
PLANNING COMMITTEE REPORT

Application Ref:	20250995
Site Address:	Flat 1 and Flat 2, 19 Edwin Street, Gravesend, Kent
Application Description:	Application for a Proposed Lawful Development Certificate; Change of use of Flat 1 (Class C3) at basement & ground floors to a 5 person House of Multiple Occupation (HMO) (Class C4) and change of use of Flat 2 (Class C3) at first & second floors to a 4 person HMO (Class C4).
Applicant:	A & E Property, Mr A Prowse
Agent:	Mr Jonathan McDermott, Town Planning Experts
Ward:	Town
Parish:	Non-Parish Area
Decision due date:	Extension of time until 10 April 2026
Publicity expiry date:	N/A
Decision Level:	Planning Committee
Reason for referral:	Councillor call-in
Recommendation:	That the development is lawful and a Certificate of Proposed Lawful Development should be granted.

Summary of Reasons for Recommendations

The proposal for change of use of Flat 1, 19 Edwin Street and Flat 2, 19 Edwin Street to 5 persons and 4 persons HMOs (houses of multiple occupation) respectively would be lawful development as it falls within the limits set out in Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the following reasons. Flat 1 and Flat 2 are each in use Class C3 (dwelling house); the number of persons in each HMO would be no more than 6 and so they would constitute a small HMO under use Class C4 (houses of multiple occupation). Both flats are separate individual dwelling houses and so the proposal would not result in two or more dwelling houses changing to an HMO.

MAIN REPORT**1. Site Description and Surroundings**

- 1.1. The application site consists of a two storey building plus basement which is situated on the corner of Edwin Street at the junction with Saddington Street which is in use as two flats. Flat 1 which is at the basement and ground floor levels has three recreation rooms and at ground floor level there is bedroom 1, bedroom 2, kitchen and a bathroom. Flat 2 is at the first and second floor levels and at first floor there is a living room, kitchen, bathroom and WC and at second floor level there is bedroom 1 and bedroom 2. Flat 1 is

accessed from a door on the corner of the building and Flat 2 is accessed by a door in the north side elevation.

- 1.2. A long Edwin Street to the north and south there are other dwellings in use as single family dwellings. Within Saddington Street to the west there are a mixture of commercial uses and to the east there is a garage and residential development beyond. The railway line is to the north of Saddington Street.

2. Relevant Planning History

Reference	Description	Decision	Decision Date
20241057	Replacement of basement door with window. Installation of railings to lightwell.	Refused	23.01.2025
		Appeal allowed	19.09.2025
20110399	Conversion of ground floor into a one bedroom self contained flat.	Permitted	11.07.2011

3. Proposal

- 3.1. The application is for a Proposed Lawful Development Certificate; Change of use of Flat 1 (Class C3) at basement & ground floors to a 5 person House of Multiple Occupation (HMO) (Class C4) and change of use of Flat 2 (Class C3) at first & second floors to a 4 person HMO (Class C4).
- 3.2. Flat 1 which is at basement and ground floor levels would be changed to a 5 persons HMO and Flat 2 would be changed into a 4 persons HMO.
- 3.3. Flat 1 would have 5 HMO bedrooms, all single occupancy, with bedroom nos. 1, 2, 3 & 4 at ground floor level and bedroom 5 at basement level. Bedroom nos. 2, 4 & 5 would have en-suite shower rooms; there would be a shared kitchen and utility room at basement level.
- 3.4. Flat 2 would have 4 HMO bedrooms, all single occupancy, with bedroom nos. 1 & 2 at first floor level and bedroom nos. 3 & 4 at first floor level. Each bedroom would have an en-suite shower room.

4. Planning Policy, Development Plan and other Material Considerations

- 4.1. Not applicable, this is an application for a lawful development certificate under Section 192 of the Town & Country Planning Act 1990 (as amended).

Material Considerations

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

The Town and Country Planning act 1990 (as amended)

The Town and Country Planning (Use Classes Order) 1987 (as amended)

5. Consultations and Publicity Responses

Neighbouring Properties

5.1. This is an application for a Lawful Development Certificate that is considered on its facts and relevant planning law. As confirmed in national planning guidance, views expressed by third parties on the planning merits of such cases are irrelevant. Accordingly, unlike planning applications, there is no statutory requirement to undertake publicity or consultation. Nonetheless, three representations have been received and the comments are summarised below, although they cannot be considered as part of this application.

