

**Application No:** Y19/0546/FH

**Location of Site:** 9 Victoria Grove, Folkestone, Kent CT20 1BX

**Development:** Retrospective application for change of use to a 7 bed HMO (House in Multiple Occupation).

**Applicant:** Mr Chris Ockendon

**Agent:** N/A

**Officer Contact:** Emma Hawthorne

## **SUMMARY**

This report considers whether planning permission for the change of use to a 7-bed HMO should be granted. The report assesses the principle of development and the addition of HMO accommodation in this locality. All remaining issues pertaining to residential amenity, standard of accommodation and highway safety are considered acceptable.

## **RECOMMENDATION:**

**That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

## **1. INTRODUCTION**

1.1. The application is reported to Committee because Folkestone Town Council objects to the proposal.

## **2. SITE AND SURROUNDINGS**

2.1. The application site comprises a mid-terrace dwelling, which has been converted from a lawful 6-bed HMO to a 7-bed HMO (the subject of this retrospective application). This property is a three-storey dwelling with basement, and comprises of a moderate sized rear garden, and small sunken terrace area to the roadside frontage.

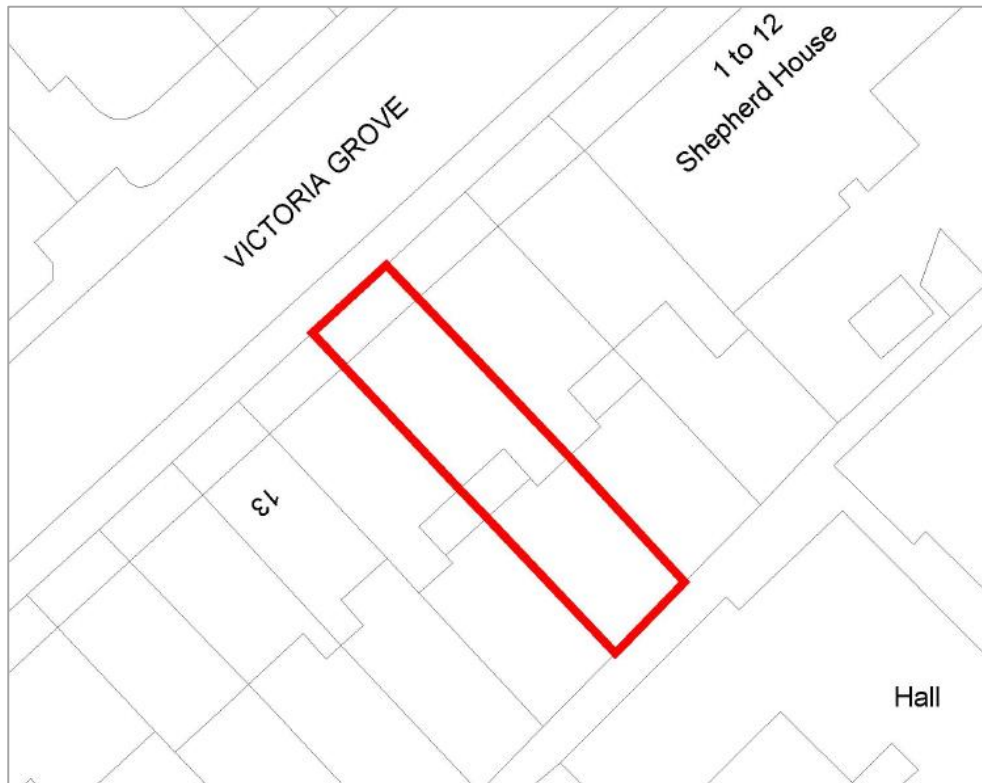
2.2. A site location plan is attached to this report as **Appendix 1**.

## **3. PROPOSAL**

3.1 Retrospective planning permission is sought for the change of use of the property from a 6 bed HMO to a 7 bed HMO (House in Multiple Occupation). The change of use has already occurred and therefore this application is retrospective in nature, seeking to regularise the development.

