

REPORT SUMMARY

REFERENCE NO - 16/505311/FULL		
APPLICATION PROPOSAL Change of Use from a C3 (4 bedroom house) to Sui Generis Use House of Multiple Occupation for 8 flats.		
ADDRESS 47 Freeman Way Maidstone Kent ME15 8AR		
RECOMMENDATION		
SUMMARY OF REASONS FOR RECOMMENDATION Given what can be carried out without the consent of the Council under its planning powers the impact of the development in excess of this is considered marginal.		
REASON FOR REFERRAL TO COMMITTEE Cllr Powell has called the application into Committee as a result of concerns regarding parking, footway crossing, drainage grounds and harm to visual amenity and requires the application to be determined by the Planning Committee		
WARD Shepway South	PARISH/TOWN COUNCIL	APPLICANT Mr Daniel Ryan AGENT
DECISION DUE DATE 09/09/16	PUBLICITY EXPIRY DATE 12/08/16	OFFICER SITE VISIT DATE 22/07/16

1.0 MAIN REPORT

1.01 This application was deferred by the Planning Committee at its meeting on the 17th November 2016 (report attached as **APPENDIX 1**) to enable the following matters to be addressed being:

- Highways impact and usability of the parking layout;
- Southern Water impact;
- Residential amenity of neighbours;
- Terms of the House in Multiple Occupation (HMO) licence and how the licence fits in with the planning permission;
- Site boundary;
- Disputed facts in the report attached as **APPENDIX 1** in relation to the permitted development position;
- Future residential amenity of the occupiers of the HMO; and
- Status of policy H22 of the adopted Local Plan 2000.

1.02 It was subsequently withdrawn from the Planning Committee meeting on the 17th January 2016 to enable assessment of further matters.

2.0 Proposal:

2.01 Partly In response to the above a parking layout plan has been submitted showing 4 spaces sited in the front garden area serving the 47 Freeman Way.

2.0 CONSULTATIONS

- 2.01 **Kent Highways:** Freeman Way is an unclassified road. Adjacent dwellings have off road parking while road side parking is also available. The road is estimated to be at least 5 metres wide and there have been no injury crashes on Freeman Way or Spencer Way for at least 17 years (source crashmap.co.uk). Have also assessed the submitted parking layout which is acceptable. Based on the above raise **no objection** to the proposed development.
- 2.02 **Housing and Health Officer:** The applicant has been granted an HMO licence under Part 2 of the Housing Act 2004 for up to 8 people in the property. He is aware that the property can be occupied by up to six people and that planning permission is required to enable the property to be occupied by 8 people.
- 2.03 **Southern Water:** No objection but requires an application for a connection to the public foul and surface water sewer to be made by the applicant/ developer.

3.0 BACKGROUND PAPERS AND PLANS

- 3.01 The development proposals are shown on site location plans received on the 8th and 14 July 2016 and drawing nos:FreemanWay-47-02, 03 and 04 and parking layout plan received on the 23rd November 2016.

The application is supported by a letter dated the 8th June 2016 and a planning statement.

3.0 APPRAISAL

- 3.01 It should be made clear at the outset that the description of the planning application as submitted was for the change of use of the property to an HMO only and not seeking consent for the operational development that had been carried out. The installation of the flank dormer and replacing a garage door with a new wall section and window was work that could be carried out as permitted development as it was undertaken before use of the house as an HMO had commenced. However the description of the application as presented to Members at the Committee meeting on the 17th November 2016 incorrectly made reference to that operational development. The revised description therefore removes any reference to operational development. Consideration of the application is therefore restricted to the impact of change of use of the property from an HMO for 6 persons (which can be carried out as permitted development) to an HMO for 8 persons requiring planning permission which is the subject matter of this planning application. It should also be noted that creation of a vehicle crossover or widening of an access to an unclassified road such as Freeman Way does not require planning permission and would also have been permitted development.

Highways impact and usability of the parking layout;

- 3.02 Kent Highways have been consulted and are satisfied that taking into account the nature of the local road network, existing parking patterns, absence of accidents In the locality and layout of the proposed parking area that there are is no highways or parking objections to the proposal. A plan has been submitted demonstrating that 4 vehicles can park in accordance with standards.
- 3.03 It should also be noted that permitted development entitlements enabling a single family dwelling to be converted to a small HMO brings no requirement to provide any on site parking. As such, while 8 units are being proposed no parking can be required

for 6 units. By providing 4 parking spaces the applicant is in effect making excess provision with a consequential beneficial impact on local on street parking conditions.

Southern Water impacts;

- 3.04 Southern Water raises no objection to the proposal but requires an application for a connection to the public foul and surface water sewer to be made by the applicant/ developer.

Residential amenity of neighbours;

- 3.05 It can only be reiterated that the house can be already be used as an HMO for 6 persons as permitted development. As such it is considered it would be difficult to differentiate between noise and disturbance in connection with this use and the comings and goings of two additional persons.
- 3.06 Regarding the impact of the external works that have been carried out, as has been made clear in the earlier report attached as **APPENDIX 1** (and will be assessed in more detail later in this report) the work that has been carried out was permitted development and therefore did not fall to be considered by the Council under its planning powers. Conditions imposed by the GPDO on dormers require flank windows to be obscure glazed which will address any loss of privacy concerns due to 1st floor flank overlooking.
- 3.07 The remaining key external impact is laying out of the front garden as a parking area. It has been previously recommended to Members that its impact on the street scene will not be significant and this remains the view given the details shown on the detailed parking layout plan that has been submitted.

