

# Planning Committee

19 August 2020



<b>Application No.</b>	20/00150/FUL
<b>Site Address</b>	11 Hogarth Avenue, Ashford, TW15 1QB
<b>Applicant</b>	Mr Paul James
<b>Proposal</b>	Change of use of existing dwelling to a 7 bedroom HMO including increase to height of an existing rear extension and conversion of two integral garages to habitable accommodation.
<b>Case Officer</b>	Matthew Clapham
<b>Ward</b>	Ashford Common
<b>Called-in</b>	Cllr Noble – citing concerns over the impact upon character of the area, amenity of adjoining properties and parking concerns.

<b>Application Dates</b>	Valid: 20.02.2020	Expiry: 16.04.2020	Target: Extension of Time agreed (21.8.2020)
<b>Executive Summary</b>	<p>The application seeks to change the use of the existing dwelling into a 7 person, 7 bedroom House in Multiple Occupation (HMO). The proposal would include the provision of 4 marked out parking spaces to the front of the dwelling, which is already made-up of hardstanding, the conversion of two existing integral garages into habitable accommodation may be carried out under permitted development, including the replacement of the garage doors with windows and further alterations to the fenestration of three windows to the rear.</p> <p>It is considered that the proposed change of use is acceptable in principle in this location. The change of use, with a proposal for a 7 no. bedroom HMO in this existing dwellinghouse, which is not being extended, would not have a detrimental impact upon the character and appearance of the locality. Nor would the proposal have a material harmful impact upon the residential amenity of the adjoining residential properties.</p> <p>Satisfactory amenity areas, both internally and externally, would be provided for future occupiers of the premises. There is no objection from Environmental Health and the use would need to be the subject of a separate licence. No significant concerns regarding noise and disturbance are considered to arise from the change of use, with no objections being raised by the Environmental Health Officer in this regard.</p>		

	<p>The site is considered to be located within a sustainable location with public transport facilities and retail outlets in close proximity, all within walking distance.</p> <p>No parking concerns are considered to arise in association with the proposed change of use. The County Highway's Authority has not raised any concerns regarding highway safety.</p> <p>.</p>
<b>Recommended Decision</b>	Approve the application subject to conditions set out at Paragraph 8 of the Report.

## MAIN REPORT

### 1. Development Plan

- 1.1 The following policies in the Council's Core Strategy and Policies DPD 2009 are considered relevant to this proposal:

EN1 – Design of New Development

EN11 – Development and Noise

CC3 – Parking Provision

### 2. Relevant Planning History

- 2.1 The site has the following planning history:

06/00393/FUL

Erection of a part two storey part first floor extension.

Granted 07.07.2006

### 3. Description of Current Proposal

- 3.1 The application relates to a semi-detached two storey dwelling house located on the eastern side of Hogarth Avenue on an irregular triangular shaped plot. The area is residential in character. The application proposes a change of use from a dwelling to a 7 bedroom HMO.
- 3.2 The proposal would provide 7 bedrooms, with 4 parking spaces to the front and external amenity space to the rear. There would be 2 communal kitchen areas, a communal lounge and a communal shower room and utility area at ground floor level. At first floor level, there would be communal kitchenette and shower facilities. The seven bedrooms (3 at ground floor level) and 4 at first floor level comprise 2 single bedrooms, 3 single bedrooms with en-suite facilities and 2 single bedrooms with en-suite and kitchenette facilities. All are single bedrooms and a condition is attached to limit the number of residents to seven.

- 3.3 There is an increase in the height of a single storey rear element, comprising an increase of 50cm to an existing flat roof element and a similar increase of 50cm to a sloping element. New windows are proposed, one at the rear and two to the front to replace the existing garage doors. These elements may be carried out as permitted development providing they are done prior to the use of the property as an HMO.
- 3.4 The site itself is an area of residential properties, between Feltham Hill Road to the North and the A308 Staines Road West to the south. Retail facilities are provided in Woodlands Parade (off Feltham Hill Road) and on the A308.

#### 4. Consultations

- 4.1 The following table shows those bodies consulted and their response.

Consultee	Comment
Environmental Health	Licensing – No objections.
County Highway Authority	No highway requirements.
Environmental Health	Noise – No objections.
Environmental Health	Pollution Control - No objections

#### 5. Public Consultation

- 5.1 A total of 35 letters of objection have been received, from 30 separate households raising the following concerns:
- Inadequate Parking
  - Highway Safety
  - Noise and disturbance from use
  - Accessibility to pavement
  - Use as a hostel / halfway house
  - Lack of notification
  - Out of character in family road
  - Lack of consideration to local demographic of families and pensioners
  - Overbearing
  - Traffic generation
  - Impact on property values
  - Precedent
  - Refuse arrangements
  - Other refusals in vicinity
  - Vermin, pests and rubbish

#### 6. Planning Issues

- 6.1 The main planning matters are:

