HMO (Sui Generis) for 10 occupants.		
ADDRESS: The George, Benover Road, Yalding, Maidstone, ME18 6EJ		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to conditions and no further material planning applications raised from a consultation response from the Environment Agency		
SUMMARY OF REASONS FOR RECOMMENDATION: The development is acceptable regarding the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant.		
REASON FOR REFERRAL TO COMMITTEE: Call in from Yalding Parish Council and Cllr Claudine Russell for the reasons in section 4 of this report.		
WARD: Marden And Yalding	PARISH COUNCIL: Yalding	APPLICANT: Mr Dan Mahendran AGENT: Rory Newell Chartered Architect
CASE OFFICER: Francis Amekor	VALIDATION DATE: 13/09/24	DECISION DUE DATE: 20/12/24
ADVERTISED AS A DEPARTURE: No		

Relevant planning history

- 23/501342/FULL Change of Use from ground floor Sui Generis (Public House) to Class E restaurant part retail facilities with ancillary Sui Generis use (Takeaway). approved 26.05.2023.
- 23/502781/FULL Change of use of ground floor from public house (Sui Generis) to Class E restaurant part retail facilities with ancillary takeaway use (Sue Generis) Approved 09.08.2023. (NB: Yalding Parish Council comments on this application were "Councillors feel that a change of use to class E for eating and drinking on the premises and the sale of local produce and the Sui Generis use as a takeaway continues to support its retention as a valuable community asset").
- Condition 2 attached to 23/502781/FULL states "The development hereby permitted shall be carried out in accordance with..." the approved plans that include drawing "200 Proposed Ground Floor Plans". Reason: To clarify which plans have been approved.
- Condition 6 attached to 23/502781/FULL states "The area of floorspace to be used for restaurant and retail use shall be as set out on approved drawing 200 (proposed plans). Reason: Unrestricted use of the building or land could cause demonstrable harm to the character, appearance and functioning of the surrounding area and/or the enjoyment of their properties by adjoining residential occupiers.

- The following two separate planning applications have been submitted for the application site, with decisions currently pending on these applications:
 - 24/502003/FULL Section 73 Application for Minor Material Amendment to approved plans condition 2 and 6 (to allow for the removal of stairs, existing front doors to be retained and layout amendment) (part retrospective), pursuant to 23/502781/FULL for Change of Use from ground floor Sui Generis (Public House) to Class E restaurant part retail facilities with ancillary Sui Generis use (Takeaway).
 -
 - 24/504670/FULL Installation of Inpost Locker to south side elevation (retrospective).

Appeal history:

- Following the deferral of this application 24/502003/FULL at the September planning committee meeting, the applicant has submitted a non-determination appeal to the Planning Inspectorate. This appeal is currently in progress.

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application relates to the two upper floors of the application building located on the east side of Benover Road. The application site includes an open area extending to the rear and to the south of the adjacent Orchard View Stores. This wider area of land is outside the designated larger village and provides car parking and was the beer garden of the former public house.
- 1.02 The site is in Yalding Conservation Area. The application building has been altered and has no statutory listing but is considered a non-designated heritage asset and forms part of the character of Yalding Conservation Area. The closest of nearby Grade II listed buildings is Gabriel's Cottages, with others at Woolletts Cottages, Kingsland Cottages and Bridge Cottage (formerly Prentice Store).
- 1.03 The River Beult is between 1 and 7 metres from the rear (west) site boundary and the site is in Flood Zone 3. Public footpath KM195 provides access from Benover Road along the southern site boundary to a path along the river.

