



SUMMARY REPORT

Application Ref:	20211047
Site Address:	25 The Avenue, Gravesend, Kent, DA11 0NA
Application Description:	Retrospective application for change of use from dwelling house to an 11no. bedroom house of multiple occupation.
Applicant:	Mr Jasbir Dosanjh
Agent:	Mr Herjindur Channa
Ward:	Pelham
Parish:	Non-Parish Area
Decision due date:	29 November 2021
Publicity expiry date:	29 September 2021
Decision Level:	Planning Committee – Wednesday 24 November 2021
Reason for referral:	Councillor Call-In
Recommendation:	Refuse

Summary of Reasons for Recommendations

The application by virtue of the adverse effects of granting planning permission in relation to the clearly cramped nature of this House in Multiple Occupation (HMO), as well as a failure to demonstrate the provision for certain facilities, fails to provide a high standard of amenity for future occupiers. On this basis, the application is unacceptable and is not compliant with national and local planning policy.

MAIN REPORT

1. Proposal

- 1.1. This application seeks retrospective permission for a change of use from a dwelling house to an 11no. bedroom house of multiple occupation (HMO).
- 1.2. The internal alterations to the ground floor create 4 bedrooms, a kitchen/sitting area and two WC/shower rooms. The first floor contains 4 bedrooms, a bathroom and a WC/shower room, and the second floor has 3 further bedrooms.
- 1.3. There are no external alterations.

2. Relevant Planning History

<u>Application No.</u>	<u>Description</u>	<u>Status</u>	<u>Decision</u>
20210980	Erection of a brick built outbuilding in the rear garden to form a gym and storage.	Refused	22.10.2021
20210529	Erection of single storey rear extension.	Permitted	21.06.2021
20170260	Erection of a single storey rear extension.	Permitted	12.06.2017
19910683	Change of use of single family dwelling to residential care home for the elderly.	Permitted	24.03.1992
19850219	Erection of single storey rear extension to form kitchen breakfast area shower room and wc	Permitted	14.06.1985

3. Planning Policy, Development Plan and other Material Considerations

Development Plan

3.1. The Development Plan for Gravesham currently comprises:

Gravesham Local Plan Core Strategy and Policies Map, September 2014;
Saved policies in the Gravesham Local Plan First Review, November 1994;
The Kent Minerals and Waste Local Plan 2013 - 2030 (July 2016, revised 2020)

3.2. The relevant policies for this proposal are as follows:

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
- CS19 – Design and Development Principles
- CS20 – Heritage and the Historic Environment

Saved Policies in the Gravesham Local Plan First Review 1994

- H5 – Increasing the Housing Stock by the Conversion of Existing Buildings
- TC3 – Development Affecting Conservation Areas
- T1 – Impact of Development on the Highway Network
- P3 – Vehicle Parking Standards

3.3. Paragraph 33 of the NPPF 2021 sets out that those 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.

- 3.4. The Council undertook such a review in September 2019 and the review 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 a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan First Review 1994 generally conform with the NPPF 2021, the Council will also seek to replace these saved policies via the emerging Local Plan.
- 3.5. Given Gravesham'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 Core Strategy Policy CS02 must be regarded to be out of date, as required by the Paragraph 11(d) of the NPPF 2021. This requires that in regard to housing development, planning permission should be granted unless:
- 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
 - 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.
- 3.6. In the Gravesham context, the policies referred to in paragraph 11(d)(i) above are those set out in the NPPF 2021 at footnote 7 (rather than those in development plans) relating to any of the following:
- Habitats sites (and those sites listed in NPPF 2021, paragraph 181)
 - Sites of Special Scientific Interest;
 - Green Belt;
 - Local Green Space;
 - Areas of Outstanding Natural Beauty;
 - Irreplaceable habitats;
 - Designated heritage assets (and other heritage assets of archaeological interest, see NPPF 2021, footnote 68); and
 - Areas at risk of flooding or coastal change.
- 3.7. 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 121(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.