- Principle of the change of use
- Impact upon the character and appearance of the area
- Amenity for future occupiers of the property
- Impact of noise and disturbance and amenity upon adjoining residential properties
- Parking and highway safety
- Other matters

## 7. Planning Considerations

### Principle of the Change of Use

- 7.1 The Town and County Planning Act (General Permitted Development) (England) Order 2015 (as amended) allows the change of use of a dwellinghouse (Class C3) to a House of Multiple Occupation (HMO) (Class C4) without planning permission, where the number of occupiers is limited to a shared house of up to six unrelated individuals. In this instance, the proposal is for an HMO for seven occupiers, therefore planning permission is required. Where there are more than six unrelated individuals sharing amenities, this is termed an HMO in *Sui Generis* use because it is not included in any of the planning use classes.
- 7.2 It is therefore important to note that six separate unrelated individuals may occupy the property without planning permission, and the consideration must therefore be in respect of the net cumulative impact of one additional person residing in this property. It should also be noted that the proposal would result in the provision of a sought after type of housing tenure that is needed within the Borough.
- 7.3 The property is located in a sustainable location and within an existing residential area. There are a number of public transport routes in close proximity, notably on the A308 (Staines Road West), School Road and Feltham Hill Road. Furthermore. There are commercial retail units at Woodlands Parade and a Marks and Spencer Simply Food outlet all within walking distance.
- 7.4 The proposal also includes alterations to an existing extension at the rear of the property, with a small increase in the height of an existing single storey rear extension by 50cm. .

### Impact upon the Character and appearance of the area.

- 7.5 The property is subject to limited external alterations, including minor changes to fenestration and the replacement of the garage doors and a small increase in the height of an existing rear extension. The conversion of the garages would not require planning permission and due to the extent of off street parking to the front of the property, this is not considered to be of concern. Therefore, the property will continue to appear as a semi-detached dwelling, commensurate with the character and appearance of the area. The addition of one additional person, with a condition restricting the number of occupiers to seven is considered to be reasonable in a dwelling of this size, with five bedrooms already existing in this dwelling and two new bedrooms in the converted garages. The Council would be unable to control the number of

occupiers in a single occupied dwelling house occupied as a single family unit.

- 7.6 It is noted that the area is characterised by largely family or sole-occupancy dwellings. However, as stated in the paragraph above, the Council cannot control who resides in any single residential dwelling and the property could be used by six single individual occupiers without the requirement of planning permission. The hardstanding to the front is already existing and may be used for parking already. Therefore, it is not considered that there would be any significant adverse impacts upon the character and appearance of the area.

#### Amenity for future occupiers of the property

- 7.7 The proposal includes a number of communal internal areas, including a stand-alone kitchen at ground floor level and a kitchenette at first floor level, together with a lounge, utility room and two shower rooms. A number of bedrooms also have their own en-suite facilities, with two having kitchenette areas. The Council's Environmental Health Licensing team have, while awaiting a formal license application, indicated that the proposals are likely to provide adequate accommodation in terms of both private and communal areas.
- 7.8 There is a garden area to the rear providing external amenity space, accessible from the communal kitchen/diner area, which, while noting that the garden tapers at the end, reflecting the irregular shape of the plot, is considered to provide a reasonable and good quality level of outdoor amenity space for the future occupiers of the development.
- 7.9 To the front, there are bedroom windows that face out onto the front hardstanding area. However, this is the existing situation and a buffer strip of planting is shown on the submitted plans. While this has the potential to result in some intermittent noise and disturbance and loss of outlook to the occupants of these rooms, this arrangement is not uncommon in HMO's where off street parking is often located to the front of ground floor windows. Moreover, given the conclusion that there is the opportunity for transport by means other than the car, which would influence the extent to which car parking movements would need to occur, it is not considered that the parking of vehicles on the frontage of the site would cause any unacceptable detrimental noise and disturbance to the proposed occupiers. The buffer area would provide a reasonable area to reduce the potential disturbance from vehicles accessing and egressing the parking area and a reasonable outlook from these windows. Therefore, it is considered that the proposal would provide an acceptable level of amenity for the future occupiers of the property.

#### Impact upon amenity upon adjoining residential properties

- 7.10 In terms of overbearing and loss of light, the small roof extension to the rear is very minimal and no significant impacts are considered to arise in terms of any physical impacts upon adjoining properties.
- 7.11 Concerns have been raised regarding potential noise and disturbance from the occupiers of the property and other concerns, such as pest and vermin and refuse concerns. In addition, concerns have also been raised regarding whether the dwelling could become a hostel or halfway house. The use of a property as an HMO does not necessarily mean that anti-social behaviour will result. A number of HMOs exist in the Borough with no issues arising. Any

concerns regarding anti-social behaviour will be a matter for the management company overseeing the HMO and subject to control by the Council's Environmental Health Licensing and Noise Control Officers, who may utilise separate legislation outside of planning to control these matters. A Change of Use to a hostel would require separate planning permission under a different use class.

