

MC/15/0663

Date Received: 3 March, 2015

Location: 46 Star Hill, Rochester, ME1 1XQ

Proposal: Application for a minor material amendment to planning permission MC/14/3339 to change the description to retrospective change of use from mixed use to HMO and temporary hostel

Applicant: Mrs M Keska

Agent: Mr D Meaney DKM Consultants 82 Longfellow Road Gillingham Kent ME7 5QQ

Ward Rochester East

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 3 June 2015.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing no's DKM/4585/02 & 03, received 2 March 2015

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

- 2 All materials used in the installation of the proposed first floor window on the rear (west) elevation) shall accord with the details submitted and approved plans unless otherwise agreed in writing by the Local Planning Authority and the new window shall be installed in accordance with the approved details within 2 months of the date of this decision.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 3 All bedrooms labelled 'A' on the permitted drawing no DKM/4785/01 Rev1 (and attached to this decision notice) shall be occupied by no more than 2 people at any one time, being suitably sized as double or twin bedroom accommodation. All bedrooms labelled 'B' shall be occupied by no more than 1 person at any time, being suitably sized as a single bedroom accommodation. The total number of people residing at the premises shall therefore not exceed 15 people at any one time.

Reason: In the interests of neighbour and occupant amenity, under the

provisions of Local Plan Policies BNE2 and H7.

- 4 Within 2 months of the date of this consent, details of how the living/dining area at basement level is being ventilated, including technical details, shall be submitted to and approved in writing by the Local Planning Authority and the approved ventilation shall thereafter be retained.

Reason: In the interests of amenity of residents of the HMO accommodation and to accord with Policy BNE2 of the Medway Local Plan 2003.

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

The application seeks a minor material amendment to planning permission MC/14/3339 to change the description of the proposal to retrospective change of use from mixed use to HMO and temporary hostel.

The application site forms a two-storey building with an additional basement level (and appears three-storeys from Delce Road). The premises will comprise of 10 bedrooms (mixed single, double and twin rooms). The basement will accommodate kitchen and communal living /dining areas. There will be bathroom/w.c facilities on each floor and an additional kitchen on the first floor.

Relevant Planning History

MC/14/3339	Retrospective change of use from mixed uses commercial (ground floor) residential basement and first floor to HMO Approval With Conditions 19 January, 2015
MC/11/3055	Application for a Lawful Development Certificate (Existing) for use of first floor accommodation for two bedroomed flat Refusal 6 March, 2012
MC/10/1642	Conversion of basement area into a 2-bedroomed self-contained flat Approval With Conditions 1 July, 2010
MC/10/0272	Change of use to bed and breakfast, whilst retaining existing A2 retail use Approval With Conditions 5 May, 2010
MC/07/1102	New French doors to rear elevation Approval with Conditions 15 August, 2007

Representations

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties.

3 letters of representation have been received raising objection to the proposal on the following grounds:

- Object to use of the premises as HMO/Hostel
- Noticeable increase in litter around property since it has been used in this way
- Many people 'loitering' around the property, and it is quite intimidating
- Placing a hostel for the homeless just before the 'welcome to historic Rochester' sign may not be logistically ideal.
- Affect image of Rochester
- Not an ideal location for homeless accommodation and would impact negatively on neighbour amenity.
- Applicant has moved too many people en-mass into the building.
- A managed guest house is one thing, stuffing too many disrespectful people into one building is another.
- Negative impact on property value

The applicant has responded to the objections as follows:

- Have an House in Multiple Occupation (HMO) licence to provide emergency accommodation to the vulnerable people in Medway Council
- Occupiers are clean and respectable and not threatening or intimidating
- As applicants - have considerate attitude and have recently spent £50k on property to comply with Council requirements.
- Some comments from objectors are slanderous
- Previous use was temp accommodation for contractors who caused greater problems than current users
- Property will be managed by experienced and specialised team of providers under jurisdiction of the Council

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework, 2012 and are considered to conform.

