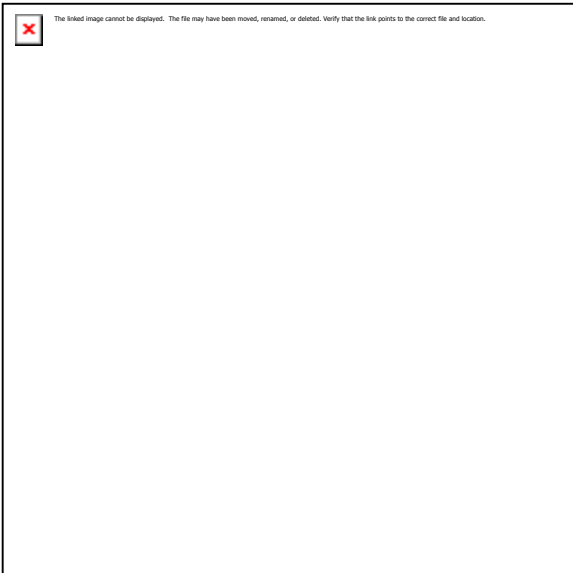




Delegated Report

Lawful Development Certificate (Proposed)

Planning Application No: 20220357

Location: 94 Gordon Road Northfleet Gravesend Kent

Description: Application for a Lawful Development Certificate for the proposed conversion of existing dwelling to six person house of multiple occupancy (HMO) including construction of a dormer window to rear, installation of roof light to front and chimney removal

Applicant: Mr Maciej, A&E Apartments Ltd

Submitted Documents/Plans

Planning Application Form;
Drawing No. 2206_PL01 Rev A – Location Plan and Existing Drawings; and
Drawing No. 2206_PL02 – Proposed Drawings.

Relevant Planning History

Reference	Description	Decision	Decision Date
20210390	Conversion of dwelling into 2 self-contained maisonettes (1 no. one bedroom and 1 no. two bedroom) incorporating the formation of a new basement lightwell at the front, an enlarged dormer window in the side roof slope and entrance door on the side elevation.	Permission	25.08.2021
20160319	Application for a Lawful Development Certificate in respect of the proposed erection of a single storey rear extension.	Certificate Granted	24.05.2016
20141039	Conversion of dwelling into 2 self-contained, two bedroom maisonettes incorporating the formation of a new basement lightwell at the front, an enlarged dormer	Permission	31.12.2014

	window in the side roof slope and entrance door on the side elevation.		
20140490	Conversion of existing house into one self-contained two bedroom flat, one self-contained one bedroom flat and one self-contained studio flat, incorporating alterations to the front elevation at basement and ground floor levels, creation of an entrance door on the side elevation, and a dormer extension to the side roof slope	Refused	31.12.2014
19960209	Change of use from off-licence with residential incorporating alterations to front and side elevations and erection of single storey front extension to form bay.	Permission	20.05.1996

Officer Assessment

Procedural Matters

The planning permission for the *conversion of dwelling into 2 self-contained maisonettes (1 no. one bedroom and 1 no. two bedroom) incorporating the formation of a new basement lightwell at the front, an enlarged dormer window in the side roof slope and entrance door on the side elevation* (Ref. 20210390), does not appear to have been implemented. Therefore, without any evidence to the contrary, the existing property is still within single residential use.

Permitted Development Rights for HMOs

Advice produced by the Planning Inspectorate in 2014 confirmed that houses in multiple occupation, including those which fall within Class C4, can benefit from the permitted development rights granted to dwellinghouses by the General Permitted Development Order (GPDO). The test for whether a property is eligible to use the permitted development right is whether it can be considered a "dwellinghouse" within the context of the GPDO. This will depend on the facts of the case.

In an appeal against Ashford Borough Council (Ref. APP/E2205/D/16/314764), the Inspector was unequivocal in stating that HMOs, including those which fall within Class C4, can benefit from permitted development rights granted to dwellinghouses by the GPDO. The test for whether a property is eligible to use the permitted development right is whether it can be considered a dwellinghouse within the context of the GPDO. On this matter, case law has established that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use the facilities required for a day-to-day private domestic existence.