Other Material Considerations

National Planning Policy Framework 2021

- 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
- Section 16 – Conserving and enhancing the historic environment

Supplementary Planning Guidance (SPG)

- SPG2 – Residential Layout Guidelines (2020)

- SPG4 – KCC Parking Standards (2006)
- Guidance to HMO Amenity Standards (2006)
- Pelham Road/The Avenue Conservation Area Appraisal (2009)
- Technical Housing Standards – Nationally Described Space Standards (2015)

4. Consultations, Publicity and Representations

4.1. The application has been advertised by individual neighbour letters to 24 properties, and on site. The consultation periods expired on 29 September and 8 October 2021 respectively. There have been 12 representations in total, objecting on the following grounds:

- The plans detract from the current character of the area and fail to make a positive contribution to the environment, contrary to planning policy.
- There are already a large number of HMOs in the area (54% in the Pelham Road/The Avenue Conservation Area), though many do not have more than 6 occupants. The change of family homes into HMOs is changing the neighbourhood.
- The development will increase pressure on local amenities.
- The development will increase noise.
- The development will increase incidents of crime, anti-social behaviour and litter. Occupants do not feel the same sense of community or responsibility as homeowners.
- Poor standards of amenity for future occupants, failing to create better places to live: there are not enough bathrooms for the occupant numbers; the sizes of the WC/shower rooms is not shown on the plans and nor are the positions of sanitary ware; it is not clear how this will fit; the kitchen/sitting room is too small for 11 occupants.
- There are discrepancies in the Design and Access Statement, including reference to 9 bedrooms not 11.
- No plans for refuse storage.
- The development has the potential to add up to 11 vehicles on the road, increasing existing parking pressures and highway safety problems, including for cyclists as the road is part of the National Cycle Network.
- The extension has already been built and does not have rooflights as shown on the plans.
- As this development is retrospective, it would appear to be a deliberate attempt to put pressure on granting planning permission.

5. Site Description and Surroundings

- 5.1. The application site is defined on the Gravesham Local Plan Core Strategy 2014 Policies Map as lying in the urban area of Gravesend. It is in a residential area comprising a mix of two storey detached, semi-detached and terraced properties.
- 5.2. The application site consists of a large two storey (plus attic) semi-detached dwelling in The Avenue, in use as a single dwelling but is in the process of being converted to an HMO. The site is in the Pelham Road/The Avenue Conservation Area, which is subject to an Article 4 Direction.
- 5.3. One of the key characteristics of the Conservation Area are the small groups of houses built to an identical design, with clusters of these different style buildings running along the street. The east side of The Avenue is notable for this; the application property is one of such a group of pairs of semi-detached houses.
- 5.4. The front garden contains paths to the front door and a narrow side access through to the rear garden of the property. The front garden contains an area of grass and is enclosed by a low brick wall to the front boundary. The rear garden is largely laid to

lawn. As can be seen from the above planning history, a single storey rear extension has been approved at the property and is being constructed (application 20210529).

- 5.5. The Avenue is a Permit Parking Area (PPA) and in Zone TC04. The parking restrictions in Zone TC04 apply from 11am to 12 noon, Monday to Friday. During these times a valid PPA permit must be displayed to be permitted to park.

6. Service Manager (Planning) Comments

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

- Principle of development
- Design and impact on character and appearance of surrounding area
- Residential amenity
- Highways and parking
- Ecological impact on the Thames Estuary and Marshes Ramsar/SPA.