Planning Appraisal

Background

The application site has been subject of an enforcement investigation into the unlawful use of the whole premises as an HMO.

In terms of planning history at the site, the property has been subject to a number of recent planning applications, including the proposal in 2007 for the installation of French doors to the rear (MC/07/1102) which has not been implemented and the consent now expired. Two separate planning permissions were granted in 2010. One for the change of use of the premises to a bed and breakfast, whilst retaining an A2

use that existed at ground floor (MC/10/0272) and the other for conversion of the basement area into a 2-bed self-contained flat (MC/10/1642). Consent MC/10/0272 was implemented. In 2011, under planning reference MC/11/3055, the then owner of the property applied for a lawful development certificate (existing) for use of the first floor accommodation as a two bedroomed flat. This was refused.

On consideration of the 2011 application, the description of the existing use for the first floor advised that the existing use was 'residential'. In addition, the existing plans for the previous applications show that there were three bedrooms, a kitchen and washroom within the floor layout. Two of the bedrooms benefited from en-suite facilities.

In terms of the basement use, the existing documentation suggests that a bedroom, kitchen, WC (small bathroom), including a living area was present at basement level. The ground floor was made up of the A2 unit, proposed to remain under planning consent MC/10/0272, kitchen and store area for the office A2 use, and one bedroom. A single door accessing the ground floor accommodation was also present, including stairs to the upper floor.

The applicant had planning permission for use of the premises as a 6 bed B&B, with retention of the A2 use at ground floor. Following recent enforcement investigations this was found not to be the case. Between 2011 and the present day, the property has undergone internal alterations to facilitate a change of use to a 10 bedroom HMO. This includes at ground floor the installation of walls and doors in the A2 Office unit to create 3 additional bedrooms, and the conversion of the kitchen area to a bedroom. In total therefore there are 5 bedrooms at ground floor along with a separate wc and separate bathroom. At first floor alterations including walls and doors have created a further bedroom, providing 4 bedrooms, a kitchen, a wet room and a bathroom. At basement level there is one bedroom, a communal dining/store area, kitchen and bathroom. There were a total of 10 bedrooms with 17 inhabitants at the time of the investigation. This is considered a HMO use, and requires formal planning permission.

Planning application MC/14/3339 was submitted as a result of the enforcement investigations. The application sought retrospective planning permission for the change of use of the premises from mixed uses of commercial (ground floor) and residential in the basement and first floor to a House of Multiple Occupation (HMO). This was approved on 19 January 2015, under delegated authority and did not attract any representation following consultation and notification.

Upon receipt of their decision notice, the applicant realised that the development proposal should have also included use of the premises as a hostel (Temporary accommodation) as it was their aim to provide accommodation for homeless or other persons in need. In this respect, this application has been resubmitted seeking an amendment to the approved MC/14/3339 application to include for use of the premises as both an HMO (as permitted) and Temporary Accommodation.

Principle

The principle for use of the premises as a House of Multiple Occupation has already

been accepted through the planning permission issued under MC/14/3339. As with HMOs for more than 6 people, a Hostel is also a sui generis use, and as neither belong to a specific use class, require the benefit of planning permission in their own right. As such, the proposal has been amended to include hostel use within the description. The Medway Local Plan, 2003 advises that a house of multiple occupation (H.M.O)/Hostels differ from one converted to self-contained flats. The latter are accessed separately and contain all the facilities (bathroom, kitchen etc) necessary for separate habitation. An H.M.O is composed of private areas i.e. bedrooms, used only by certain occupants, plus shared facilities i.e. bathrooms, WCs and kitchens. H.M.Os can provide inexpensive housing for a single person or households. Six people may live in a dwelling house as a single household under class C4 (which does not constitute a change of use requiring planning permission) but above this threshold, planning permission is required for houses in multiple occupation.

