

REFERENCE NO - 19/505523/FULL		
APPLICATION PROPOSAL Conversion of existing dwelling house to a 7 bedroom House of Multiple Occupation (HMO) including erection of a rear conservatory, cycle storage and bin store		
ADDRESS 55 Douglas Road Maidstone Kent ME16 8ER		
RECOMMENDATION GRANT planning permission subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION Subject to appropriate conditions, the proposed development is acceptable – it makes efficient use of an existing building and there are no sustainable in principle, highway, amenity or visual objections. The development accords with the Development Plan and NPPF, and there are no overriding material considerations that prevent permission being granted.		
REASON FOR REFERRAL TO COMMITTEE Called in by Councillor Paul Harper on the following grounds: “The house is inappropriate to be turned into a HMO. It’s in a congested area with no parking and a lack of amenity space”.		
WARD Fant	PARISH/TOWN COUNCIL	APPLICANT Acumen Properties AGENT Mr Ray Ross
TARGET DECISION DATE 03/07/2020 (EOT)		PUBLICITY EXPIRY DATE 17/02/2020

Relevant Planning History

There is no relevant planning history for the site.

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 Douglas Road is a residential street comprised mainly of two-storey, semi-detached and terraced properties dating from the late 19th/early 20th centuries, interspersed with some three-storey properties as well as some of more modern design. St Michael’s Church of England Junior School is located at its western end.
- 1.02 The application site comprises the left-hand one of a three-storey pair of properties known collectively as Highfield Villas, together with its curtilage. It is positioned roughly half-way along the road. The current lawful use of the site is as a dwellinghouse (Use Class C3).
- 1.03 Douglas Road is within walking distance of Maidstone West Railway Station and the town centre, plus there are bus stops at both ends of the road. There is on-street parking at various points along its length, within designated bays restricted to permit holders only or a 2 hour waiting limit.

2. PROPOSAL

- 2.01 Planning permission is sought for the change of use and conversion of the property to form a 7 bedroom House of Multiple Occupation (HMO). In line with the Use Classes Order, this would be classed as a *sui generis* use. It is highlighted that a 6 person HMO falls within Use Class C4 and a change of use from the current use to a 6 person HMO would not require planning permission.
- 2.02 The majority of the works involved in the conversion are internal, however the application does include the erection of a rear conservatory to form a communal lounge area, as well as the erection of a cycle store in the rear garden and a bin store on the frontage.
- 2.03 The internal layout comprises one bedroom with en-suite in the basement; two bedrooms, one with en-suite on the ground floor, together with a communal kitchen/dining area and a communal lounge area; two bedrooms with en-suites on the first floor, together with two additional shower-rooms for those bedrooms which do not have them en-suite (Bedroom 2 on the ground floor and Bedroom 7 on the second); and two bedrooms on the second floor, one with an en-suite.
- 2.04 The drawings show that the conservatory is 2.5m wide, projects 3.5m from the rear of the existing back projection to the building, and stands 2.6m high to the top of its flat roof.
- 2.05 The cycle store has a footprint of 2.1m x 1.8m and stands 2m high, is constructed from timber and contains racking for seven bicycles.
- 2.06 The bin store is constructed from dark-stained timber and houses three bins. I was advised during the site visit that the fourth would stand against the property wall and so be screened by the bin store, which would be between it and the road.
- 2.07 The application was submitted on 4th November 2019 and made valid on 22nd, and at the time of my first site visit, also in November 2019, the internal conversion works were underway, but the externals were not and the use as a HMO had not commenced.
- 2.08 The Council's Housing Officer has confirmed that a licence was issued on 6th February 2020, licencing the property as a HMO for six people, and has further advised that if planning permission is granted, the licence can be varied to increase that number to seven. By the time of my second site visit, on 12th February, the conservatory, cycle store and bin store were in place and the applicant's agent advised me that the internal works were almost completed and that one of the rooms was then occupied.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017: SS1, SP1, SP19, DM1, DM9, DM12, DM23.
Supplementary Planning Documents: Residential Extensions Supplementary Planning Document (adopted May 2009)
Maidstone Local Development Framework,
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 9 representations were received from local residents in response to the initial consultation, raising the following (summarised) issues:
- lack of parking in an area where it is already at a premium;
 - traffic generation/highway safety;