Principle of Development

- 6.2. It is important to safeguard and make the best use of the existing housing stock in Gravesham. Policy CS02 of the Core Strategy 2014 relates to the scale and distribution of development in the Borough, and states that the development strategy is to retain and improve the existing housing stock. In the preamble to Policy CS14 of the Core Strategy 2014 (Housing Type and Size), paragraph 5.10.6 states that the Council will protect existing family-sized housing (two and three bedroom homes) to ensure that a sufficient number of larger units are maintained, due to a recognised need for such housing.
- 6.3. Saved Policy H5 of the Local Plan 1994 seeks to accommodate the growing numbers of smaller households and provide low cost accommodation, while taking into consideration the character and amenity of existing housing areas where single family occupancy is the norm.
- 6.4. In considering proposals for the conversion of existing properties to various forms of multiple occupancy, Policy H5 (i) sets out that development should be in an appropriate area for conversion to flats, maisonettes, bedsitters and multiple occupancy. It also notes that unless there are special or overriding circumstances, conversions will not normally be permitted in an area comprised for the most part of single-family dwellings.
- 6.5. Policy H5 (ii) requires that the application building shall be of such a size and arrangement as to be generally unsuitable for single-family occupation (i.e. in excess of two storeys in height and with more than 6 habitable rooms).
- 6.6. Prior to any work taking place, and in considering the submitted existing floor plans, the application property contained 4 bedrooms. Its size is therefore in excess of the two and three bedroom family homes sought to be particularly retained by Policy CS14 of the Core Strategy 2014. As a whole, the size and internal arrangement of the application building would lend itself for a HMO use, given the number of bedrooms, height of the building and overall number of rooms within the property.
- 6.7. In terms of the character of the area, it is acknowledged that there are other non-single dwellings/HMOs in the immediate vicinity, including:

- No. 2 – a previous children’s care home granted planning permission for 8 bedsits with communal facilities and staffing areas to provide short-term supported accommodation (application 20190455).
 - No. 4 – planning permission granted for the change of use of premises from single dwelling to two-bedroom flats at ground floor level, three bedsits at first floor level and two bedsits at second floor level together with communal facilities formation of 5 car parking spaces at the rear (application 19870312).
 - No. 5 – an HMO licence renewal in 2019 describes accommodation for 10 people. The use as an HMO appears to have been used as such since at least 2007.
 - No. 15 - Use of premises as shared house with six bedrooms and communal facilities (application 19920025).
 - No. 17 – Use as three flats (confirmed by Lawful Development Certificate 20110484).
- 6.8. Given this mixed residential character, and the proposed continued residential use of the site in the form of an HMO, such an application for a change of use is not considered to erode the overall residential character of the area.
- 6.9. It must also be recognised that the site is close to the town centre, and being in such an accessible, sustainable and mixed residential location, it is considered to be in an appropriate area for an HMO use. On this basis, it is considered that an HMO use would comply with the requirements of saved Policy H5 of the Local Plan 1994 and Policy CS14 of the Core Strategy 2014.

Design and Character and Appearance of Surrounding Area

- 6.10. There are no external changes proposed as part of this application. Whilst the proposed occupiers may not have the same level of responsibility for the property as a homeowner, its occupation as an HMO, where there are no proposed changes to the exterior of the property, would not have any significant adverse impact on the character and appearance of the building and Conservation Area. On this basis, it is considered that the proposal would preserve the character and appearance of the application building and surrounding Conservation area. As such, the proposal would comply with the requirements of saved Policy TC3 of the Local Plan 1994, Policies CS19 and CS20 of the Core Strategy 2014, and paragraphs 124, 126, 189 and 197 of the NPPF 2021.

Residential Amenity

- 6.11. The NPPF 2021 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.
- 6.12. 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 are relevant to the assessment of this proposal.

