

**MC/24/2183**

**Date Received:** 23 October 2024  
**Location:** 32 Selbourne Road, Gillingham, Medway ME7 1QP  
**Proposal:** Change of use from a dwellinghouse (Class C3) to a seven bedroom house in multiple occupation (Sui Generis) together with construction of an L shaped dormer window to rear and installation of roof lights to front to provide additional living accommodation with roof space and associated external alterations.

**Applicant** A & E Property  
Mr A Prowse

**Agent** Town Planning Experts  
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**Ward:** Gillingham North  
**Case Officer:** Arron Nicholls  
**Contact Number:** 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 15th January 2025.**

**Recommendation - Approval**

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

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Received 06 December 2024:

- 01 - Proposed Basement and Ground Floor Plans
- 02 - Proposed First and Loft Floor Plan
- 03 - Proposed Elevations

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

- 3 All materials used externally shall match those of the existing building.

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.

- 4 The number of residents permitted to occupy the property at any one time shall not exceed seven.

Reason: To ensure that the development would not prejudice the amenities of the residents nearby in accordance Policy BNE2 of the Medway Local Plan 2003 and paragraph 135 of the National Planning Policy Framework 2023.

- 5 Prior to the first occupation of the house of multiple occupation the approved cycle storage facilities (a minimum of one per bedroom) as detailed on Proposed Basement and Ground Floor Plans (drawing number 01) received 06 December 2024 shall be fully implemented. The facilities shall be retained as approved thereafter.

Reason: In the interests of sustainability and to encourage cycle use with regard to Policy T4 of the Medway Local Plan 2003.

## **Proposal**

This application seeks planning permission for the conversion of an existing dwelling house (Class C3) to a seven person seven bedroom house in multiple occupation (sui generis) together with the construction of an L shaped dormer to rear and installation of roof lights to front roof. The proposed layout provides for a storage area in the basement area; a kitchen/dining room which leads out to the rear garden and 2x1 person bedrooms with ensembles on the ground floor; 3x1 person bedrooms each with ensembles on the first floor; and 2x1 person bedrooms, one with ensuite and the other with a separate shower room, on the second floor.

## **Relevant Planning History**

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| 98/70304 | Proposed erection of a single storey rear extension including front step lift.<br>Decision Date: 30 April 1993<br>Decision: Approval with conditions |
| 98/70948 | Single storey rear extension including front step lift for disabled person.<br>Decision Date: 29 April 1993<br>Decision: Approval with conditions    |

## **Representations**

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

A petition and **seventeen** letters of objection have been received citing the following concerns;

- Impact on parking
- Noise/antisocial behaviour
- Development is out of character with the surrounding built form
- Loss of light for neighbouring properties
- Security concerns in relation to rear access alleyway
- Drainage concerns

**Kent Police** have written to advise of their concerns with regard to security and have set out some issues that need to be addressed/considered; they have also suggested the developer contacts them to ensure compliance with Secure by Design (SBD). (*This has been forwarded to the applicant but does not impact on the proposals from a planning perspective*).

## **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2024 (December) (NPPF) and are considered to conform.

## **Planning Appraisal**

### *Principle*

Policy H7 of the Local Plan states that dwellings intended for multiple occupation will be permitted subject to:

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

The locality is predominantly formed of single household occupancy although there is a retail unit on the junction of Selbourne Road and Baden Road and there are a number of HMO's in the surrounding roads such as Baden Road, Roseberry Road and Garfield Road. This is, nonetheless, not indicative of a '*predominantly mixed-use or commercial character*'.

However, the above policy was part of the 2003 Local Plan and the proposal should be considered in relation to current legislation which has effectively superseded a lot of the above criteria. As of the 4<sup>th</sup> April 2015 The Town and Country Planning (General Permitted Development) (England) Order 2015: Schedule 2, Part 3, Class L, dwellinghouses (Class C3) are permitted to be converted into small HMOs (Sui Generis Use) supporting living accommodation for up to six people or less.

The principle of the conversion of properties such as this to small scale HMO's has therefore to be accepted as it does not require planning permission.

Nonetheless, the rationale behind Policy H7 is understood: *"It is the aim to enable such accommodation [HMOs] to come forward on condition that it provides a high standard of conversion whilst minimising possible detrimental effects. This will be achieved by restricting H.M.O.s to suitable properties in areas capable of supporting them"*.

Therefore while the principle of conversion to small scale HMO has to be accepted, the proposal for a 7 bed HMO that would require planning permission needs to be assessed in detail in terms of its impact on amenity and wider character (in terms of the impact of any extension).

### *Design*

Policy BNE1 requires the design of development to be appropriate in relation to the character, appearance and functioning of the built and natural environment, whilst Paragraphs 131 and 135 of the NPPF emphasises the importance of good design.

The proposed conversion also involves the insertion of an L shape dormer in the rear roof in order to provide two bedrooms and two ensuites. The proposed dormer in itself could be constructed under permitted development rights by virtue of class B of schedule 2 of the Town and Country Planning General Permitted Development Order 2015 (as amended).

Therefore, no objection is therefore raised in regard to Policies BNE1 of the Local Plan and paragraphs 131 and 135 of the NPPF.

### *Amenity*

There are two main amenity considerations, firstly the impact of the proposed dwelling on neighbours and secondly the living conditions which would be created for potential occupants of the development itself. Policy BNE2 of the Local Plan and Paragraph 135f of the NPPF relates to the protection of these amenities.

Policy H7 allows for the permitting of HMOs subject to the following criteria: (ii) and the property is located where increased traffic and activity would not be detrimental to local amenity.

