



Delegated Report

Full Planning Application

Planning Application No:	20230449
Location:	94 Gordon Road Northfleet Gravesend Kent
Description:	Change of Use from a 6 Bedroom HMO (C4) to an 8 Bedroom HMO (Sui Generis) and retrospective permission for the construction of 2no. canopies to the rear.
Applicant:	Mr Aaron Prowse, A & E Property
Site Visit Date:	23 May 2023

Submitted Documents/Plans

Application form
Drawing no. 2206_PL07 (Location Plan and Existing Drawings)
Drawing no. 2206_PL08 (Proposed Drawings)
Design and Access Statement
Additional Parking Evidence

Relevant Planning History

Reference	Description	Decision	Decision Date
20220357	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	Certificate granted	24.05.2022
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.	Permitted	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 window in the side roof slope and entrance door on the side elevation.	Permitted	31.12.2014
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	Refused	24.07.2014

	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.		
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.	Permitted	20.05.1996

Development Plan

Gravesham Local Plan Core Strategy (2014)

- CS01 – Sustainable Development
- CS02 – Scale and Distribution of Development
- CS11 – Transport
- CS12 – Green Infrastructure
- CS14 – Housing Type and Size
- CS18 – Climate Change
- CS19 – Development and Design Principles

Gravesham Local Plan: First Review (1994)

- H5 – Increasing the Housing Stock by the Conversion of Existing Buildings
- T1 – Impact of Development on the Highway Network
- P3 – Vehicle Parking Standards

Paragraph 33 of the NPPF (2023) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2023), the Council will also seek to replace these.

In *Hopkins Homes Ltd v Secretary of State for Communities and Local Government* [2017] 1 W.L.R. 1865, Lord Carnwath reemphasised that the National Planning Policy Framework is only a material consideration in planning decisions and that that planning applications should be determined in accordance with the development plan. Paragraph 12 of the NPPF expressly states that the starting point for decision-making is the development plan. Lord Carnwath as part of the Supreme Court decision stated,

“It is important, however, in assessing the effect of the Framework, not to overstate the scope of this policy-making role. The Framework itself makes clear that as respects the determination of planning applications (by contrast with plan-making in which it has statutory recognition), it is no more than “guidance” and as such a “material consideration” for the purposes of section 70(2) of the 1990 Act... It cannot, and does not purport to, displace the primacy given by the statute and policy to the statutory development plan. It must be exercised consistently with, and not so as to displace or distort, the statutory scheme.”

It is a matter of law that all planning applications need to be considered in accordance with the legislation and relevant policy that applies at the point a decision is taken. The Council published a revised 5 year housing land supply statement in March 2023, it demonstrates that based on data up for

the period 2022-2027, the Council can only demonstrate a land supply of 2.9 years.

Given the Council's current inability to demonstrate a 5-year housing land supply, and as the delivery of housing was substantially below (less than 75%) that required by the Housing Delivery Test, the housing delivery element of Gravesham's Local Plan Core Strategy (LPCS) (2014) Policy CS02 must be regarded to be out of date, as required by the Paragraph 11(d) of the National Planning Policy Framework (NPPF) (2023). This requires that in regard to housing development, planning permission should be granted unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

In the Gravesham context, the policies referred to in paragraph 11(d)(i) above are those set out in the NPPF at footnote 7 (rather than those in development plans) relating to any of the following:

- Habitats sites (and those sites listed in NPPF paragraph 182)
- Sites of Special Scientific Interest
- Green Belt
- Local Green Space
- Areas of Outstanding Natural Beauty
- Irreplaceable habitats
- Designated heritage assets (& other heritage assets of archaeological interest, see NPPF footnote 68)
- Areas at risk of flooding or coastal change.

In determining applications for planning permission involving housing, the Council will therefore apply a weighted balance in favour of granting planning permission in accordance with relevant case law and guidance, having regard to the acceptability or otherwise of the proposals when evaluated against development plan policy, the need to make efficient use of land (paragraph 125(c)) in context, the relative contribution the proposal makes towards the alleviation of any shortfall in housing delivery at that time and any other considerations material to the proposed development.

National Planning Policy Framework (2023)

- Section 2 – Achieving sustainable development
- Section 8 – Promoting healthy and safe communities
- Section 9 – Promoting sustainable transport
- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed places
- Section 15 – Conserving and enhancing the natural environment

Supplementary Planning Guidance

- SPG2 – Residential Layout Guidelines (2020)
- SPG4 – KCC Parking Standards (2006)
- Guidance to HMO Amenity Standards (2006)
- Technical Housing Standards – Nationally Described Space Standards (2015)

Consultations, Publicity and Representations

Internal Consultees

GBC Highways

Initial comments 17.05.2023:

The parking survey was very selective as it was only one instant of time on the 25th July 2022, a Monday and this may or may not be reflective of the normal situation, a more extensive survey should ideally be carried out which should include early Sunday mornings when most people can be expected to be at home. Without evidence to contradict the three images supplied it is doubtful that a Planning Inspector would support a refusal based on car parking provision. Also, the Council's parking standards do not provide details on how an assessment should be made in terms of HMO's, taken as a single household 2 spaces would be the minimum requirement for a four bedroom dwelling, but those bedrooms already exist and so no additional parking would be required.