The reasoned justification for Policy H7 of the Local Plan states that it is the aim to enable such accommodation to come forward on the condition that it provides a high standard of conversion, whilst minimising possible detrimental effects. This will be achieved by restricting H.M.Os and Hostels to suitable properties in areas capable of supporting them (including the extra traffic and parking they may generate). It is considered that 46 Star Hill fits the criteria of a 'suitable location' being located within the fringe of a Town Centre, close to main roads and good transport links. Dwellings intended for multiple Occupation will be permitted subject to the following criteria:

- the property is in an area with a predominantly mixed use or commercial character;
- the property is located where increased traffic and activity would not be detrimental to the local amenity; and
- either the property is detached and the proposal would not adversely effect the amenity of the occupiers of nearby properties; or
- where the property is not detached, relevant nearby or adjoining properties are in multiple occupation or a non-residential use;
- for changes of use, the property is too large to reasonable expect its occupation by a single household.

The premises is not detached, and does adjoin residential accommodation but it is in a mixed use area and the provision of 10 bedrooms, with reduced occupancy to 15 (reflecting also the size of the rooms) will ensure that the amenities of occupiers of neighbouring properties are not harmed. Subject to the imposition of a condition limiting the number of bedrooms and occupiers, the principle of this type of accommodation is considered acceptable having regard to the provisions of the Medway Local Plan Policy H7 and the National Planning Policy Framework.

Design & Character of the area

The application site sits within the Star Hill to Sun Pier Conservation Area. Other than the introduction of one window to the rear elevation (ground floor) facing Delce Road, there are no other external alterations proposed. The proposed additional window would be timber framed, painted to match the existing and in this regard is not considered to have any detrimental impacts on the Conservation Area or street

scene.

The area is made up of mixed developments in residential and commercial uses. The immediate neighbours to the north, and to which the property subject of this application is attached, are purpose built flats. It is not considered that the introduction of this HMO use would result in a use uncharacteristic or inappropriate to this town centre location.

There are no objections to the application under the provisions set out under Local Plan Policies BNE1, BNE12 and BNE14.

Amenity

Policies BNE1 and BNE2 of the Local Plan seek to ensure that the amenities of existing residents are safeguarded. The proposal does not seek external extensions and as such there will be no new issues with regard to loss of privacy, outlook, daylight or sunlight to the neighbours. The immediate neighbouring development to the north is in residential use (purpose built flats) and as such the development does not fully accord with the provisions set out in Local Plan Policy H7. Nevertheless, it is considered that the retrospective HMO/Hostel use could be considered acceptable recognising its lawful mixed use and its location and subject to a condition restricting the number of persons residing at the premises to 15 (and no more), which will reduce the potential impact on neighbours by way of noise, traffic etc.

It is also considered important to assess the proposed level of accommodation to be provided and whether or not this is considered acceptable in providing a living environment.

The number of bedrooms and persons (17) currently on site, fails to ensure a good standard of accommodation is provided, both in terms of the environment in which they live and their individual safety. Bedrooms are individually locked, but there are persons in cramped or poorly lit rooms.

Regard has been given to the Council's former Housing Design Standards November 2011 (and to the National Housing Standards), which amongst other matters, focuses on the quality of life within the home (this can include HMO/Hostel accommodation), in addition to setting out requirements for minimum internal and external private space standards. The standards also cover matters relating to the relationship between floor to ceiling heights, daylight and cross-ventilation. In this regard, and in consideration of the individuals personal living space (bedroom area), the minimum area of a single bedroom should be 8 sq.m and for double or twin rooms 12sq.m. Room for bedside cabinets and other storage is required alongside adequate circulation area. Bathrooms should be provided on all floors where a bedroom may not benefit from its own en-suite facility. Provision for waste should be given. A minimum floor to ceiling height of 2.4m is required in habitable rooms. In addition, an area of glazing equivalent to 20% of the internal floor area is required for habitable rooms.