- harm to character of area from cumulative impact with existing HMOs in Douglas Road (3 are mentioned);
- work commenced without permission;
- errors/omissions on the application form; *
- conservatory is not existing – under construction start of December 2019; *
- inadequacy of/no fire escapes;
- no scale bar on site location plan;
- contrary to Policy H22 of the Maidstone Borough Wide Local Plan 2000;
- loss of a single family home;
- noise and disturbance to neighbours (2 people could occupy each room);
- impact on wildlife;
- refuse/recycling provision is inadequate; *
- no cycle provision is indicated; *
- precedent;
- anti-social behaviour;
- flooding from conservatory/paving.

4.02 A further 4 representations were received following re-consultation on amended/additional details relating to the issues above marked with an asterix, reiterating many of the above issues and raising the following (summarised) new issues:

- occupants will not use bicycles;
- quality of the work carried out;
- Article 4 Direction should be served to stop permitted development HMOs;
- density is contrary to Policy DM12.

4.03 The quality of workmanship and means of fire escape (covered by other legislation) are not material planning considerations and therefore cannot be taken into account in the determination of this application.

4.04 The question of whether the serving an Article 4 Direction is justified does not fall within the scope of this application and would need to be pursued via the correct legislative procedure. The other matters raised in representations and by the Ward Member are discussed in the detailed assessment below.

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

KCC Highways and Transportation

5.01 No objection. Commented that the proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

Environmental Health

5.02 No objections.

6. APPRAISAL

Main issues

6.01 The key issues for consideration relate to:

- the principle of the development;
- the impact on the character and appearance of the host property and the local area;
- the impact on the living conditions of adjacent residents and future occupiers;
- the impact on parking conditions in the locality and highway safety.

Principle of the development

- 6.02 Policy SS1 sets out the settlement hierarchy within the Borough and emphasises that the urban area of Maidstone is the principle focus for new development, whilst Policy SP1 states that within the Maidstone urban area, appropriate urban sites should be redeveloped and infilled in a manner that contributes positively to the locality's distinctive character.
- 6.03 Given the sustainable location of the application site, within the urban area, and the fact that the surrounding uses are almost all residential, it is considered that the principle of a) development occurring here, and b) that being residential development, is considered entirely acceptable.
- 6.04 In terms of the type of housing proposed in the current application, the NPPF seeks to boost the supply of housing and is clear that, *inter alia*, it is important that a sufficient amount and variety of land can come forward where it is needed, and that the needs of groups with specific housing requirements are addressed (paragraph 56).
- 6.05 In line with this, Local Plan Policy SP19 seeks to ensure the delivery of sustainable mixed communities across new housing developments and within existing housing areas throughout the Borough, stating that "*in considering proposals for new housing development, the Council will seek a sustainable range of house sizes, types and tenures... that reflect the needs of those living in Maidstone Borough now and in years to come*", whilst the preamble to Policy DM9 is clear that the conversion of larger residential properties to self-contained flats and HMOs aids the provision of accommodation for smaller households and contributes towards a mix and choice of homes, as advocated by the NPPF.
- 6.06 The most recent figures pertaining to the Council's Housing Register (2nd March 2020) show that, of the 852 entries currently on the register, 320 (38%) require one-bedroom accommodation, by far the highest need for any type of accommodation and more than double that of the next highest. Whilst these figures are of most relevance to applications involving the provision of affordable housing, they nevertheless do clearly demonstrate a demand within the Borough for the smaller units of accommodation at the lower end of the housing bracket. The proposal currently before Members, whilst not providing one-bedroom flats, would nevertheless provide one-bedroom accommodation that would be cost-friendly to those on a lower income and would thus be entirely consistent with the aims of Policies SP19 and DM9.
- 6.07 It is also pertinent to note that a change of use from a single dwellinghouse (Use Class C3) to a six person HMO (Use Class C4) can be carried out as permitted development without any need for planning permission. The use only requires planning permission in this instance because it is proposed that seven people occupy the property. The premises are currently licensed to operate as a six person HMO and that would be the applicant's fall-back position if planning permission were to be refused. In essence, therefore, in terms of the use Members are only assessing the impact of one additional bedroom within the HMO.
- 6.08 To summarise with reference to the first main issue, it has been shown above that the principle of the proposed development is in accordance with both national and local planning policy and thus I do not consider that any objection could reasonably be sustained.
- Impact on the host property and the local area**
- 6.09 The NPPF places emphasis upon the quality of new residential development and this requirement is reflected in Local Plan Policy DM1, which sets out general design principles, and Policy DM9, which requires any proposed physical