Terms of the House in Multiple Occupation (HMO) licence and how the licence fits in with the planning permission;

- 3.08 The Housing and Health Officer advises the applicant has been granted an HMO licence under Part 2 of the Housing Act 2004 for up to 8 people in the property. Furthermore the applicant is aware that the property can currently only be occupied by up to six people and that planning permission is required to enable the property to be occupied by 8 people.
- 3.09 It should be noted it is possible to grant planning permission for an HMO without an HMO licence first being in place and vice versa. Where planning permission and HMO licence are both required the use cannot commence until approval in connection with both are first in place.

Site boundary;

- 3.10 The ownership certificate accompanying the application states that 21 days before the date of the application nobody apart from the applicant was the owner of any part of the land to which the application relates as shown on the red outline plan accompanying the application. In the absence of compelling evidence being submitted to the dispute this the submitted ownership certificate and site plan must therefore be taken at face value.

Disputed facts in the report attached as APPENDIX 1 in relation to the permitted development position;

- 3.11 The concern here is the extensions to the property took place **after** the use of building as an HMO had commenced. If this proved to be the case permitted development rights enabling the extensions/external work to be carried out without requiring planning permission from the Council may no longer apply.
- 3.12 The work was not inspected by the Councils own Building Inspectors but independent Inspectors also responsible for ensuring the development complied with the Building Regulations. This body confirms the works described in this application commenced on the 16th May 2016. Site photographs taken by the planning case officer on the 22nd July 2016 show works in connection with construction of the flank dormer and replacement of the garage door with a section of new wall and a window already largely complete. The applicant confirms first occupation of the building as an HMO commenced in late September 2016. As such it can be reasonably concluded that erection of the flank dormer and installation of the new window took place before use of the dwelling as an HMO commenced.

Future residential amenity of the occupiers of the HMO;

- 3.13 The Housing and Health Officer advises an HMO licence has already been granted under Part 2 of the Housing Act 2004 for up to 8 people. As such the size and shape of individual rooms, kitchen/ living area and communal amenity space have already been judged to be of a reasonable standard consistent with the use of the premises as an HMO.

Status of policy H22 of the adopted Local Plan 2000.

- 3.14 Policy H22 of the adopted local plan is a material planning consideration and relates to houses in multiple occupation. It states that permission will only be granted if:

(1) THERE WOULD BE NO HARM TO THE AMENITY OF THE INTENDED OCCUPIERS OF THE BUILDING, OR OCCUPIERS OF NEIGHBOURING BUILDINGS NOR TO THE CHARACTER OR APPEARANCE OF THE BUILDING OR LOCALITY; AND

(2) THE PROPERTY IS IN AN AREA WITH A PREDOMINANTLY COMMERCIAL CHARACTER WITH SOME RESIDENTIAL USE; AND

(3) THE PROPERTY HAS ACCEPTABLE ACCESS AND SUFFICIENT CAR PARKING ARRANGEMENTS PROVIDED IN ACCORDANCE WITH THE BOROUGH COUNCIL'S CURRENTLY ADOPTED STANDARDS; AND

(4) THE PROPERTY IS LOCATED WHERE INCREASED TRAFFIC ACTIVITY WOULD NOT BE DETRIMENTAL TO LOCAL AMENITY.

- 3.15 It should be noted the above policy predated changes to permitted development entitlements enabling a dwelling to be used an HMO for up to 6 persons without planning permission. For the reasons set out above and amplified in the report attached as **APPENDIX 1**, it is considered the impact of two additional persons compared to the change of use that can be carried out as 'permitted development' to use the property as an HMO for 6 persons will not result in any material conflict with the provisions of policy H22 set out above.

4.0 CONCLUSION

4.01 This remains that given what can be carried out as permitted development i.e. use of the property as an HMO by 6 unrelated persons, the impact of two additional persons is considered marginal. It is therefore considered planning permission should be granted as already recommended.

5.0 RECOMMENDATION – GRANT subject to the following conditions:

1. The development 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. The vehicle hardstanding hereby approved shall be surfaced in a water permeable material.

Reason: In the interests of the free flow of traffic and highway safety.

3. Details of the size, design and siting of any refuse bin housing shall be submitted for prior approval in writing by the Local Planning Authority and shall be available for use on occupation of the 4th bedroom.

Reason: In the interests of amenity.

4. No more than 8 persons shall be resident at the premises at any one time.

Reason: to retain control over the use in the interests of amenity.

5. The development hereby permitted shall be carried out in accordance with the following approved plans: site location plans received on the 8th and 14 July 2016 and drawing nos:FreemanWay-47-02, 03 and 04 and parking layout plan received on the 23rd November 2016.

Reason: To ensure the quality of the development is maintained and to prevent harm to amenity.

INFORMATIVE:

A formal application is required for connection to the public sewerage system to service this development contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

It is the responsibility of the developer to make suitable provision for the disposal of surface water. When it is proposed to connect to a public sewer the prior approval of Southern Water is required.

Due to changes in legislation that came in to force on 1st October 2011 regarding future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Should any sewer be found an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

Planning Committee Report

The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application, following receipt of further information, was acceptable.

Case Officer: Graham Parkinson

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.