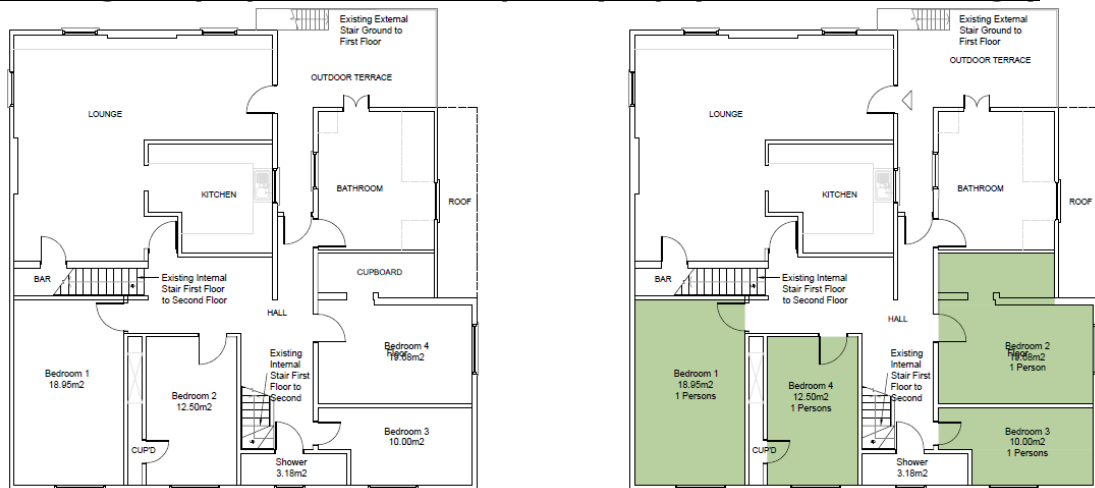
Application building



2. PROPOSAL

- 2.01 The existing first and second floors of the application building currently provide a residential dwelling with 7 bedrooms.
- 2.02 The current application seeks a change of use of the existing 7 bedroom dwelling to provide a 7 bedroom House in Multiple Occupation (HMO) (Sui Generis i.e. use class of its own). National legislation allows the use of the property as an HMO for 6 occupants, planning permission is required in this case as the proposal is for more than 6 occupants.
- 2.03 The current application does not include any physical internal or external building changes (NB: internal staircase has previously been removed). The accommodation is currently accessed via a metal external staircase located to the rear of the building and this will be retained.
- 2.04 The internal existing and retained layout on the first floor, includes a combined communal kitchen, living, dining area, communal bathroom, communal utility room, communal storage rooms and 4 bedrooms. On the second floor are 3 bedrooms and storage rooms.

Existing and proposed first floor plans (no physical internal change)



Existing and proposed second floor plans (no physical internal change)



3. POLICY AND OTHER CONSIDERATIONS

Maidstone Local Plan Review 2024

Policy LPRSS1– Maidstone borough spatial strategy
Policy LPRSP12 - Sustainable transport
Policy LPRSP14(B) - Historic environment
Policy LPRSP7(D) – Yalding
Policy LPRSP11 (c) – Town, district, and local centres.
Policy LPRSP15 – Principles of good design
Policy LPRENV1 – Development affecting heritage assets.
Policy LPRTRA4 – Parking
Policy LPRSP15 – Design
Policy LPRHOU2 – Residential extensions, conversions, annexes, and development within the built-up area.
Policy LPRQD7 – Private open space standards
Development Management Housing Intensification Advice Note (2023)
Supplementary Planning Documents: Maidstone Borough Council Residential Extensions SPD

The National Planning Policy Framework (NPPF) (2023):

Section 2 – Achieving sustainable development.
Section 4 – Decision making.
Section 6 - Building a strong, competitive economy.
Section 12 – Achieving well designed places.
Section 14 –Meeting the challenge of climate change, flooding and coastal change.
Section 16 - Conserving and enhancing the historic environment.

Supplementary Planning Documents:

Yalding Conservation Area Appraisal

4. LOCAL REPRESENTATIONS

Local residents:

4.01 11 representations received objecting to the application for the following reasons (summarised):

- The plans still show the internal staircase.
- Inadequate car parking provision
- Principle not in keeping with character of surrounding dwellings.
- Highways and parking issues.
- Loss of privacy
- Noise disturbance
- Anti-social behaviour

Yalding Parish Council

4.02 Objection for the following reasons

- Flood Zone location and risk to future occupants.
- Location of building unsuitable for HMO
- Inadequate car parking
- Not in accordance with HMO regulations
- Unlikely the HMO would be managed appropriately.
- Future residents would be reliant on one set of fire escape style stairs on the outside of the building.
- The site has a scruffy appearance in the conservation area.
- Anti-social behaviour in the abandoned garden and carpark
- Harm to character, appearance, amenity and functioning of the area.

