

OFFICERS REPORT

Application No: Y18/0921/FH

Location: 25 St Johns Church Road Folkestone Kent CT19 5BQ

Proposal Change of use from a house in multiple occupation (Class C4) to a large house in multiple occupation (Sui Generis) for no more than 8 persons at any one time.

ASSESSMENT

Performance data:-

Date application valid: 24.08.2018

Applicable 8/13/16 week target date: 19.10.2018

Planning Performance Agreement (PPA) or Planning Extension Agreement (PEA) ? No

If Yes, revised 8/13/16 week target date:

Is the application being determined after 26 weeks without a PPA or a PEA? No

SITE VISIT

Carried out site visit on 17.09.2019

The site and proposals were assessed from the public highway and the following key features noted:

SITE

The application site is located within the settlement boundary of Folkestone. The site is also located within an area of Archaeological potential as shown on the local proposals map.

The immediate area is characterised by tall, narrow 2/3 storey properties set in narrow streets with limited off-street parking provision. There is a degree of consistency to the external appearance of the dwellings in the area.

The streetscene of the immediate area is considered to be fairly uniform with the dwellings being similar in appearance, height and all generally finished in similar materials to include red facing brickwork and dark tiled roofs.

The plot subject of this application currently forms a side amenity area for a semi-detached property, on the corner of St Johns Church Road and Bournemouth Gardens.

The site is separated from the public highway by a low brick wall together with low level planting and a close boarded fence.

The rear garden of the application site is one of the few properties in the area which has off-street parking provision, a three bay, brick built garage with vehicular access from Boscombe Road.

RELEVANT HISTORY

Y17/0258/SH - Erection of a three storey dwelling. (To be attached to the existing building of 25 St Johns Church Road)

Approved with conditions

Y07/0452/SH - Conversion of building and erection of a two storey side extension incorporating dormer windows to provide 5 self-contained flats together with other external alterations following demolition of existing single storey side extension. Approved with conditions

Y05/1160/SH - Change of use from bed and breakfast accommodation to 10 bedsits and erection of a 2 storey side extension to provide 3 self contained flats.
Refused

99/0685/SH - Change of use of part of single residential dwelling to bed and breakfast accommodation.
Approved with conditions

PROPOSAL

This application seeks planning permission for change of use from a house in multiple occupation (Class C4) to a large house in multiple occupation (Sui Generis) for no more than 8 persons at any one time.

The application has been subject to a change of description and re-advertisement following further investigation into the use of the property during the life of the planning application.

CONSULTATION RESPONSES

Consultation responses are available in full on the planning file. The main points raised are summarised below.

Folkestone Town Council offered no objection

Private Sector Housing department confirmed that they have issued a HMO licence to this property in 2018 for no more than 8 persons (large HMO) and that it has recently been refurbished to a good HMO standard.

Housing Strategy department confirmed that they support the application and that the HMO has been improved by the current owners.

REPRESENTATIONS

None

PUBLICITY

Neighbours notified by letter. Expiry date 10.10.2018
Amended description letter. Expiry date 12.11.2018

RELEVANT POLICIES

Local Plan Review Saved Policies: SD1, HO10, TM2, BE1, BE8, TR12

Core Strategy Local Plan: DSD, SS3, SS5,

Places and Policies Local Plan Submission Draft: HB8, HB13, E4, T2

The Submission draft of the PPLP (February 2018) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between February and March 2018. The Plan was submitted to the Secretary of State for independent examination in September 2018. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, and given the relative age of the saved policies within the Shepway Local Plan Review (2006), the policies within the Submission Draft Places and Policies Local Plan (2018) may be afforded weight where there has not been significant objection.

Core Strategy Review Submission Draft 2019:

The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection.

NPPF

NPPG

APPRAISAL

Background, loss of Bed and Breakfast Accommodation and Change of Use to large HMO

The property was granted planning permission in 1999 from a single dwelling to a bed and breakfast. It is understood that this use was implemented to a degree as the 2005 permission sought to convert the building from a bed and breakfast to 10 bedsits and 3 flats. This application was refused on the grounds that the proposal would provide substandard accommodation and would result in a HMO (not supported by local plan policy), together with poor design of the proposed extension and lack of evidence that the bed and breakfast operation was no longer viable.

In 2007 permission was sought for conversion of the building to provide 5 flats which was granted. During the life of that application the case officer noted that the site was in use as a HMO and whilst no evidence had been submitted to support the loss of the bed and breakfast, the site was poorly placed and did not offer 'good quality accommodation' as required by local plan policy. As such the planning application was approved.

