

3/09/1856/FP - Change of use to 7 bedroom House of Multiple Occupation at 35 Clements Street, Ware, SG12 7AG for Mr. Bancroft.

Date of Receipt: 23.04.2009

Type: Full – Other

Parish: WARE

Ward: WARE - CHRISTCHURCH

RECOMMENDATION

That planning permission be **GRANTED** subject to the following conditions:-

1. Within 3 months of the date of this permission, the internal accommodation and external layout of the site, including construction of the front boundary wall, shall be amended in accordance with approved drawing 0832 EP01 rev D, and shall thereafter be retained in that form.

Reason: In the interests of the appearance of the development and neighbouring amenity in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

2. Refuse disposal facilities (2E24) – change to ‘Within 3 months of the date of this permission...’
3. Landscape design proposals (4P12 i,j,k,l) – change to ‘Within 3 months of the date of this permission...’
4. Landscape works implementation (4P13)
5. Retention of landscaping (4P21)
6. Following 3 months from the date of this permission, the occupancy of this building shall be restricted to 8 people at any one time and in accordance with the layout shown on approved drawing 0832EP01 rev D.

Reason: In the interest of neighbouring amenity in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

Directives

1. Other legislation

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review April 2007), and in particular policies SD2, HSG9, TR7, ENV1, ENV2. The balance of the considerations having regard to those policies is that permission should be granted.

_____ (185609FP.HS)

1.0 Background

- 1.1 The application site is shown on the attached OS extract. It comprises an extended semi-detached dwelling located in a residential cul-de-sac of similar semi-detached properties. The dwelling has already been unlawfully converted into a 9 bed House of Multiple Occupation (HMO), for which retrospective permission was recently refused and dismissed at appeal. The site is also subject to ongoing enforcement action. This application proposes a reduction to 7 bedrooms.
- 1.2 The application was originally described as an 8 bed HMO but the drawing showed 7 bedrooms. The applicant confirmed that this was submitted in error and intended to amend the drawing to show 8 bedrooms. Officers advised that they would not consider an 8 bed scheme to be acceptable; this would not overcome previous objections and the Inspector's decision based on 9 bedrooms. Following negotiation with Officers, the applicant has therefore amended the layout to provide 7 no. bedrooms on only 2 floors. The second floor, which currently contains 2 no. bedrooms, will be used for the applicant's storage.
- 1.3 The internal layout of the building has therefore been primarily changed through the removal of the second floor accommodation. Environmental Health had indicated that they were satisfied with the 8 bed HMO in terms of layout, living environment and fire safety issues, and would have been happy to licence the building as an 8 bed HMO. Nonetheless, planning legislation considers wider issues, such as parking, refuse, and impact on neighbours, and in determining this application, particular regard is had to the previous appeal decision.

2.0 Site History

- 2.1 The building was extended in the late 1980s/early 1990s following the grant of consent for two storey side and single storey front extensions in August 1988 (3/88/1293/FP). At this time, the building was used as a single residential dwelling.

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- 2.2 In July 2008, it came to the attention of Officers that the building was being occupied as an HMO without planning permission. The owner of the building was contacted, and in October 2008, a retrospective application for a 9 bedroom HMO was received and registered (3/08/1755/FP). This application was refused on the grounds of inadequate living conditions for the occupiers; adverse impact on neighbours by reason of frequency of movements; inadequate refuse facilities, and insufficient parking provision.
- 2.3 Members may recall that they authorised the serving of an enforcement notice at Committee in January 2009, and this was served on 28th January 2009. The owner then lodged an appeal against both the planning refusal and enforcement notice. This appeal was dismissed, and the requirements of the enforcement notice upheld (requiring the use of the building as an HMO to cease within 6 months – i.e. by 22nd March 2010).
- 2.4 In coming to her decision, the Inspector agreed with Officers that the HMO provided a sub-standard level of accommodation with inadequate refuse facilities. She also concluded that the change of use has a harmful effect on neighbours' living conditions with regards to noise, disturbance and visual amenity, and that insufficient parking provision was available for the number of rooms.