additions/alterations to fit unobtrusively with the host building and street-scene, and that proposals involving intensification of use of a building and its curtilage do not significantly harm the appearance of the building or the character or amenity of the surrounding area.

- 6.10 The proposed conservatory has already been erected and is positioned at the rear of the existing two-storey rear projection (which itself appears to be part of the original dwellinghouse). It is a modest-sized addition of low height which is subordinate to the host building and is not visible from Douglas Road, so makes no impact on the street-scene.
- 6.11 The cycle store is also a modest-sized, subordinate structure located in the rear garden which likewise makes no impact on the character of the street-scene.
- 6.12 The bin store stands on the property frontage, adjacent to the path leading to the door. It is a dark-stained timber structure, enclosing three of the bins on three sides (the fourth bin stands behind it, so is similarly screened). In my view, this is an enhancement to the street-scene since the majority of other properties right along the length of the road have bins standing in clear public view within their front gardens without any form of screening, and that is visually harmful.
- 6.13 Objection has been raised to the proposal on the grounds that it would result in the loss of a single-family home and have an adverse impact on the character of the local area which remains predominantly residential with a high proportion of family-occupied dwellings. Whilst the nature of the proposed use would not necessarily replicate the nature of the use of the majority of other houses on the street and would not necessarily reflect their levels and types of activity, the difference would not be so substantial as to significantly affect the character of the street or the local area as a whole. I do not agree that the proposal is likely to result in anti-social behaviour.
- 6.14 It must also be remembered that the creation of a six person HMO (the applicant's fall-back position and for which the premises are currently licensed) constitutes permitted development and in my view the additional impact of one more person would not make a significant difference in this regard. In fact, the proposal would contribute towards creation of a strong, vibrant and mixed community through the provision of accommodation for smaller households, as advocated by the NPPF.
- 6.15 Concern has also been raised regarding the cumulative impact of the proposal – reference is made in representations to both 47 and 53 Douglas Road being HMOs (understood to have 6 and 4 bedrooms respectively) and to 57 Douglas Road being operated as a "supported living property" (4 bedrooms with on-site care/support provided, which actually falls under Class C3b: not more than 6 residents living together as a single household where care is provided for residents).
- 6.16 Again, however, I would draw Members' attention to the fall-back position, which is a strong material consideration here. A six person HMO can be created without any need for planning permission (as appears to have occurred in the case of 47 and 53 Douglas Road); my advice to Members is that the one additional bedroom which triggers the need for planning permission would not result in so significantly different an impact in terms of cumulative effect as to justify a refusal of planning permission that could be sustained at appeal.