3.2 Houses in Multiple Occupation (or HMOs) are defined as more than one household occupying a single dwelling where all facilities are not self-contained. The Use Classes

Order 2015 allows for a change of use from C3 (dwelling) to C4 (House in Multiple Occupation) for three to six people without the need for planning permission. The property was in lawful use as a 6-bed HMO, before the change of use to a 7-bed HMO. For proposals involving more than six people planning permission is required.



*Figure 1: Site Location Plan*

- 3.3 The dwelling is comprised of 7 bedrooms, 5 of which contain ensuite bathrooms. Two bathrooms, one utility room and a large kitchen are also contained within the property. No external alterations have occurred to the property.



Figure 2: Pre-existing Floor Plans



Figure 3: Existing Floor Plans

#### 4. RELEVANT PLANNING HISTORY

4.1 The relevant planning history for the site is as follows:

Y17/1017/SH	Change of use of residential dwelling into 4 self-contained flats together with other alterations	Refused
Y04/1432/SH	Conversion of 7 Victoria Grove to 4 No.1 bedroom self-contained flats together with erection of a rear extension to 9 Victoria Grove	Approved

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**Folkestone Town Council:** Object – a Fire Officer report and more information on standards should be received. The Committee would like more Officer information on what HMO standards the District Council requires.

**KCC Highways and Transportation:** Proposal does not meet the criteria to warrant involvement from the Highway Authority.

**Environmental Protection Officer:** No objection

**Housing Department:** Support for the following reasons;

- There is a need for this type of accommodation in the district due to the number of single people who cannot afford to rent a one bedroom flat or a house, and therefore opt for sharing, which is more cost effective.
- There has only been a slight increase in the number of licensed HMOs since 2018 due to the change in legislation which widened the criteria for an HMO to be licensable.
- In 2018 the Council had 7 new applications for HMO uses and in 2019 had 6 new applications. However, when considered against the 5 properties in 2018 that no longer operate as HMOs (and thus their licences were not renewed), and 4 properties in 2019 the overall increase in HMO accommodation has been insignificant.
- The property has been completely refurbished.
- The property complies with building and fire safety regulations.
- Prior to the refurbishment the property was in a poor state of repair.
- No reports of anti-social behaviour has been received by Private Sector Housing.

### Local Residents Comments

5.2 18 neighbours were directly consulted. No letters of objection, no letters of support received and no letters neither supporting nor objecting to the application have been received.

**Ward Member**

- 5.4 No response.
- 5.5 Consultee responses are available in full on the planning file on the Council's website:  
<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

**6. RELEVANT PLANNING POLICY**

- 6.1 The Development Plan comprises the Shepway Core Strategy Local Plan (2013) and the Places and Policies Local Plan (2020).
- 6.2 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.
- 6.3 The relevant development plan policies are as follows:-

Shepway Local Plan Core Strategy (2013)

DSD – Delivering Sustainable Development  
SS1 – District Spatial Strategy  
SS3 – Place-Shaping and Sustainable Settlements Strategy

Places and Policies Local Plan (2020) (PPLP)

The PPLP was adopted by the Council on 16.09.20 after a formal Inspection and review process. It is therefore a material consideration and carries full weight.

HB1 – Quality Places through Design  
HB3 – Internal and External Space Standards  
HB13 – Houses in Multiple Occupation (HMOs)  
T2 - Parking Standards  
T5 - Cycle Parking

Core Strategy Review Submission draft (February 2019)

The requirements of the following policies in the emerging Core Strategy are similar to what is set out within the adopted Core Strategy.

SS1 – District Spatial Strategy  
SS2 - Housing and the Economy Growth Strategy  
SS3 – Place-Shaping and Sustainable Settlements Strategy  
CSD2 - District Residential Needs

6.4 The following are also material considerations to the determination of this application.

**Government Advice**

National Planning Policy Framework (NPPF) 2019

6.5 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 8 – Three main strands of sustainable development: economic, social, and environmental

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

Paragraph 48 – Giving weight to emerging plans

Paragraph 108 – Development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or if residual cumulative impacts on the road networked would be severe.