- Not automatically lawful development, the burden of proof rests with the applicant;
- Flats converting to HMOs is not a simple C3-C4 switch – each flat is a separate planning unit;
- HMOs bring a material change in the character of occupation, intensification of use and different amenity impacts and so is not equivalent to converting a single dwellinghouse into a small HMO;
- Case law and appeal decisions repeatedly confirm that intensification and character change matter, even where use classes appear similar on paper;
- Has not demonstrated that no Article 4 Direction applies;
- HMOs have materially different impacts compared to C3 flats including higher occupant turnover, increased noise and disturbance, refuse and pressure on parking and local services;
- An LDC cannot be granted where the use would clearly operate in a materially different way to the existing lawful use;
- C4 HMOs allow occupation by up to 6 unrelated individuals per unit and so there is a risk of 12 unrelated occupants in the building which is a scale inconsistent with existing lawful use of building;
- Pressure for a large sui generis HMO;
- The application is inadequate as it lacks exact internal layouts post-change, how the flats would function independently as lawful HMOs, how intensification would not materially alter the planning use and whether no planning conditions or historic restrictions apply;
- Would set a precedent for flats to HMOs across Gravesend;
- Proposal fails the legal test for an LDC and has not demonstrated beyond reasonable doubt that the proposed change of use is lawful without planning permission and so should be refused;
- Area already has big problems with litter, dumped rubbish and street mess which often gets worse when lots of people are crammed into HMOs;
- Says its lawful but one flat would have 5 bedrooms and the other would have 4 which is a total of 9 bedrooms;
- Class C4 is for small HMOs with no more than 6 people sharing a single household, with the number of bedrooms proposed, each flat could easily house more than 6 people, potentially up to 18 if 3-6 people per room which would be a large sui generis HMO not a Class C4 lawful one;
- Even if they claim each is a separate small HMO under C4, the bedroom layout does not match a realistic limit of 6 per unit;
- Will add to the existing problems here, more rubbish, comings and goings, parking pressure and strain on neighbourhood;
- Certificate should be refused as the proposed use is not lawful under Class C4, they should submit a planning application so the impacts can be properly assessed and locals can comment;
- These are 2 self contained flats, not 2 private dwellinghouses therefore questions whether both should benefit from permitted development rights;
- To convert these 2 flats to 2 C4 HMOs would introduce 12 lots of people, vehicles and rubbish when this area is already blighted by constant incorrect disposal of household waste and fly tipping particularly from people who reside in HMOs.

- 5.2. The agent has submitted a rebuttal document to these comments which can be found in Appendix 1 of this report. In summary the agent advises that these matters raised cannot be taken into consideration in the determination of this Lawful Development Certificate as the assessment is one of whether planning permission is required or not and it not an assessment of planning merits.

6. Planning Analysis and Head of Planning Comments

- 6.1. The application type submitted under reference 20250995 is known as a Lawful Development Certificate. This type of application simply establishes whether or not certain works or uses require planning permission. Lawful Development Certificates are considered in relation to the relevant legislation, rather than the wider Development Plan and material considerations, further information is set out by Government to provide clarity in relation to this at <https://www.gov.uk/guidance/lawful-development-certificates>.
- 6.2. The purpose of this application is simply to seek confirmation as to whether planning permission is required to change the use of the property.
- 6.3. Due to the nature of the application, neighbours are not required to be consulted, therefore neighbours are not notified of Lawful Development Certificate applications.
- 6.4. While the local concerns may be relevant with a planning application, due to the nature of the Lawful Development Certificate application, they are not relevant for this application. The Local Planning Authority is simply required to establish whether the proposal requires planning permission or not.
- 6.5. With this application type it is purely only a case of whether the proposal requires planning permission or not and the views of individuals on the proposal cannot be taken into consideration.
- 6.6. The Town and Country Planning (Use Classes) Order 1987, assigns use classes to various uses. In the case of flats, they are use Class C3 (a) and for small HMO's the legislation designates this as use Class C4 with the description of; 'Small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.' Class L, Part 3, Schedule 2 of the GPDO, allows for conversion from C3 (dwellinghouses) to C4 (Houses in Multiple Occupation), without requiring planning permission, where certain criteria are met.
- 6.7. As there are two separate addresses in this application – Flat 1, 19 Edwin Street and Flat 2, 19 Edwin Street each flat must be assessed separately in respect of Class L, Part 3, Schedule 2 of the GPDO.
- 6.8. Flats 1 & 2 are proposed to be 5 person and 4 person HMOs respectively and therefore they both constitute small HMOs under use Class C4.