I note the applicant intends to provide a lightwell within his own property, but as this will support the Highway, The Highway Authority (Kent County Council) needs to be consulted by the applicant and the design of the lightwell must get their approval.

See Highways Act 1980 Section 167 Powers relating to retaining walls near streets.

<https://www.legislation.gov.uk/ukpga/1980/66/part/IX/crossheading/danger-or-annoyance-to-users-of-highways-and-streets>

However, note section (2) which appears to put the onus on Gravesham to consult KCC on the matter of the retaining wall.

(2) No length of retaining wall, being a length which when erected will be a length of retaining wall to which this section applies, shall be erected otherwise than in accordance with plans, sections and specifications approved by the local authority in whose area the street is situated; and before giving such approval that authority, if they are not the highway authority for the street, shall consult the highway authority.

Given Gravesham does not have the technical competence to check details regarding retaining walls adjacent to the highway. The design of the lightwell should be approved by Kent County Council prior to approval of the planning application, as the approval process can be time consuming and expensive, and it may not be possible to achieve an acceptable design.

My suggestions are therefore as follows, the application should either be withdrawn until technical approval is achieved for the lightwell, or the basement bedroom is deleted from the proposal. The alternative would be a condition preventing any works until technical approval is given, but this is liable to take far longer than the discharge period permitted for conditions and raises the question of who pays KCC's fees for such works.

Further comments 16.08.2023:

Looking at the revised application, the matters I raised do not appear to have been addressed so I can only suggest the application is withdrawn or refused.

GBC Environmental Protection

Initial comments 06.06.2023:

No objections to this application. We would recommend the following condition and informative: Code of Practice on Construction and Demolition Condition and Smoke Control Informative.

Initial comments repeated on 05.09.2023.

Neighbouring properties

The application has been advertised by individual neighbour letters to 4 properties and on site. The overall consultation period expired on 7 September 2023.

Six letters of objection have been received, with the following concerns:

- Complete lack of on-street parking space to support a property of at least 8 individual residents, therefore leading to an increase in parking pressure on what is already a congested road.
- Permits should be restricted to prevent excessive increase in parking.
- Noise levels will unacceptably increase from the number of occupants proposed, including through the party wall.
- Loss of light and diminishing views from the single storey addition at the rear. This addition is apparently intended to house washing machines and tumble dryers and will increase noise levels.
- Increase in overlooking of neighbouring property from removal of existing obscure glazed windows, and reduction in privacy.
- There are discrepancies about the actual use of the internal spaces and what is shown on the submitted plans (pergola to be used as laundry area with washing machines/tumblers; kitchen area is used as a dining area).
- Previous plans have been refused for the use of the basement as a habitable room.
- Proposal to increase the number of bedrooms would not be beneficial to the occupants.
- The property should remain a family home in this family area.
- There is not enough space to house at least 8 residents.
- The proposal will increase waste. The refuse area shown on the plans is not being used and instead the bins are being stored to the front of the property behind the railings.
- The hours and days of construction are excessive.

Local Ward Councillors were also consulted, and no responses were received.

Officer's Analysis

Proposal

This application seeks full planning permission for a change of use from a 6 bedroom House in Multiple Occupation (HMO) (C4) to an 8 bedroom HMO (Sui Generis) and retrospective permission for the construction of 2 canopies to the rear.

The property currently benefits from a Lawful Development Certificate granting the use of the property as a HMO with 6 bedrooms.

The two additional bedrooms proposed would replace the store room in the basement and the bathroom on the first floor. Ensuites are proposed for every bedroom with the exception of bedrooms 3 on the first floor and 6 on the loft floor (both within the rear outrigger) which would have access to a shower room on the first floor.

The canopy and pergola extend over the refuse area at the rear and over the rear door access respectively. They are open at the sides and extend up to approximately 2.7m in height.

Principle of Development

The application site is not protected or of particular importance. It is defined on the Policies Map of the Gravesham Local Plan Core Strategy 2014 as lying within the urban settlement boundary of Gravesend. Policy CS02 of the Core Strategy prioritises development in the urban area as a sustainable location for development. Therefore, the principle of residential development in this area is generally supported. Furthermore, the change of use of the property to smaller units has previously considered acceptable (see planning history above). In light of these considerations, there is no objection to the broad principle of additional residential development on this site, subject to the proposal being appropriate in terms of other planning issues.