Paragraph 117 – Making effective use of land

Paragraph 127 -130 – Achieving well designed places

National Planning Policy Guidance (NPPG)

Design: process and tools

National Design Guide October 2019

- C1 - Understand and relate well to the site, its local and wider context
- I2 - Well-designed, high quality and attractive  
Paragraph 53 *'Well designed places are visually attractive and aim to delight their occupants and passers-by'*.

**7. APPRAISAL**

7.1 In light of the above the main issues for consideration are:

- a) Background
- b) Principle of development / change of use
- c) Design/layout/visual amenity
- d) Residential amenity

e) Highway safety

### **a) Background**

- 7.2 Works to convert the property from a single family dwelling to an HMO have been completed, and as such the property comprises of 7-bedrooms with shared kitchen and living facilities. The property has been converted to a high standard, and has lawfully been operating as a 6-bed HMO under permitted development rights since the conversion. Following the completion of the change of use to a HMO, the property was issued building control approval and an HMO licence for 6 bedrooms.
- 7.3 The applicants now wish to utilise the seventh bedroom in the property, and as such have submitted this application for consideration. Therefore the proposal seeks permission for the use of 1 additional bedroom within the HMO.

### **b) Principle of development / change of use**

- 7.4 The application seeks planning permission for the change of use from a 6-bed House in Multiple Occupation (HMO) (use class C4) to a 7-bed HMO (use class Sui Generis). Therefore the proposal seeks planning permission to use an existing room within the building as an additional bedroom. The use of a further one bedroom results in a change of use requiring planning permission.
- 7.5 Policy HB13 of the Places and Policies Local Plan states 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.”*
- 7.6 The preamble to the policy states that, *“This licencing regime is operated using the Council's powers under the Housing Act and is separate from the planning controls outlined above. Developers of HMO accommodation will therefore be required to present a detailed management plan for the proposed scheme.”*
- 7.7 The lawful use of the existing property is as a 6-bed HMO which, by virtue of its size and layout, is suitable for HMO occupation given a licence has been granted for such a use by the Council. Therefore the change of use would not increase the number of HMOs in the locality. Local Plan Policy HB13 is supportive of HMO accommodation subject to the above listed criteria, recognising the need for accommodation of this type.

- 7.8 The Councils Housing Team has confirmed that there is a need for this type of accommodation in the district due to the number of single people who cannot afford to rent a one bedroom flat or a house, and therefore opt for sharing, which is more cost effective. There has only been a slight increase in the number of licensed HMOs since 2018 due to the change in legislation which widened the criteria for an HMO to be licensable.
- 7.9 In 2018 the Council had 7 new applications for HMO uses and in 2019 had 6 new applications. However, when considered against the 5 properties in 2018 that no longer operate as HMOs (and thus their licences were not renewed), and 4 properties in 2019 the overall increase in HMO accommodation has been insignificant.
- 7.10 It is noted that the property is currently in use and occupied as an HMO, and has been since May 2019. This demonstrates, to some degree, a need for this type of accommodation in this location. The property at 9 Victoria Grove has been completely refurbished and as such complies with current building and fire safety regulations. All the HMO rooms and the kitchens have FD30S fire doors and sets. There is a new fire alarm system at the property which is required to be tested weekly.
- 7.11 It is acknowledged that a detailed management plan for the proposed scheme has not been submitted, however this could be dealt with by way of a planning condition in the event of an approval. A management plan for the use of the property as a 7-bed HMO would be required to be submitted and approved by the LPA prior to occupation of the seventh bedroom.
- 7.12 Subject to the assessment of the below planning considerations, the change of use is considered to be acceptable in principle. It is also considered to be reasonable and necessary to impose a condition restricting the number of occupants of the property in accordance with Local Plan Policy HB13.