3.0 Consultation Responses

- 3.1 County Highways do not wish to restrict the grant of permission subject to a condition that the forecourt be modified within 6 months of the grant of permission. They advise that when dismissing the previous appeal for a 9 bed HMO, the Inspector concluded that insufficient parking was provided and that the proposal was contrary to policy TR7 of the Local Plan. In response to the 8 bed scheme, Highways stated that despite the reduction in the number of bedrooms, the scheme did not overcome that objection. Nevertheless, in terms of implications for the strategic highway network there is no overriding reason for the highway authority to raise an objection. They have no record of the existing unauthorised use causing problems beyond Clements Street and therefore leave it to the judgment of the Local Planning Authority whether continued opposition to the proposal is justified.
- 3.2 Environmental Health do not wish to restrict the grant of permission. Based on the 8 bed scheme, that department was proposing to licence the HMO, limiting occupation to a maximum of 8 persons. The proposed drawings have been reviewed by the fire officer and are considered acceptable. Officers have spoken to Environmental Officers following receipt of the amended, 7 bedroom drawing, and they have verbally advised that a reduction to only two floors of accommodation now exempts the building from HMO licensing.

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3.3 Waste Services have given a verbal response - the development would require 1 x 1100L bin (1.4m x 1.1m and 2.5m high lid open), and 4 x 240L recycling bins (0.7m x 0.8m and 1.2m high lid shut).

4.0 Town Council Representations

4.1 Ware Town Council object on the grounds of insufficient parking and amenities for this multiple occupation which are considered to be detrimental to the area. The committee support the comments made by the Planning Inspector on the previous appeal.

5.0 Other Representations

5.1 The application has been advertised by way of discretionary site notice and neighbour notification.

5.2 2 no. letters have been received from Nos. 5 and 37 Clements Street, which can be summarised as follows:-

- The site is within an area of flood risk;
- The drawings show only 7 rooms, not 8;
- Concern over fire risk by converting a second floor room into a kitchen as there was a fire in the roof of No. 35 in February 1989;
- Ongoing problem with a lack of wheelie bins – these are inadequate and there is always an unsightly overspill on the forecourt;
- The external appearance of the building has not improved;
- Problems with parking;

6.0 Policy

6.1 The relevant Local Plan policies in this application include the following:-

SD2	Settlement Hierarchy
HSG9	Houses in Multiple Occupation
TR7	Car Parking - Standards
ENV1	Design and Environmental Quality
ENV2	Landscaping

In addition to the above it is considered that Planning Policy Statement 1, (Delivering Sustainable Development), and Planning Policy Statement 3 (Housing) are considerations within this application.

7.0 Considerations

Principle of Development

- 7.1 The site lies within the built-up area of Ware wherein the change of use is acceptable in principle. Policy HSG9 supports the provision of HMOs and it is acknowledged that HMOs make a valuable contribution towards housing provision for those in need of affordable accommodation. However, this policy is subject to providing a satisfactory living environment for occupiers, and adequate facilities for the storage and disposal of refuse. The provision of adequate parking is also a material consideration, as set out in policy TR7, and policy ENV1 applies in ensuring that the amenities and living conditions of neighbours are respected.

Living Conditions

- 7.2 In terms of internal living conditions, the smallest room on the second floor, that was explicitly referred to in the Inspector's decision, has now been removed. In fact, the whole second floor is proposed as ancillary storage space only, leaving 7 no. bedrooms on two floors. It is noted that the ground floor kitchen remains unchanged with an area of 9.3m², and this falls somewhat below the Council's Standard of 23m² as set out in the Council's guidance on 'Amenity Standards for Houses in Multiple Occupation and Other Houses'. However, the reduction in the number of bedrooms has now reduced the pressure on shared facilities, including kitchen, utility and bathroom facilities, and it is therefore no longer considered to be unacceptable. Environmental Health had indicated that they were satisfied with the internal layout and facilities proposed for the 8 bed scheme and were minded to grant a licence for an 8 bed HMO. It is therefore considered that the first reason for refusal which related to internal living accommodation has been overcome.
- 7.3 The second reason for refusal related to impact on occupants and neighbours by reason of comings and goings and inadequate refuse facilities and storage to the front of the dwelling. The Inspector agreed that the use of the dwelling as an HMO would result in a greater frequency of movements and that the lifestyle of occupiers "*could result in undue noise and disturbance in the area than if the dwelling was in single family occupation.*" Given that the number of bedrooms has been reduced from 9 to 7, Officers consider that the frequency of movements would now be noticeably reduced and would not result in harmful disturbance to neighbours.