Impact on living conditions of neighbouring and future occupiers

- 6.17 The NPPF requires a good standard of amenity to be provided for all existing and future occupants of land and buildings and this is reflected in the requirements of Local Plan Policies DM1 and DM9.
- 6.18 In terms of the impact on the living conditions of neighbours, the only property in a position to potentially be affected by the construction of the conservatory is 53 Douglas Road since all others are set a sufficient distance away.
- 6.19 Although that property is not attached to the application building, the rear projections of both properties directly abut one another and the conservatory protrudes a further 3.5m (as stated on the submitted drawings) which exceeds the 3m recommended in the Council's adopted residential extensions SPD. Nevertheless, the ground floor of the rear projection at 53 Douglas Road did already protrude slightly further than the rear projection at the application site (by an estimated 0.5m) and in view of that, together with the low height and flat-roofed design of the conservatory and the fact that the ground floor window at the rear of No 53 is obscure-glazed and appears to serve a bathroom or possibly a kitchen, I do not consider that the development has had a significantly detrimental impact on the levels of light or outlook enjoyed by this neighbouring property.
- 6.20 The conservatory does not create any new views over neighbouring properties, so has not resulted in a loss of privacy.
- 6.21 Neither the cycle store nor the bin store is of a scale or in a position to result in a harmful loss of light or outlook to any neighbouring property. Neither of these elements affect privacy.
- 6.22 Concern has been raised regarding noise and disturbance from the proposed use as a seven bedroom HMO. Again, however, the fall-back position is of significant weight here and I do not consider it reasonable to assume that one extra person would result in sufficient noise and disturbance to justify a refusal of planning permission that could be sustained at appeal.
- 6.23 It has been pointed out that if all bedrooms were to be occupied by two people, then the total number of occupants would be 14. In my view, some of the rooms are too small to provide double occupancy, although I do acknowledge that some could. The HMO licence limits the number of people permitted to occupy the property, not the number of bedrooms, and I have been advised that this is currently restricted to six and is likely to be increased to seven if planning permission is granted. Nevertheless, I consider that it would be prudent to attach a condition restricting the number of people permitted to reside at the premises at any one time to a maximum of seven to prevent an over-intensive use of the property.
- 6.24 In some respects it could be argued that occupants of an HMO could be likely to generate less noise and disturbance than occupants of a single-family home since they would be individuals who would be unlikely to know each other particularly well and would not necessarily have high levels of mutual interaction, although on the other hand they could generate a greater number of comings and goings. However, separate environmental protection legislation exists and any noise or disturbance that exceeds what might reasonably be expected should be pursued via that.
- 6.25 Turning to the living conditions of future occupiers of the property, all bedrooms are of a reasonable size and benefit from natural light, plus each has a shower room (whether en-suite or detached). The rear amenity area is very small, but given the nature of the proposed use, on balance that is considered acceptable.

- 6.26 There are not actually any specific standards within the Development Plan relating to HMOs. Government guidance is clear that planning should not replicate the provisions of alternative legislation and regulation. Therefore, the planning merits of the proposal do not relate to the detailed internal standards as these are managed through the licensing regime under the Housing Act.
- 6.27 I note that an HMO licence has been issued on 6th February 2020 and infer from that that the existing standard of accommodation provided for up to six occupiers is deemed acceptable. I also understand from the Housing Officer that there is not likely to be any reason to object to the variation of the licence to allow seven occupants, which leads me to the further conclusion that the standard of accommodation is acceptable for that number of occupiers also. In my view, subject to the aforementioned condition limiting the number of residents to seven, the proposal does not represent a development of too great a density or an over-intensive use of the site.

Impact on parking and highway safety

- 6.28 There is on-street parking at various points along the length of Douglas Road, within designated bays restricted to permit holders only or a 2 hour waiting limit. The application does not include any off-street parking provision and concern has been raised in representations that the proposal would be likely to exacerbate existing parking problems since parking here is stated to be in high demand.
- 6.29 The applicant's agent has advised that no resident's permits are available to this property. Moreover, whilst the development could possibly generate a greater demand for parking, in my view this would seem unlikely. It seems reasonable to assume that occupiers would have relatively low incomes and would thus be more likely to rely on other means of transport, such as public transport (Douglas Road is within walking distance of Maidstone West Station and there are bus stops at both ends), walking or bicycle. Indeed, the application does include enough secure cycle storage for all seven occupants, and the retention of this can be ensured by condition.
- 6.30 Furthermore, the site is in a sustainable location, within walking distance of Maidstone West Station and with bus stops at both ends, plus it is also within reasonable walking distance of a range of local facilities, including a doctors' surgery/pharmacy, dental practice and convenience stores as well as the wide range of facilities in Maidstone town centre.
- 6.31 One of the core aims of the NPPF and Development Plan Policy is to reduce reliance on the private motorcar and encourage use of sustainable transport options and this proposal certainly does not conflict with Local Plan Policy DM23 which encourages nil provision for one and two bedroom units in edge of centre locations.
- 6.32 I therefore conclude that the proposal is unlikely to give rise to an unacceptable risk of serious inconvenience or danger from increased parking/traffic generation around the local area and I do not consider that this constitutes a sustainable ground of refusal, especially bearing in mind the applicant's fall-back position of a permitted development six-person HMO.