- Request planning committee determination if the case officer is minded to recommend approval.

Councillor Claudine Russell

4.03 Objection for the following reasons

- Site not appropriate for an HMO of this size.
- Flood Zone 3 and there is concern that the addition of this many more residents.
- A new property in Flood zone 3 would be refused, so this should be.
- Internal staircase has been removed, and external staircase not suitable for this many residents.
- Application should be considered with deferred application 24/502003 not piecemeal
- Concerns regarding the bin storage for the communal bins of the HMO residents in the conservation area.
- Request planning committee determination if the case officer is minded to recommend approval.

5. CONSULTATIONS

MBC Heritage and Conservation

5.01 No objection for the following reasons:

- *"...The proposed conversion is not considered to have an impact on the NDHA (Non Designated Heritage Asset) as the floor plans appear to remain unaltered. Some features are likely to be lost when the building is upgraded to suit Building Regulation requirements for the change of use, such as fire separation and compartmentation. The impact on the fabric is therefore unknown, but this is a NDHA, and not a listed building".*

6. APPRAISAL

6.01 The key issues are:

- Spatial strategy
- Heritage
- Flooding
- Standard of accommodation
- Neighbouring amenity
- Highways and parking

Spatial strategy

6.02 The application site is in Yalding local centre as defined by policy LPRSP11 (C). The local centre extends from the application site to the old bakery and Yalding Post Office at the junction of Lees Road and High Street. Policy LPRSP7(D) supports minor development and redevelopment in the local centre in accordance with policy LPRSP7.

6.03 The site is in the designated Yalding larger village. As third in the hierarchy of sustainable locations in the borough (after the urban area and rural service centres) policies LPRSS1 and LPRSP7 support an appropriate increase in population '... to help to support village services and facilities'. Car ownership for occupiers of HMOs is generally lower than other types of residential accommodation and so HMO's are better placed in sustainable locations such as Yalding.

6.04 There is no Local Plan Review policy that restricts the type of housing in different parts of the Borough. As such there are no valid planning reasons to resist the principle of a HMO in this location.

Heritage

- 6.05 The local planning authority has a statutory duty to have special regard to the desirability of preserving listed buildings and their settings under section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 6.06 Policy LPRSP14(B) of the Local Plan Review (2024) relates to the historic environment and requires that, inter-alia, the characteristics of heritage assets are protected, and design is sensitive to heritage assets and their settings. Policy LPRENV1 requires applicants to ensure that new development conserves, and where possible enhances, the significance of the heritage asset.
- 6.07 NPPF (2023) advises "*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset*" (paragraph 209).
- 6.08 The application site is in the setting of several listed buildings and is within the Yalding Conservation Area. The Yalding Conservation Area Appraisal refers to the application building on two occasions. These references are in respect of the street outside the building in terms of street furniture and reducing the quantity of telephone wires outside the building. The significance of the Yalding Conservation Area appears to lie in the number of good examples of predominantly C16, C17, C18 and C19 architecture which contribute to the overall character of the area.
- 6.09 The building does not meet the criteria for statutory listing but forms an integral part of the character and fabric of the Yalding Conservation Area and is a non-designated heritage asset (NDHA). Status as an NDHA is recognition of heritage value but this status does not provide any power to require formal approval for works (like listed building consent).
- 6.10 NPPF paragraph 209 advises "*a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset...*" The current application indicates no change to the existing external fabric or appearance of the application building. The MBC Conservation Officer has commented that "*The proposed conversion is not considered to have an impact on the NDHA as the floor plans appear to remain unaltered.*"
- 6.11 Application floorspace is currently in use as a 7 bedroom residential dwelling with existing arrangements for the storage and collection of waste. A planning condition is recommended seeking details of waste storage and collection arrangements for the HMO. The NPPF (2023) states that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The proposals would keep the building in active use thereby preventing it from falling into disrepair. It would also provide more affordable accommodation for local workers.
- 6.12 The proposal would comply with policy LPRSP14(B) and LPRENV1 of the Maidstone Borough Local Plan Review (2024), Sections 71 (1), and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring officers to pay special regard to "the desirability of preserving listed building and conservation areas including their setting or any features of special architectural or historic interest which it possesses.