Internal living space

- 6.13. It is not clear how many occupants there will be per bedroom. The submitted application form and Design and Access Statement simply state it will be 11 bedrooms; no room layouts have been provided. If the rooms are proposed to be double bedrooms, there could therefore be anything from 11 to 22 occupants at the property.
- 6.14. For a single person unit a bedroom should have a minimum floorspace of 6.5m². A two person unit a bedroom should have a minimum floorspace of 10m². Scaling off from the plans, the floor areas provided all appear to be slightly smaller than stated, albeit by a minimal amount. The majority of the bedrooms are in excess of 10m, with the exception of the two rooms within the ground floor rear extension (Room 9 scales off at 9.16m² and Room 11 scales off at 9.09m² (as opposed to 9.3m² for both rooms on the submitted floor plan)). These rooms would be acceptable for a single person, however.
- 6.15. Room 10 on the first floor scales off at 6.35m², though the submitted floor plan states 6.5m². There is a concern that this room is below the minimum standard, and would therefore be too cramped and provide an unacceptable living space for its occupant.
- 6.16. There is one kitchen/sitting room provided on the ground floor for all occupants to use. This space measures 22.94m². The standards require a minimum 11m² kitchen for 7-10 occupants and 2m² per person of dining space. For up to 11 occupants this would equate to 33m² (though the standard given for a kitchen is only for up to 10 persons). Therefore, the proposed kitchen/sitting space is well below the required minimum standard. Furthermore, this below standard space is the only kitchen/dining/living space for the whole property, to be used by at least 11 people – all of which could potentially want to cook, eat and sit at the same time. There is therefore a serious concern about the proposal failing to meet the minimum space standards required for kitchen, dining and living areas from the HMO Amenity Standards SPG. Such a cramped space would be unacceptable and would fail to provide adequate living accommodation for future occupants.
- 6.17. In addition, and also in relation to the recommended amenity standards, the second floor bedrooms are more than 1 floor distant from the only communal area; plus it is not clear whether bathrooms and the kitchen have the recommended mechanical ventilation; and it is not clear whether the proposal can provide wash hand basins in each bedroom. There is also no space laid out for refuse storage, which leads to a concern about the dumping of waste at the site.
- 6.18. These matters may also be an issue in terms of a licence for the HMO, as will be required for the proposal.
- 6.19. On the basis of these concerns, there is a conflict with the requirements of paragraph 130 of the NPPF 2021, 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, particularly in relation to a below standard bedroom and communal space, failing to provide a high standard of amenity.

Neighbouring amenity

- 6.20. No external alterations are proposed as part of the change to an HMO, and as such there are no issues of loss of light or privacy for neighbouring properties.
- 6.21. There are particular concerns from neighbours relating to likely noise and disturbance from the proposal, which with an increase in the number of occupants at the property, is likely to alter from what is experienced from the current use. However, the use of the

site would remain residential in so far as people are residing at the property, but if the use is not granted as a HMO (Class C4) it would also not be considered C3(c) as this has a limit of six people, and so would fall within the Sui Generis use class and therefore not defined as residential in terms of the Use Class Order. There would have to be demonstrated a substantial or sustained level of noise and disturbance from such a use to be able to justify significant harm to living conditions materially different from the use as a single family dwelling, or other HMOs on the area. There is no evidence from neighbours that this has occurred from similar uses on the road. It is therefore unlikely that this additional HMO use would significantly alter the impact on residential amenities in terms of noise and disturbance.

- 6.22. There have also been concerns from neighbours in relation to matters of increased crime and anti-social behaviour resulting from the proposal, which has apparently occurred with other multi-occupancy properties in the road, though no specific incidents have been raised. This matter was considered at an appeal for No. 2 The Avenue in 2011, relating to its continued use as a residential care home for children (application 20091002). The Inspector took the view that there was no evidence that the home had given rise to a level and nature of crime that would be unacceptably harmful to the amenity of local residents, and that it should also therefore not lead to a legitimate fear of crime. Anti-social behaviour would be recorded as an incident, but not as a crime, and no evidence of significant levels of anti-social behaviour has been described in the submitted neighbour representations relating to the current case.
- 6.23. On this basis, the proposal is unlikely to lead to significant harm to the amenity of local residents.