Flat 1 - at basement & ground floor levels

Part 3, Schedule 2 of the GPDO

Class L – Small HMOs to dwelling houses and vice versa

Permitted Development:

L	Development consisting of a change of use of a building -	Y/N
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(a)	From a use falling within Class C4 (houses in multiple occupation) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwelling houses) of that Schedule;	N/A
(b)	From a use falling within Class C3 (dwelling houses) 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 dwelling houses falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order of any building previously used as a single dwelling house within Class C4 (houses in multiple occupation) of that Schedule; or	N/A
(b)	As two or more separate dwelling houses falling within Class C4 (houses in multiple occupation) of the Schedule to the Use Classes Order of any building previously used as a single dwelling house within Class C3 (dwelling houses) of that Schedule.	N

6.9. As can be seen the proposal for Flat 1 would be to change one separate dwelling house from Class C3 (dwelling houses) to Class C4 (houses in multiple occupation) for 5 persons.

6.10. The proposed 5 persons HMO falls within the limits set out in Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and would comply with the definition of C4 (Houses in Multiple Occupation), as set out within The Town and Country Planning (Use Classes) Order 1987. Therefore, planning permission is not required.

Flat 2 - at first & second floor levels

Part 3, Schedule 2 of the GPDO

Class L – Small HMOs to dwelling houses and vice versa

Permitted Development:

L	Development consisting of a change of use of a building -	Y/N
(a)	From a use falling within Class C4 (houses in multiple occupation) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwelling houses) of that Schedule;	N/A
(b)	From a use falling within Class C3 (dwelling houses) 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 dwelling houses falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order of any building previously used as a single dwelling house within Class C4 (houses in multiple occupation) of that Schedule; or	N/A
(b)	As two or more separate dwelling houses falling within Class C4 (houses in multiple occupation) of the Schedule to the Use	N

	Classes Order of any building previously used as a single dwelling house within Class C3 (dwelling houses) of that Schedule.	
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- 6.11. As can be seen the proposal for Flat 2 would be to change one separate dwelling house from Class C3 (dwelling houses) to Class C4 (houses in multiple occupation) for 4 persons.
- 6.12. The proposed 4 persons HMO falls within the limits set out in Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and would comply with the definition of C4 (Houses in Multiple Occupation), as set out within The Town and Country Planning (Use Classes) Order 1987. Therefore, planning permission is not required.

Human Rights

- 6.13. The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the Convention of the same Act which sets out his/her rights in respect for private and family life and for the home. Officers consider that the proposed development would not be contrary to the provisions of the above Articles in respect of the human rights of surrounding residents/occupiers.

Equalities

- 6.14. The application has been considered in accordance with the Council's Equality Policy, which seeks to prevent unlawful discrimination, promote equality of opportunity and good relations between people in a diverse community. In this case the proposed development is not anticipated to have any potential impact from an equality perspective.

7. Conclusion

- 7.1. This application is for the proposed change of use of Flat 1, 19 Edwin Street to a 5 persons HMO and Flat 2, 19 Edwin Street to a 4 persons HMO. Being in use as flats both Flat 1 & Flat 2 are in use Class C3 (dwelling houses). As the number of occupiers in each HMO would not be more than 6 persons, both proposals for Flats 1 & 2 would constitute a small HMO under use Class C4 (houses in multiple occupation). Flat 1 and Flat 2 are separate individual dwelling houses in their own right and so the proposal would not result in two or more dwelling houses changing to an HMO.
- 7.2. As such, in respect of Flat 1 the proposal to change it from use Class C3 to a 5 persons HMO under use Class C4 (houses in multiple occupation) falls within the limits set out in Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and would comply with the definition of C4 (Houses in Multiple Occupation), as set out within The Town and Country Planning (Use Classes) Order 1987. As such planning permission is not required.
- 7.3. In respect of Flat 2 the proposal to change it from use Class C3 to a 4 persons HMO under use Class C4 (houses in multiple occupation) falls within the limits set out in Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and would comply with the definition of C4 (Houses in Multiple Occupation), as set out within The Town and Country Planning (Use Classes) Order 1987. As such planning permission is not required.

8 Recommendation

The proposed change of use of Flat 1 (Class C3) at basement & ground floors to a 5 person House of Multiple Occupation (HMO) (Class C4) and change of use of Flat 2 (Class C3) at first & second floors to a 4 person HMO (Class C4) would comply with the limits set out in Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, planning permission is not required.

A Certificate of Lawful Development should be granted.