### *Neighbouring Residential Amenity*

The proposal seeks to construct an L shaped dormer in the rear roof. Two windows are proposed both looking out to the rear garden of the property only. Both windows would serve bedroom six with one serving the bedroom and one window serving the en-suite which is proposed to be fitted with obscure glazing. It is not considered that these windows would introduce a level of overlooking that does not already exist from existing windows at the property.

As such, and as the dormer could be constructed under permitted development, no objections are raised in regard to impact on neighbours in terms of overlooking; loss of outlook; loss of daylight; or loss of sunlight.

The conversion of the property to an HMO will result in an intensification of the use of the site, resulting in increased comings and goings, and potential disturbance and nuisance. However, as the property could be converted into a six-bedroom HMO without the requirement for planning permission by virtue of their permitted development rights the consideration is whether the addition of one bedroom would unacceptably exacerbate disturbance to an unacceptable level. In this respect, Inspectors in recent appeal decisions elsewhere in Medway have clearly taken the view that an additional bedroom would not cause demonstrable harm in terms of impact on neighbours' amenity.

No objections would therefore be raised in regard to Policies BNE2 and H7 of the Local Plan and paragraph 135(f) of the NPPF.

### *Future Occupants Amenity*

The proposed bedrooms have been considered against the Technical Housing Standards – Nationally Described Space Standard 2015. Whereby, it confirms that the requirement for the provision of a single bedroom is that it would measure 2.15m in width and 7.5m. All of the proposed bedrooms would exceed these requirement and, in some cases, would significantly exceed the space standards. Likewise, all bedrooms would be served with an adequate degree of natural light and afforded suitable outlook.

In addition, the remaining communal space would measure 24.7m square meters which would be shared amongst seven people and would provide for a kitchen and separate dining room. All residents would benefit from access to the rear garden. Inspection of other small HMO's provided by these applicants details a high quality amenity space internally and externally for residents.

It is therefore considered that the property is of a sufficient size to suit the requirements of the use of the property for seven unrelated individuals. In order to ensure that this does not become prejudiced, which could impact on internal and neighbour amenity, a condition is recommended to ensure that the number of residents that occupy the property at any-one-time does not exceed seven.

Subject to this condition, there is no objections raised with regards to Policies BNE2 and H7 of the Local Plan or paragraph 135(f) of the NPPF.

### *Highways and Parking*

Policy T1 of the Local Plan relates to the assessment of the highways impact of development and outlines the criteria of when development would be permitted. Policy T13 of the Local Plan provides guidance on vehicle parking standards. Paragraph 115 of the NPPF seeks development located in sustainable locations, limiting the need to travel and offering choice of transport modes to reduce congestion and emission and improve air quality and public health. Paragraph 116 of the NPPF states that

development should only be refused on highways grounds if there is an unacceptable impact on highways safety.

Policy H7, confirms that HMOs will only be permitted where: “the property is located where increased traffic and activity would not be detrimental to local amenity”. The existing 3 bed property does not have any off-street parking, while a lawful use as 6 bed HMO would similarly not provide any off-street parking. No off-street parking is proposed as part of the application. The area is subject to parking permit restrictions, disabled bay parking, and time regulated on-street parking restrictions.

The application site falls within the urban area of Gillingham, with amenities such as shops, green space, public transport links and schools/colleges within approx. 10 – 15 minute walking distance the site and is considered to be sustainable. In addition, the proposed use traditionally attracts occupiers who do not typically possess cars and instead may use more sustainable forms of transport. The proposal features the provision of secure cycle storage providing one space per bedroom in the rear garden area, a condition is recommended to secure the provision of cycle storage.

Subject to the recommended conditions the proposal is considered to be acceptable in highway terms and in accordance with Policies T1 and T13 of the Local Plan and paragraphs 115 and 116 of the NPPF.

#### *Biodiversity Net Gain (BNG)*

The Planning Practice Guidance on BNG confirms that sites where they will not impact on priority habitat or more than 25sqm of on-site habitat are exempt. The proposal complies with this does not appear to impact on priority habitat or more than 25sqm of on-site habitat and so is exempt under the Biodiversity Gain Requirements (Exemptions) Regulations 2023.

#### *Bird Mitigation*

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Natural England has advised that an appropriate tariff of £328.27 per dwelling (excluding legal and monitoring officer’s costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. This tariff should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation).

These strategic SAMMS mitigation measures are being delivered through Bird Wise North Kent, which is the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, and the mitigation measures have been informed by the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014. Further information regarding the work being undertaken is available at The Bird Wise website which can be found at <https://northkent.birdwise.org.uk/about/>.

The applicant has submitted a SAMMS Mitigation Contribution Agreement and payment and therefore no objection is therefore raised under Policies S6 and BNE35 of the Local Plan and paragraphs 193 and 194 of the NPPF.

A decision from the Court of Justice of the European Union detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full 'appropriate assessment' is needed under the Habitats Directive. Given the need for the application to contribute to the North Kent SAMMS, there is a need for an appropriate assessment to be carried out as part of this application. This is included as a separate assessment form.

### **Conclusions and Reasons for Approval**

The proposal is acceptable in principle, design, amenity and highway terms and complies with the provisions set out in paragraphs 11, 60, 115, 116, 131, 135, 193 and 194 of the NPPF and Policies BNE1, BNE2, BNE35, H7, T1 and T13 of the Local Plan. The application is therefore recommended for approval.

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

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### **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://publicaccess1.medway.gov.uk/online-applications/>