The main issues for consideration in the determination of this application are as follows:

- Design, character and appearance

- Residential amenity
- Highways and parking
- Ecological impact on the Thames Estuary and Marshes Ramsar/SPA.

Design, Character and Appearance

Section 12 of the NPPF 2023 relates to achieving well-designed places and sets out the Government's requirements in relation to design issues. Paragraph 126 emphasises the importance of achieving high quality, beautiful and sustainable buildings and places. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 130 of the NPPF 2023 seeks to ensure that development will add to the quality of an area, be visually attractive, and sympathetic to local character and history. Policy CS19 of the Core Strategy 2014 reflects these aims and requires that new development is well designed and respects the character and appearance of the surrounding area.

94 Gordon Road is a two storey end of terrace residential dwelling providing habitable living accommodation over three floors, including a basement area. The surrounding area is characterised as residential with similar terraced properties.



In terms of external alterations, there are no further changes proposed to the building itself – the lightwell, dormer and window/door changes have already been granted under previous applications.

The only other additions proposed are the canopy and pergola at the rear. As they are single storey and only up to 2.7m high, they are subservient, and as they are at the rear they would not have a detrimental impact on the visual amenity of the property itself or street scene in general.

Overall, the proposed external changes are considered to be appropriate in terms of size, scale and appearance, and would respect the character and appearance of the area. As such, the proposal would

comply with the requirements of Policy CS19 of the Core Strategy 2014.

Residential Amenity

The NPPF 2023 states that planning decisions should aim to secure a high standard of amenity for all existing and future users (paragraph 130f). The impact on amenity is also considered with regard to the criteria within Policy CS19 of the Core Strategy 2014, which states that new development should be located, designed and constructed to safeguard the amenity, including privacy, daylight and sunlight, of its occupants, and those of neighbouring properties and land; and avoid adverse environmental impacts.

The amenity of future occupants are also safeguarded in saved Policy H5 (iv) of the Local Plan 1994, which requires that proposals for the conversion of existing properties to HMO use will have regard to the adopted Council's Residential Layout Guidelines. This has been replaced by the Nationally Described Space Standards (NDSS), which set out minimum internal areas for new dwellings based on the level of occupancy, bedroom size and number of storeys. However, these relate more readily to flat conversions than HMOs. The Council has its own adopted guidance on HMO amenity standards, which include minimum room sizes, and this is relevant to the assessment of this proposal.

Internal living space

Under the current application, the submitted Design and Access Statement states the rooms will be single occupancy.

For a single person unit, a bedroom should have a minimum floorspace of 6.51m². The two additional bedroom floor areas provided are 9m² (first floor) and 17m² (basement) The rooms would therefore all be acceptable for a single person.

There is one kitchen/dining room provided on the ground floor. This space measures 27m². The HMO amenity standards require a minimum 11m² kitchen for 7-10 occupants and 2m² per person of dining space. For up to 8 occupants this would equate to 27m². Therefore, the proposed kitchen/dining space would meet the required minimum standard.

However, where there are no communal living spaces, bedrooms should achieve at least 10m² for single occupancy. There are three bedrooms that fall below this standard, but the kitchen/dining room is considered to be sufficient in terms of providing the living space for these rooms, as there will be a communal seating provision.

It is recognised that the proposal includes a basement bedroom, but this has already been previously approved in previous applications, and the lightwell provides additional light to this space.

It is therefore considered that this proposal would meet the minimum standards required from the HMO Amenity Standards SPG. The layout would be restricted by an approved plans condition, and would also have to remain as shown in order to comply with HMO licensing requirements.

In terms of refuse storage, the submitted plans show space to store bins at the rear of the property. Neighbour concerns have been raised about an increase in waste from additional residents, and bin storage at the front of the property. However, bin storage for various properties along the road is visible at the front; therefore, the proposed refuse storage arrangements are in keeping with this common practice.

Given that there may be amenity concerns about a higher number of occupants at the property, it would be considered appropriate to restrict the number of occupants to no more than 8 single occupants. This would then also accord with the HMO licence.

On the basis of a restriction on the number of occupants, there is no conflict with the requirements of paragraph 130 of the NPPF 2023, Policy CS19 of the Core Strategy, saved Policy H5 of the Local Plan and the Guidance to HMO Amenity Standards in respect of the living conditions for future occupants of the

HMO. The proposal provides adequate bedroom and communal space and is considered to provide an acceptable standard of amenity for future occupiers.