Flooding

- 6.13 The site is in an area at risk from flooding (flood risk zone 3).
- 6.14 The existing residential accommodation at first and second floor levels includes a 7 bedroom residential dwelling. The proposal does not include any internal change and retains the existing 7 bedrooms with use as a 7 bedroom HMO. The existing and proposed uses are classed as 'more vulnerable' in the NPPG.
- 6.15 As sleeping accommodation is at first and second floor level in an existing building there would not be at any greater risk of flooding. A planning condition is recommended to ensure that the residents sign up to the Environment Agency flood warning service and that a Flood Evacuation Plan is submitted for approval, implemented, and retained.
- 6.16 The existing accommodation provides 7 bedrooms and the proposed accommodation provides 7 HMO units. The application does not involve changes to the internal building layout.
- 6.17 For these reasons, it is concluded the proposal would not increase the risk of flooding to the existing buildings in the local area, or the likelihood of flooding elsewhere. As a result, the scheme accords with the relevant provision of the NPPF (2023) which states that planning should take full account of flood risk. The council at the time of writing are currently awaiting a formal consultation response from the Environment Agency and the recommendation to grant permission in this report is subject to the Environment Agency response.

Standard of Accommodation

- 6.18 Policy LPRSP15 states that developments should *"...provide adequate residential amenities for future occupiers of the development by ensuring that proposals do not result in, or its occupants are exposed to, excessive noise, vibration, odour, air pollution, activity, or vehicular movements, overlooking, or visual intrusion, or loss of light to occupiers"*.
- 6.19 The internal standard of the accommodation in terms of natural light, privacy and floorspace is acceptable in planning terms. There are no current internal planning policy standards for HMOs. All rooms in building are exceed licencing standards which require a minimum of 9m² for a single occupant ('sleeping area'). The minimum room size for two persons is 14m² (150 sq ft). The external staircase is suitable for the proposed accommodation.
- 6.20 In the event planning permission is granted the accommodation will also require a HMO licence from the Council's Housing Team. There are no standards in terms of the area of external space provided for HMO's (standards only apply to houses and flats), however the submitted floor plans indicates the presence of an outdoor terrace which can be utilised by occupiers. The proposal provides an acceptable standard of accommodation in line with policy LPRSP15 of the Local Plan Review (2024).

Neighbours amenity

- 6.21 Policy LPRHOU2 states that proposals should not result in *"...unacceptable loss of privacy, outlook or light..."* or *"...unacceptable intrusion from noise or odour"*. Policy LPRSP15 seeks to protect from *"...excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking, or visual intrusion, or loss of light to occupiers"*.

- 6.22 In this case, the upper floors of the building have been used as residential accommodation for many years and there are no neighbour amenity issues in relation to privacy, outlook or light for neighbouring properties.
- 6.23 Policy LPRHOU2 states "The intensified use of the building and its curtilage..." should "...not significantly harm the ... amenity of the surrounding area". The intensified use in this case would not result in any significant difference in terms of noise and disturbance.
- 6.24 The application involves a residential use that is compatible with the existing surrounding area. Whilst day-to-day comings and goings from the property would be more intensive than its current use, national legislation allows the building to be used as a HMO for up to 6 occupants without any need for planning permission. Any additional noise and disturbance generated by the change of use in this case is found to be acceptable.
- 6.25 The Parish Council and local residents object to the application on grounds that it would increase anti-social behaviour. Potential antisocial/criminal behaviour would be a matter for the police to deal with if necessary. Furthermore, as part of the HMO occupation licence conditions, the licence holder is required to take reasonable steps to prevent occurrences of anti-social behaviour.
- 6.26 In summary, the proposed HMO, would be acceptable in relation to neighbour amenity. There is no environmental health objection.