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- 7.4 In terms of refuse storage, space has been identified on the submitted drawings for the storage of wheelie bins to the front of the building with some new fence and plant screening. Although this space does not appear to be large enough to accommodate the number and size of bins necessary for 7 bedrooms, Officers consider that sufficient space is available for storage of these bins without causing undue harm to visual amenity. Waste Services have indicated that the development would require the provision of 1 x 1100L bin (measuring 1.4m x 1.1m and 2.5m high lid open), and 4 x 240L recycling bins (measuring 0.7m x 0.8m and 1.2m high lid shut). This amounts to a total waste storage area of 3.78m², notwithstanding the need to position the bins in a usable and accessible layout.
- 7.5 Whilst this is a considerable area of land to be provided for refuse storage to the front of the dwelling, Officers consider this to be achievable given the reduction in the number of bedrooms, and the reduction in forecourt parking space. Officers also consider that the provision of a fence and planted screen, including a new tree, will serve to adequately shield the refuse storage area from the street and neighbours. It is noted that this refuse area would be located adjacent to the neighbouring boundary with No. 34; however this adjacent area is where the neighbour also stores their refuse bins. Details of the larger required bin enclosure, fencing and planting can be controlled by way of planning conditions.
- 7.6 The storage of waste to the rear of the building has been considered; however, the Inspector previously noted that the status of the access way is unknown, and that *“the likelihood of the occupiers complying with the requirement to... wheel the bins to the front on the appropriate collection day appears to me to be remote.”* It is therefore not considered that a condition to require waste storage to the rear of the building would be reasonable in this case.
- 7.7 In terms of occupancy, Environmental Health had previously been satisfied with the 8 bed layout and were preparing to issue an HMO licence for 8 occupiers. Officers consider that although the scheme has been reduced to 7 bedrooms, it would be reasonable to restrict the occupancy to 8 people, allowing for 1 sharing couple to occupy one of the larger rooms (such as bedroom 5 measuring 15m²). It is important to note that refuse and parking standards are based on the number of bedrooms, rather than the number of occupiers, and Officers consider that the amount of waste and frequency of movements by one additional sharing partner would not materially increase so as to harm neighbouring amenity. A condition is therefore recommended to restrict occupancy to 8 people following 3 months of the date of the decision (allowing time for the serving of any necessary eviction notices).

Access and Parking

- 7.8 Finally, the issue of parking is considered. The submitted drawings indicate the provision of 2 no. car parking spaces on the forecourt of the building, with a low brick wall constructed along the rest of the forecourt to prevent further cars being accommodated. This is due to an earlier highway objection to a full width cross-over and restricts the parking space available to 2 no. spaces. The Council's adopted parking standards indicate a maximum provision of 0.5 spaces per tenancy unit for an HMO. Therefore, for a 7 bed HMO, a maximum of 3.5 no. spaces would be expected. However, the site lies within parking zone 3 wherein a 50-75% reduction in provision would be considered acceptable; the greatest acceptable provision is therefore 1.75 spaces.
- 7.9 In applying this lower provision, regard must be had to the nature of the development, local traffic conditions, the relevance of rail services and the existing public parking supply (as set out in 3.21 of the Council's adopted Parking SPD). In this case, as agreed by the Inspector, the site is well located for accessibility to shops, services and public transport, including Ware Railway Station. In terms of local traffic conditions, it is noted that Clements Street is already congested with much on-street parking, and that a reduced parking provision at No. 35 may aggravate this situation. However, there are no parking restrictions in the immediate vicinity, and County Highways have acknowledged that even the 8 bed scheme would have no unacceptable implications for the strategic highway network. It is also noted that, according to the applicant, although the HMO is fully occupied, only 1 existing resident has a car and 1 has a motorbike.
- 7.10 Overall, Officers consider that it would be difficult to sustain an objection on the grounds of insufficient parking, given that the provision of 2 no. spaces complies with the Council's adopted standards, taking into account a 50-75% reduction for the location of the site. A condition is recommended to require that the front boundary wall be constructed within 3 months of the decision; this is considered a reasonable time period for such work to be undertaken.

Flood Risk

- 7.11 Finally, it is noted that the site lies within Floodzone 2; however the change of use does not result in a 'more vulnerable' use (as specified in Table D1 of PPS25) and therefore consultation with the Environment Agency is not necessary.

8.0 Conclusion

- 8.1 Overall, it is considered that a reduction from 9 bedrooms to 7 bedrooms by way of removing the second floor accommodation has resulted in more satisfactory living conditions for the occupiers. The reduction in occupancy has also reduced the refuse storage requirements, which Officers consider can now be satisfactorily accommodated on the forecourt provided appropriate screening is provided by way of condition. Finally, the provision of 2 no. car off-road car parking spaces is considered to comply with the Council's adopted standards.
- 8.2 Officers therefore consider that the previous reasons for refusal, and the issues raised in the Inspector's appeal decision have been overcome, and the application is therefore recommended for approval subject to the conditions set out above.