Other matters (incl. those raised in representations not discussed above)

Biodiversity:

- 6.33 Policy DM1 of the Local Plan sets out, at point viii, that proposals should 'protect and enhance any on-site biodiversity and geodiversity features where appropriate, or provide mitigation.' However, in this instance, due to the nature of the proposal, the very small scale of the operational development element

(conservatory) and its location on a hard-surfaced area immediately adjoining the dwelling, plus the existing and continuing residential use of the site, it is not considered appropriate/necessary to require any ecological surveys or mitigation measures. Also in view of the foregoing points, I do not consider that there is scope, in this particular instance, for any viable ecological enhancements.

Refuse/recycling storage:

- 6.34 I understand that two rubbish and two recycling bins are required to serve the proposed HMO and the applicant's agent has confirmed that these will be provided. A bin store has also been provided and is considered acceptable, see paragraph 6.11 above.

Erroneous/missing information:

- 6.35 Sufficient accurate information has been submitted with the application to make an informed and reasoned assessment of the proposal and determination of the application.

Commencement of development

- 6.36 The change of use of part of the proposed development has not yet commenced. The HMO licence is for six occupants and the applicant's agent has confirmed that at present (10th March) there are only two. This does not amount to a material change of use requiring planning permission; it can be carried out as permitted development (up to six occupants).

- 6.37 The conservatory does require planning permission and has been constructed before any such permission has been granted. Whilst this is regrettable (the builder was under the impression that it constituted permitted development if constructed whilst the lawful use of the property was still as a single dwellinghouse. This is not the case as the conservatory exceeds 3m in depth).

- 6.38 Ultimately, commencement before planning permission is granted is at the applicant's own risk and in the worst case could result in enforcement action' In this instance the development is considered acceptable, as set out above, and thus planning permission should be granted.

Precedent:

- 6.39 It is an accepted planning principle that each planning application must be decided on its own merits. In this context I do not consider that a grant of planning permission in this instance would set a precedent.

Flooding:

- 6.40 It is not considered that the development would have a significant impact in terms of surface-water run-off given the small scale of the conservatory. Hard-surfacing in rear gardens of dwellings is permitted development in any case, so could not have been controlled.

Policy H22 of the former development plan

- 6.41 Although it is asserted in one representation that the development would be contrary to this policy, this is no longer an adopted planning policy or material consideration. The 2000 Local Plan fell away when the Maidstone Borough Local Plan 2017 was adopted in October 2017.

PUBLIC SECTOR EQUALITY DUTY

- 6.42 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.

7. CONCLUSION

- 7.01 In summary, subject to appropriate conditions, the proposed development is acceptable – it makes efficient use of an existing building, there are no sustainable in principle, highway, amenity or visual objections to it, it accords with the Development Plan and NPPF, and there are no overriding material considerations that prevent permission being granted. I therefore recommend that Members grant planning permission subject to the conditions set out below.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions:

- 1) The use as a seven bedroomed House of Multiple Occupation hereby permitted shall be begun before the expiration of three years from the date of this 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) No more than 7 persons at any one time shall be permitted to reside in the House in Multiple Occupation hereby permitted. A written record of all persons who, from the date of this permission, reside in or have resided in the House of Multiple Occupation hereby permitted shall be kept and maintained, and that register shall be made available for inspection by the Local Planning Authority at any time upon request;
Reason: To prevent an over-intensive use of the site, which would be harmful to both the living conditions of the occupants of the House of Multiple Occupation itself and to the amenities of neighbouring occupiers.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
Site location plan and drawing numbers 003, 004, 005 and 006 received on 04/11/2019, the email from Ray Ross dated 25/01/2020 05:02, the email from Ray Ross dated 29/01/2020 18:48 and drawing number 007 received on 29/01/2020, the cycle rack storage details received on 30/01/2020, and the block plan received on 31/01/2020;
Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.
- 4) The bicycle storage hereby permitted shall be permanently kept available for use by occupiers of the House of Multiple Occupation hereby permitted;
Reason: In the interests of encouraging sustainable transport options.

Case Officer: Ms Angela Welsford