Having found that the property afforded the people who used the facilities required for a day-to-day private domestic existence, the inspector concluded that it would benefit from the permitted development rights granted to dwellinghouses by the GPDO.

In this case, the proposed floor plans show 6 separate bedrooms, 5 with en-suites, with the kitchen, dining room and bathroom as shared facilities. Therefore, 94 Gordon Road would function as a private domestic dwellinghouse, and not as separate self-contained units. As such would benefit from permitted development rights.

Permitted Developments Rights Restrictions

Article 2 (3) Land (AONB, Conservation Area)	N
Article 4 Direction	N
Permitted Development Rights Removed/Restricted	N

Class B - The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

B.1	Development is not permitted by Class B if –	Y/N
(a)	Permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use);	N
(b)	Any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;	N
(c)	Any part of the dwellinghouse would, as a result of the works, extend, beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;	N
(d)	The cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than – (i) 40 cubic metres in the case of a terrace house, or (ii) 50 cubic metres in any other case;	Y (30.36m ³)
(e)	It would consist of or include – the construction or provision of a verandah, balcony or raised platform or the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or	N N
(f)	The dwellinghouse is on article 2 (3) land	N
B.2	Development is permitted by Class B subject to the following conditions –	Y/N
(a)	The materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;	Y
(b)	The enlargement must be constructed so that – (i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side – extension (aa) the eaves of the original roof are maintained or reinstated; and (bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and (ii) other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwelling house; and	Y Y Y Y
(c)	Any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be – (i) obscure-glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.	Y Y

Class C - Any other alteration to the roof of a dwellinghouse.

C.1	Development is not permitted by Class C if -	Y/N
(a)	permission to use the dwelling as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use);	N
(b)	the alteration would protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof;	N
(c)	it would result in the highest part of the alteration being higher than the highest part of the original roof;	N
(d)	it would consist of or include – (i) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or (ii) the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.	N N
C.2	Development is permitted by Class C subject to the condition that any window located on a roof slope forming a side elevation of the dwellinghouse must be- (a) obscure-glazed; and (b) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.	N/A N/A N/A

Class G – chimneys, flues etc on a dwellinghouse

The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.

G.1	Development is not permitted by Class G if –	N/A
(a)	Permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use)	N
(b)	The height of the chimney, flue or soil and vent pipe would exceed the highest part of the roof by 1 metre or more; or	N
(c)	In the case of a dwellinghouse on article 2(3) land, the chimney, flue or soil and vent pipe would be installed on a wall or roof slope which (i) fronts a highway, and (ii) forms either the principal elevation or a side elevation of the dwellinghouse.	N/A
(d)	the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)	N

Class L – small HMOs to dwellinghouse and vice versa

L.	Development consisting of a change of use of a building -	Y/N
(a)	from a use falling within Class C4 (house of multiple occupation) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule;	N/A

(b)	from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule	Y
L.1	Development is not permitted by Class L if it would result in the use -	Y/N
(a)	as two or more separate dwellinghouses falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order of any building previously used as a single dwellinghouse falling within Class C4 (houses in multiple occupation) of that Schedule; or	N
(b)	as two or more separate dwellinghouses falling within Class C4 (houses in multiple occupation) of that Schedule of any building previously used as a single dwellinghouse falling within Class C3 (dwellinghouses) of that Schedule.	N

Conclusion

The proposed development complies with Schedule 2, Part 1, Classes B, C and G and Schedule 2, Part 3, Class L of **THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015, AS AMENDED**, and the **LAWFUL DEVELOPMENT CERTIFICATE is GRANTED**.

Recommendation: Grant Lawful Development

Case Officer:	Mrs Amanda Grout	Team Leader:	Richard Hart
Signed:	<i>A Grout</i>	Signed:	<i>R Hart</i>
Dated:	24 th May 2022	Dated:	24 th May 2022