Whilst the 2007 application was approved it appears that it was never implemented and the site continued to operate as a HMO. This HMO use has likely been in operation for some time, as far back as (and probably prior to) 2007. A formal HMO licence was sought in 2008 (likely on the back of the use being drawn to the attention of the Council via the 2007 planning application). The licence was granted.

The Council tax records indicate that the building was recognised as a HMO in 2005, although no actual date is included, this note was added in September 2005. This ties in with the previous case officer noting the HMO use in 2007.

Taking the above background history as material consideration it is concluded that the bed and breakfast use has ceased operating and the HMO use has been in operation for at least 10 years and is (on the balance of probabilities) now likely to be the lawful use. Whilst this planning application is not the forum for determining such a claim and the applicant has not applied for a lawful development certificate, this likely status has been reflected in the amended description and therefore the previous reasons for refusal with regards to the loss of visitor accommodation as set out in saved local plan policy TM2 would not now be considered relevant to this case. Equally policy E4 of the emerging PPLP seeks to avoid the loss of holiday accommodation but again, taking the above into consideration the policy would not apply in this case.

Saved local plan policy HO10 says that planning permission will not be granted for Houses in Multiple Occupation, defined as more than one household occupying a single dwelling where all facilities are not self-contained unless the applicant demonstrates firm and substantial evidence of local need for that form of accommodation.

In contrast to this soon to be replaced policy, emerging policy HB13 of the PPLP says that proposals for Houses in Multiple Occupation (HMOs) will only be permitted where the proposed development, taken by itself or in combination with existing HMOs in the vicinity of the site, would not result in an unacceptably harmful impact on:

1. Residential amenity, caused by increased noise and disturbance;
2. The character or appearance of the street scene or neighbourhood;
3. The character or appearance of the building, including from inappropriate or insufficient arrangements for storage, including for refuse and bicycles; and
4. Highway safety, caused by insufficient on-site parking provision thereby resulting in an unacceptable increase in on-street parking. Off-street car parking should be provided in accordance with the parking standards set out in Policy T2. Parking provision should not cause unacceptable detriment to the street-scene through the loss of trees or gardens.

Proposals that do not provide for sufficient off-street and dedicated parking in accordance with the parking standards will be required to provide a parking survey, undertaken by an independent technical consultant, in accordance with the Lambeth methodology to demonstrate that adequate on-street parking capacity will remain available once a proposal is completed and occupied. Permissions granted will normally be subject to a condition that restricts the number of occupants allowed to reside at the property as their main residence.

In this case the HMO for up to 8 persons is already in use and no complaints have been received to the planning enforcement team with regards to increased noise or disturbance at the property. The character and appearance of the streetscene or building have not altered to any noticeable degree (no external changes are proposed) and during the recent site visit there was no evidence of the site being untidy or cluttered by refuse, bicycles or other domestic paraphernalia. The land within the red line plan does include 3 flat-roofed garages and it is understood that these are already being rented out. The site does not have capacity to provide any further off-street parking provision. The immediate area is within the local parking permit scheme which is at around 60% - 70% capacity and on street parking is known to be available even with the HMO in active use.

In this case the proposal represents an existing situation and whilst the applicant has not provided a parking survey, the local planning authority are satisfied that there is adequate on-street parking capacity with this HMO in active operation and no objections are raised on parking grounds.

The two policies HO10 and HB13 differ in approach to HMO's but HO10 is soon to be replaced by HB13 and HB13 has no outstanding comments or objections and is consistent with the framework. As such policy HB13 is considered to hold more weight than policy HO10 in this instance.

Permission would be restricted to no more than 8 persons. This is in line with the HMO licence that has been issued.

Amenities of neighbouring occupiers

The amenities of neighbours are considered to be preserved. No external alterations are proposed as a result of this change of use. No known complaints have been received from any neighbouring properties with regards to the use of the building as a HMO.

Parking and highways

See above

Environmental Impact Assessment

In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Local finance considerations

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £0.00 per square metre for new residential floor space and this application is not liable for the CIL charge as it is a change of use to Sui Generis and would not create any additional floor space.

HUMAN RIGHTS

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

PUBLIC SECTOR EQUALITY DUTY

In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic

and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

In determining this application regard has been had to the Public Sector Equality Duty (PSED), as set out in Section 149 of the Equality Act 2010 in particular with regard to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristics and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

RECOMMENDATION

In light of the above, it is considered the proposal is a sustainable development that complies with development plan policy and the NPPF and is therefore recommended for approval subject to conditions.

Case Officer:

Report and draft decision notice completed and passed to senior officer.

Name: Katy Claw Position: Planning Officer Date: 11.04.2019

Report and draft decision notice agreed and passed to admin to issue decision.

Name: R Allan Position: DM Team Leader Date: 03/05/19