Highways and parking

- 6.27 Policy LPRTRA4 states "Car parking standards for new residential developments requires that proposals are assessed against the requirements set out in KCC's Interim Guidance Note 3 (IGN3) to the Kent Design Guide or any subsequent revisions or superseding documents produced by the Highways Authority".
- 6.28 Policy TRA4 states "The council may depart from established maximum or minimum standards to take account of: a. Specific local circumstances that may require a higher or lower level of parking provision for reasons including as a result of the development site's accessibility to public transport, shops and services, highway safety concerns and local on-street parking problems".
- 6.29 Standards within IGN3 are 'maximum' parking standards, Maximum standards are used to avoid the use of what would otherwise be visually harmful parking arrangements. The maximum car parking standard is one off street space per dwelling but does not specifically cover HMOs. There are 23 vehicle parking spaces within the redline boundary submitted, and these are sufficient to accommodate customer of the ground floor shop and occupiers of the HMOs.
- 6.30 HMO occupants are also generally less likely to own private vehicles. It is also highlighted that the dwelling could be converted into a HMO for 6 occupiers without planning permission. The site is within local centre and considered to be sustainable with limited bus services to the Maidstone urban area. As such, occupants would not have to be reliant upon a private motor vehicle for their daily needs.

Biodiversity net gain

- 6.31 Unless in the list of specified exemptions, biodiversity net gain is required for all non-major planning applications made after the 2 April 2024 (and for major applications made after 12 February 2024).

- 6.32 The current planning application is a non-major application received after the 2 April 2024, so it needs to be assessed whether the proposal is within specified exemption.
- 6.33 A BNG exemption applies to development that does not impact a priority habitat or impacts less than 25 square metres (e.g. 5m x 5m) of non-priority onsite habitat. This exemption is designed to ensure that BNG does not apply to either very small-scale development or development which does not impact habitat, through loss or degradation within the red line boundary.
- 6.34 The development does not include any exterior works to the building itself and so the development is exempt from BNG.

PUBLIC SECTOR EQUALITY DUTY

- 6.35 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

Community Infrastructure Levy

- 6.36 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

7. CONCLUSION

- 7.01 The site is located in a sustainable location and the application is acceptable in terms of neighbour amenity, flooding standard of accommodation, heritage impact, impact upon parking and the wider highway network.
- 7.02 Proposal accords with policies LPRSP15, LPRHOU2 and LPRTRA4 of the Local Plan Review, and relevant the provisions of the NPPF. A recommendation to grant planning permission is made on this basis.

8. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions and no further material planning applications raised from a consultation response from the Environment Agency with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions and/or informatives in line with the matters set out in the recommendation and as resolved by the Planning Committee.

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of the permission.
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
024 Application Form
Site Location Plan
215 Site Plan
020 Existing/Proposed West Elevation
022 Existing/Proposed South Elevation

023 Existing/Proposed East Elevation
024 Existing/Proposed North Elevation
210 Rev B Existing and Proposed First Floor Plans
211 Rev B Existing and Proposed Second Floor Plans
Heritage Statement
Flood Risk Assessment

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3) The development hereby approved shall have no more than 10 separate occupants living in the building at any given time. Reason: To protect residential amenity.
- 4) Prior to the first occupation of the approved accommodation, facilities for the storage, screening and collection of refuse bins shall be in place that are in accordance with details that have previously been submitted to and approved by the Local Planning Authority. These details will be retained and maintained as such thereafter. Reason: In the interests of amenity.
- 5) Prior to first occupation of the approved accommodation measures taken for the on site enhancement of ecology shall be in place that are in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the enhancement of ecology including bird boxes, bat boxes, and bug hotels. All features shall be maintained permanently thereafter. Reason: To enhance ecology on the site.
- 6) Prior to first occupation of the approved accommodation measures a Flood Risk Management Plan shall be submitted to and approved in writing by the local planning authority with the management plan including measures to ensure that future residents are signed up to up to the Environment Agency Flood warning service. The approved accommodation shall only be occupied in accordance with the approved Flood Risk Management Plan Reason: In the interests of amenity.

NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.