### **c) Design and visual impact**

- 7.13 The change of use of the property to a 7-bed HMO did not include any external alterations. The proposal is therefore not considered to have an impact on the character and appearance of the host property or streetscene.
- 7.14 For this reason, the development, is not considered to cause harm to the local area and therefore is considered to be appropriate development in terms of design, layout and visual amenity. The proposal is considered to accord with policies HB1 and HB2 of the Places and Policies Local Plan, and section 12 of the NPPF.

### **d) Residential amenity**

- 7.15 Local Plan Policy HB1 states development should not lead to an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area, taking account of loss of privacy, loss of light and poor outlook.



*Amenities of neighbouring occupants*

- 7.16 No external alterations were undertaken to the pre-existing building to accommodate the change of use to HMO, and as such there is no result of any additional overshadowing or overlooking impacts to neighbouring properties.
- 7.17 In relation to increased noise and disturbance, the pre-existing property was lawfully be used as a 6-bed HMO, and therefore the additional impact from noise and disturbance from an additional 1-bedroom / one occupant is not considered likely to be significant. As such, the proposal is not considered to result in any significant harm to neighbouring amenity. It is further noted that no objections or comments have been received from neighbouring properties in relation to this application.

*Amenities of occupants*

- 7.18 The following table sets the required room sizes, against the existing room sizes within the HMO;

<b>Room</b>	<b>Required size (sq m)</b>	<b>Existing size (sq m)</b>	<b>Permitted Occupancy</b>
Kitchen		11.5	n/a
Utility		3.6	n/a
Bedroom 1	11.5	13	double
Bedroom 2	11.5	13	double
Bedroom 3	11.5	13	double
Bedroom 4	7.5	10.6	single
Bedroom 5	11.5	15	double
Bedroom 6	7.5	10.6	single
Bedroom 7	11.5	15	double

- 7.19 As noted above, the proposal provides communal kitchen/ dining and utility facilities at basement level. The dwelling is comprised of 7 bedrooms, 5 of which contain ensuite bathrooms. Two further bathrooms are contained within the property, on the first and second floor.
- 7.20 The proposed bedrooms are considered to be of a sufficient size, and meet or exceed space standards, as illustrated in the table above. All habitable rooms would include windows providing an outlook. It is considered that the property has been converted to a high standard and therefore provides a very good standard of accommodation for occupants. As such, the proposal promotes an acceptable level of amenity for current and future occupants of the property. This is illustrated in the photographs below;



*Photograph 1: Kitchen*



*Photograph 2: Kitchen*



*Photograph 3: Bedroom*



*Photograph 4: Bedroom*



- 7.21 The HMO also benefits from a reasonable level of private outdoor amenity space to the rear of the property. This would allow occupants the use of the communal garden, while providing space for washing lines etc. The application site is also found within a Town Centre location and therefore occupants would be in close proximity, and walking distance of parks and outdoor public amenity spaces.
- 7.22 Therefore the change of use accords with Local Plan Policy HB1 and paragraph 127 of the NPPF which require that consideration be given to residential amenity.

**d) Parking and highways**

- 7.23 Local Plan Policy HB13 requires applications for HMOs to provide sufficient off street parking and bicycle parking in order to be acceptable. The change of use allows the permitted number of occupants of the HMO to increase by one. Although it is appreciated that there is no off street parking provided at present or proposed, only the impact from an additional occupant can reasonably be considered. As mentioned, the application site lies within a Town Centre location and therefore is considered to be within a highly sustainable location. Therefore, when considering parking standards the LPA normally deal in maximum standards as it is a highly sustainable location.
- 7.24 Para 109 of the NPPF states, *"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."* In this case, the impact from two additional occupants is not considered to be severe, therefore although the proposal would be contrary to policy HB13, the harm caused is not considered to be significant enough to warrant refusal.
- 7.25 As noted above, it is considered to be reasonable and necessary to limit the occupancy of the HMO via a planning condition in the event of an approval. This is also considered justified on highway terms to ensure highway safety is maintained.
- 7.26 Local Plan Policy T5 requires one cycle space per bedroom. The submitted drawings do not illustrate space for seven cycle parking spaces, however it is considered that there is sufficient space within the site to accommodate this. Seven cycle parking spaces are considered to be sufficient and in line with policy, and provided a planning condition is imposed requiring the cycle parking to be provided to the LPA within 1 month of the date of approval, the proposal is considered to be acceptable in this regard.
- 7.27 In addition to this, the submitted drawings do not illustrate space for storage of refuse and recycling bins on non-collection days, however it is considered that there is sufficient space within the site to accommodate this as the property is currently in lawful use as a 6-bed HMO. Bin storage was discussed with the owner of the property when granting the current HMO licence (for a 6-bed HMO) and it was agreed that the basement area would be used for bin storage with the bin bags being brought up to pavement level on bin collection day. The Council has not received any complaints