Parking and Highways

- 6.24. 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.
- 6.25. As an HMO, this development is outside the scope of supplementary planning guidance for Gravesham and Kent. Therefore, the proposal has been considered on the limited evidence available and the adopted parking guidance for new dwellings.
- 6.26. All new dwellings should provide adequate and secure bicycle parking, so with guidance suggesting one space per bedroom for a flat or one space per bedroom for a house, this would equate to 11 spaces. There would be provision for this within the rear garden, and this could be conditioned to be provided.
- 6.27. Given the accessibility of this site to public transport and town centre services and facilities, there are 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. In terms of car parking provision, as the property is edge of centre no car parking is required, and the TEMPRO figures suggests that some 46% of households in this area of Gravesham do not have access to a car. However, it is recognised that neighbours have raised parking concerns in relation to the number of occupants proposed, and given this is a residents permit area, a restriction could be imposed on the number of occupants applying for a permit. This could be achieved via a condition.

- 6.28. It is also recommended that appropriate provision should be made for the secure parking of motorcycles. This is outside the scope of planning guidance, but there is the potential for occupants to have access to a motorcycle, possibly more so than a car, and there is space at the property to be able to accommodate them. It is recommended that two spaces are provided, along with an electric charging point for battery powered motorcycles. This should be sought by condition.
- 6.29. On this basis, there would be no 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.

Other Material Planning Considerations

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

- 6.30. 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 £1776.81 is required (given there would be seven additional bedrooms proposed on the site).
- 6.31. This tariff was not requested due to the recommendation for the application, and the applicant has therefore not paid this tariff. Without an agreement in place to secure this contribution or any evidence to inform an appropriate assessment, the Local Planning Authority cannot be satisfied that the proposal would put in place adequate measures to mitigate potential significant adverse effects on the Thames Estuary and Marshes SPA/Ramsar Sites, which is contrary paragraphs 174 and 180 of the NPPF 2021 and Policy CS12 of the Core Strategy 2014.

Housing Need

- 6.32. The proposed development would provide a net increase of 7 bedrooms at the property. However HMOs cannot be counted as net additional dwellings as they would have been counted as a net additional dwellings in a previous year. 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 such the application does not affect the five year housing supply.

7. Conclusion and Overall Balancing Exercise

- 7.1. In this case, the adverse effects of granting planning permission in relation to the clearly cramped nature of this HMO, as well as a failure to demonstrate the provision for certain facilities, failing to provide a high standard of amenity for future occupiers, result in an application which is unacceptable and is not compliant with national and local planning policy.

Recommendation

The recommendation is for the application to be REFUSED Planning Permission on the following grounds:

1. The proposed development would fail to comply with the Guidance to HMO Amenity Standards in respect of the living conditions for future occupants of the proposed HMO, with regard to inadequate provision of acceptable kitchen/living/dining and bedroom spaces, and the failure to demonstrate appropriate provision for hand wash basins, bathroom ventilation, and refuse storage. The proposal would therefore fail to provide a high standard of amenity for future users, which would conflict with the requirements of the Guidance to HMO Amenity Standards 2006, saved Policy H5 of the Gravesham Local Plan First Review 1994, Policy CS19 of the Gravesham Local Plan Core Strategy 2014, and paragraph 130 of the National Planning Policy Framework 2021.
2. The proposal fails to secure a contribution towards strategic mitigation measures within the Thames Estuary and Marshes SPA/Ramsar Sites to resolve disturbance issues to wintering birds, and in the absence of this contribution or any evidence to inform an appropriate assessment, the development fails to comply with the requirements of the Habitat Regulations and paragraphs 174 and 180 of the National Planning Policy Framework 2021 and Policy CS12 of the Gravesham Local Plan Core Strategy 2014.

INFORMATIVES:-

- 1 **DRAWINGS AND DOCUMENTS**
- 2 **STATEMENT OF POSITIVE AND PROACTIVE APPROACH TO DECISION-TAKING**