With the installation of the proposed window within the smallest of the single rooms at ground floor, all bedrooms accord with the provisions of the Medway Housing

Standards, 2011. The table below details the size of each bedroom and the acceptable use of each bedroom (single or double) within the HMO accommodation (this may not reflect the current use of each room):

Basement	Ground Floor	First Floor
Double/Twin Bedroom - 12.7m ²	Double/Twin Bedroom - 13.2m ²	Single Bedroom - 9.9m ²
	Single Bedroom - 9.2m ²	Single Bedroom - 9.2m ²
	Double/Twin - 16.2m ²	Single Bedroom - 10.5m ²
	Double/Twin - 12.8m ²	Double/Twin - 13.2m ²
	Single - 8.1m ²	

Based on the table above, it is considered that the accommodation provided can meet this minimum criteria, subject to a reduction in persons residing at the premises, and is therefore acceptable. In addition, the HMO/Hostel accommodation benefits from two kitchen facilities (at basement and first floor) and a bathroom/w.c or washroom on all three floors. Concern has previously been raised with regard to the insufficient provision of facilities (bathrooms/kitchens and living areas) for the occupants. However, subject to the reduction in occupants it is considered that the development has sufficient facility provision in this regard.

Concern has been raised with regard to the lack of habitable rooms such as dining area, games room, TV room, etc and the fact that the living/dining area shown on the submitted drawings does not benefit from windows allowing outlook and natural light. Nevertheless, previous consent in 2010 was given for use of this room as a living area for the approved basement flat and as the applicant has indicated that this room will be well ventilated, there are no objections in this regard, enough to warrant refusal of the scheme.

In terms of internal space and having regard to the above standards, it is considered that the proposed conversion, subject to the reduced number of persons living within the premises, does provide adequate standards of accommodation and residential amenities for occupants. The application is considered acceptable under the provisions set out under Local Plan Policy BNE2.

Air Quality Management

The site sits within a Air Quality Management Zone, and monitoring is currently undertaken close to the application site. Results have shown that the air quality annual objective for nitrogen dioxide is exceeded at this site. This is because of the close proximity to the heavily trafficked Star Hill. However, as the basement and first floor are currently used as residential accommodation, no objection is raised to the development in this regard.

Highways

In terms of Highways considerations, access to the site is via Delce Road. The property only provides for 1 off-road parking space, but is within close proximity to the Town Centre and there is on-street parking available and a public car park within walking distance. Additionally the site is in close proximity to Rochester Railway

Station and a bus stop. As such, the development is not considered contrary to the requirements of Local Plan Policies T1 and T13.

Other Matters

Concern has been raised via representation to the planning application with regard to impact on property values as a result of the proposal. Property value is not a material planning consideration and should not be used to inform the decision in this case. In addition, concern raised regarding persons 'hanging around' outside the premises is a Management issue and not one for consideration under planning.

Local Finance Considerations

There are no local finance considerations relevant to this application

Conclusions and Reasons for Approval

The use of the property as a Hostel raises no additional issues above those discussed under MC/14/3339, which sought use of the property as a 10 bedroomed HMO. The use of the premises as a hostel/HMO would continue to be restricted for use by no more than 15 people, enabling an adequate level of accommodation, without causing detrimental harm to the amenities of neighbours of the site and occupants within. The conversion of the premises to this level of use, for the reasons given above, is therefore compliant with the provisions set out within Policies H7, BNE2, T1 & T2 of the Medway Local Plan, 2003.

The application would normally be determined under delegated powers but is being referred to Planning Committee due to the extent of the representations received expressing a view contrary to the recommendation.

Actions Since application reported to Committee

The application was originally considered by Planning Committee on 29 April 2015, but was deferred from consideration at the request that additional information be sought with regard to the nature of the Hostel and definition from a Private Housing Point of view. The following information has since been received:

The terms of a 'Hostel' may be defined in legislation however, their every day use does not often match the formal definition and indeed depending on the issue the definition may alter.