regarding rubbish or bin storage at this property. To ensure appropriate storage of refuse and recycling bins, a condition would be attached to any permission granted seeking additional details for approval by the LPA.

#### **e) Response to consultation**

- 7.28 The comments from the Town Council are noted in relation to fire safety and HMO standards. The application property has been completely refurbished (May 2019) and as such complies with current building and fire safety regulations. All the HMO rooms and the kitchens have FD30S fire doors and sets. There is new fire alarm system at the property which is required to be tested weekly. The property also holds an HMO licence.
- 7.29 In addition, any properties found to be hazardous are dealt with through the Housing Act 2004 and working with the licence holder to improve them.

#### **Environmental Impact Assessment**

- 7.30 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**

- 7.31 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. There is no CIL requirement for this development.
- 7.32 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. This application is not liable for the CIL charge as it is a change of use and would not create any additional floor space.

#### **Human Rights**

- 7.33 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having

regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

### **Public Sector Equality Duty**

7.34 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.

### **Working with the applicant**

7.35 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

## **8. CONCLUSION**

8.1 This retrospective proposal has resulted in the change of use of the property from a 6-bed HMO to a 7-bed HMO. The principle of the change of use is accepted and as no external alterations are proposed as a result of the proposal there are no visual impact concerns raised. The proposal does not result in any significant harm to neighbouring amenity and provides a high level of accommodation for current/ future occupants. Details regarding cycle parking could be secured by condition. As such it is recommended that retrospective planning permission be granted.

## **9. BACKGROUND DOCUMENTS**

9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

## **10. RECOMMENDATIONS**

**That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

Conditions:

1. The development hereby permitted shall be maintained in accordance with the follow approved plans;

Drawing no. 19/476 01 Rev P1 – Site and Location Plans

Drawing no. 19/476 03 Rev P1 – Existing and Proposed Elevations

Drawing no. 19/476 04 Rev P1 – Proposed Plans.

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

2. Details of secure cycle storage to be provided within the site shall be submitted to the Local Planning Authority, for written approval, within 1 month of the date of planning permission hereby granted. The cycle storage shall then be carried out in full accordance with the approved details within 1 month of the date of written approval of this condition.

Reason: To encourage sustainable methods of transport.

3. Details of refuse and recycling storage to be provided within the site shall be submitted to the Local Planning Authority, for written approval, within 1 month of the date of planning permission hereby granted. The refuse and recycling storage shall then be carried out in full accordance with the approved details within 1 month of the date of written approval of this condition.

Reason: To ensure suitable refuse and recycling facilities are provided on the site, and the additional clutter isn't added to the streetscene.

4. The number of occupants residing at any given time within the sui-generis HMO hereby permitted shall be limited to eight. .

Reason: To ensure the Local Planning Authority has appropriate control over the development to protect the amenity of neighbouring occupants and ensure the development is not harmful to highway safety.

Informatives:

1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council

(KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>.

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

2. Your attention is drawn to the requirements of the Building Regulations 2000 and the possibility of the need to obtain consent under such regulations.

Prior to implementing this permission, you should seek advice from Building Control as to whether or not to make an application. Advice and application forms are available from the Civic Centre, Folkestone (telephone numbers 01303 853538). Alternatively another building control body may be able to assist.

## **Appendix 1 – Site Location Plan**