Neighbouring amenity

It is recognised that a concern has been raised about the loss of light to neighbouring property from the pergola/canopy at the rear:



It must be considered that due to the constraints of the site, the closest canopy to the neighbour would only be approximately 1.7m closer than the existing flank building line of the rear outrigger, and as single storey at approximately 2.7m high, it would not project excessively above the height of the existing boundary. Furthermore, it must be considered that the rear of the properties would already be in shade for a large part of the day regardless of any rear additions due to the eastern orientation at the rear, and the existing two storey outriggers already restrict light to existing ground floor windows. This would not be made significantly worse by the canopies. They are also not solid or enclosed structures and would not safely be able to house electrical items. If the form of these structures were to change, it would be in breach of the approved plans condition.

With regards to impact on privacy from the change of the first floor bedroom window in the rear outrigger facing No. 92 from obscure to clear glazing, this is an existing window facing a rear outrigger at No. 92. There are no windows at the same level at No. 92 and therefore there is no mutual overlooking. The ground floor windows at No. 92 serve a (non-habitable) kitchen and therefore the impact on privacy is not considered significantly harmful.

Whilst it is recognised that there are concerns from local residents about noise and disturbance from the proposed HMO use, this matter is not considered to lead to significant harm over and above what would be expected at a residential property. No concerns have been raised by the Council's Environmental Protection Officer. In terms of soundproofing at the property, this would be a matter controlled by Building Regulations as part of the conversion.

Overall, the proposal is unlikely to lead to significant harm to the amenity of local residents.

Parking and Highways

Policy CS11 of the Core Strategy 2014 and saved Policy P3 of the Local Plan 1994 require new development to provide sufficient parking in accordance with the adopted parking standards, taking account of the availability of alternative means of transport and accessibility to services and facilities.

There are no direct vehicle parking standards for HMOs. Therefore, the proposal has been considered with regard to the adopted parking guidance for new dwellings. Taken as a single household 2 spaces would be the minimum requirement for a four bedroom dwelling, but those bedrooms already exist and therefore no additional parking would be required for the proposal.

However, it is recognised that neighbours have raised concerns with parking in the area. The submitted parking evidence is very selective as it only illustrates one instant of time on the 25th July 2022, a Monday, and this may or may not be reflective of the normal situation. Without evidence to contradict the three images supplied it is doubtful that a Planning Inspector would support a refusal based on car parking provision.

Furthermore, given the accessibility of this site to public transport and town centre services and facilities, there are also alternative means for occupants to access employment and other services without the need for a car. Adopted policy encourages the use of alternative means of transport to the private car and offers flexibility in the application of the parking standards in accessible locations such as this.

All new dwellings should provide adequate and secure bicycle parking, and with guidance suggesting one space per bedroom for a flat or one space per bedroom for a house, less the existing provision for the property, this would equate to 4 cycle spaces. There is provision for 8 cycle spaces within the rear garden, and this should be conditioned to be provided.

Overall, there would be no significant adverse highways or parking impacts and it is considered that the proposed development would be in line with Policies CS11 and CS19 of the Core Strategy 2014 and Saved Policies T1 and P3 of the Local Plan 1994.

Any Other Material Planning Considerations

Thames Estuary and Marshes Ramsar / Special Protection Area (SPA) – SAMMS Tariff:

As the application site is within 6km of the Thames Estuary and Marshes SPA/Ramsar Sites and would provide additional residential accommodation, the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. On this basis a tariff of £628.10 is required (given there would be two additional bedrooms proposed on the site).

The applicant has signed a SAMMS Contribution Agreement and paid the appropriate tariff for the development, which would help put in place adequate measures to mitigate against potential significant adverse effects on the Thames Estuary and Marshes SPA/Ramsar Sites, and would meet the requirements of paragraphs 174 and 180 of the NPPF 2023 and Policy CS12 of the Core Strategy 2014.

Conclusion and Recommendation

The proposed development would provide a net increase of 2 bedrooms at the property. A HMO would only contribute towards the local housing need if the HMO is created by change of use from a non-residential building. As this is not the case with this application, the proposal does not affect the five year housing supply.

Overall and subject to conditions, the proposal is considered to be acceptable in terms of the design and

impact on the application building and the character and appearance of the surrounding area, and with regards to residential amenity, highway matters and environmental matters. The proposal would therefore comply with the requirements of Policies CS02, CS11, CS12 and CS19 of the Gravesham Local Plan Core Strategy 2014, saved Policies H5, T1 and P3 of the Local Plan 1994, and paragraphs 111, 130 174 and 180 of the NPPF 2023.

(For detailed conditions and informatives, see draft Decision.)

Case Officer:	Mrs Katherine Parkin	Team Leader:	Richard Hart
Signed:	<i>K. Parkin</i>	Signed:	<i>R Hart</i>
Dated:	5th October 2023	Dated:	10th October 2023