What is a HMO

The definition of an HMO is now contained in sections 254-259 of the 2004 Housing Act. A building or part of a building is an HMO if it satisfies 'the standard test', the 'self-contained flat test' or the 'converted building test', or if an 'HMO declaration' is in force under section 255 of the 2004 Act, or it is a 'converted block of flats to which section 257 applies.' It is important to note that although a property may be an HMO it may not be subject to the mandatory licensing scheme as this only applies to certain large HMOs. The definition can apply to a property that has two or more units

of accommodation, and depending on the size and mode of occupation the property will be subject to various legal requirements or may be exempt depending on ownership, use and mode of occupation. A HMO could be purpose built or a conversion and could be occupied in a number of ways, and could in some instances be considered a hostel or could be used to provide temporary accommodation.

What is Hostel

Hostels used to be defined as a separate type of HMO in housing legislation, but there is currently no formal definition of the term, hostels were also excluded from the use Class order in 1994 and are considered sui generis. The term has a wide range of meanings and interpretations and can include self-contained or accommodation with shared facilities, properties could be owned by private individuals, businesses, charities, Housing Associations or Local Authorities, and can provide short, medium and long term accommodation or even provide holiday type lets. Standards would vary and legislative requirements would be considered on a case by case basis. Those living in hostels may have been placed by a range of organisations including housing authorities, social care, health, probation, or other agencies, or they may be available for households to approach directly.

What is temporary Accommodation

When a household makes an application to a local authority for assistance with homelessness the authority is under a duty to carry out inquiries in order to satisfy itself as to what level of duty is owed to a homeless applicant. If an authority has reason to believe that a homeless applicant has nowhere to stay and is in priority need, then there is an immediate duty to make suitable temporary accommodation available and may need to continue to provide this accommodation until suitable permanent accommodation could be provided.

This accommodation can be provided in a number of ways and can be in social or private housing, and could be in any type of accommodation depending on suitability and availability, and could include self-contained flats, houses, hostels, HMO's, B&B's or hotels and the accommodation could be occupied by singles, couples or families. Temporary Accommodation is considered to be the way in which the property is occupied rather than a specific type of property. Local Authorities are able to place households out of their own area, with landlords working directly with Local Authorities potentially from across a region.

The term is also used in a more generic term to cover many types of accommodation for households who are being accommodated for a number of reasons, this could include placements made by social care, health, probation and a range of charities and organisations who for some reason do not have a permanent accommodation.

The property is currently managed by LessHomeless, a temporary housing provider for people made homeless via landlord eviction, or mortgage arrears (usually families or single women with children). The company have two existing houses, housing single men, one house of which is semi supported with residents with drug/alcohol issues, and the other is housing those leaving prison. It is not the intention of the applicant to house residents with drug/alcohol issues and certainly 46

Star Hill would not be suitable for this use.

The families LessHomeless have stay anything from a week to 6 months, although single occupants can stay longer depending on their situation.

LessHomeless is looking potentially into using 46 Star Hill as a base for young people. The applicant is keen to work with Medway Council, since they are based in Medway (although currently a lot of their residents come from out of the area).

LessHomeless have been working closely with a charity The light living Foundation, and Vision Works for Life, to offer a programme to young people in Medway to include:

- 1) Safe housing, and
- 2) Specialist support for long term solutions, enabling young people to:
 - Build confidence and self-esteem
 - Engage with and contribute to society
 - Live safely and independently within the community
 - Maximise their full potential
 - Be empowered to move forward with their lives

This would be a pilot scheme, and the property at 46 Star Hill would be ideal for this, however, planning consent would allow for use of the premises as an HMO and Hostel enabling use of the premises to temporarily house young people (in the manner discussed above) or homeless individuals (not with drug/alcohol issues). A condition (under housing licence) can be imposed restricting the use of the premises in this way to ensure control of those residing at the premises.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess.medway.gov.uk/online-applications/>