- 7.12 In terms of parking concerns and the knock-on effect upon adjoining residential roads, some third party representations have commented upon the potential impact that the proposal would add to the visual dominance of cars in the street scene and reduced on street parking availability. However, it is not uncommon for streets in urban areas where there are limited opportunities for off street parking to have cars parked on both sides of the street. There is a predominance of unrestricted parking on both sides of the street on Hogarth Avenue and the surrounding streets and that this was part of the established character and appearance of the area.
- 7.13 These streets have a finite opportunity for on street car parking. Even if the streets were fully occupied by parked cars in the evening, the additional requirement for spaces in an unrestricted parking area as a result of the HMO would have little material impact on the appearance of the existing street scene. As the area is already fully parked in the evening, then any additional parking demand would not change the appearance of the street. Therefore it is considered that the proposal would not materially harm the character and appearance of the area and therefore would not be in conflict with the provisions of Policy EN1.

#### Highways and Parking

- 7.14 The County Highway Authority has not raised an objection to the proposal in terms of highway safety. The property is already used as a domestic dwelling and four parking spaces are proposed for a seven person HMO, utilising the existing hardstanding. The Council's adopted Parking Standards (June 2001 and updated September 2011) do not have a specific standard for HMOs. However, the property could be occupied by an unlimited number of persons from the same household
- 7.15 As stated in paragraph 7.3 above, the site is considered to be located in a sustainable location and within a reasonable walking distance to public transport links and with access to a range of services and where there are other opportunities to travel other than by car. It may well be that not all occupants of the proposed HMO would have access to a car and could use the alternative transport means available in the locality.
- 7.16 The concerns that additional parking demands may give rise to access difficulties for emergency vehicles and for users of the pedestrian highway are noted. However, whilst recognising the importance of these matters to local residents, the highway authority have not raised concerns and it is apparent that there is still room to park on carriageway with space remaining for vehicles to pass. Given the lack of any substantive evidence that the proposal would give rise to highway safety issues, taking into account the views of the highway authority and the observations on site by the case officer, it is not considered that the proposal would not give rise to any demonstrable highway safety issues.

### Other Matters

- 7.17 It is considered that the level of notification of this application was acceptable and met statutory guidance. The impact upon property values is not a material planning consideration. The potential for 'precedent' is not considered relevant as each planning application has to be considered and determined on their own merits. Similarly, other appeal decisions in proximity to this application site, were determined on their own merits. With regard to the third party comments regarding refuse storage, the level of refuse created is considered to be commensurate with any large family dwelling and a suitable condition requesting details of the refuse storage area has been attached to reflect the HMO status. With regard to the report presented to the Overview and Scrutiny Committee in January 2020, the report made it clear that the numbers of HMOs in the borough compared with the numbers of householders was a very small amount. It is not considered that the use of the dwelling as an HMO would cause nuisances such as pests, vermin and rubbish and these are a matter for the management of the property and Environmental Health.

### Equalities Act 2010

- 7.18 This planning application has been considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard to the need to :
- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The question in every case is whether the decision maker has in substance had due regard to the relevant statutory need, to see whether the duty has been performed.

The Council's obligation is to have due regard to the need to achieve these goals in making its decisions. Due regard means to have such regard as is appropriate in all the circumstances.

It is considered that the decision would have regard to this duty.

### Human Rights Act 1998

- 7.19 This planning application has been considered against the provisions of the Human Rights Act 1998.

Among others, under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Article 1 of the First Article confer a right to respect private and family life and a right to the protection of property, i.e. peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Spelthorne Local Plan and the NPPF and all material planning considerations, Officers have concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by the approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

#### Financial Considerations

- 7.20 Under S155 of the Housing and Planning Act 2016, Local Planning Authorities are now required to ensure that potential financial benefits of certain development proposals are made public when a Local Planning Authority is considering whether or not to grant planning permission for planning applications which are being determined by the Council's Planning Committee. A financial benefit must be recorded regardless of whether it is material to the Local Planning Authority's decision on a planning application, but planning officers are required to indicate their opinion as to whether the benefit is material to the application or not. In consideration of S155 of the Housing and Planning Act 2016, the proposal is not a community infrastructure levy (CIL) chargeable development as such there is no financial benefit associated with this planning application.

#### Conclusion

- 7.21 The proposal is considered to be an acceptable form of development providing a 7 bedroom HMO with associated parking and internal and external amenity areas and facilities for the future occupiers. It is not considered that there will be any adverse impacts upon the character and appearance of the area nor any detrimental harmful impacts upon the residential amenity of adjoining properties. Four parking spaces are provided for 7 occupants which is considered acceptable. The County Highways Authority has not raised any concerns regarding highway safety. The use of a dwelling as an HMO with good management does not necessarily mean that there will be anti-social behaviour. This is also a licensing matter for the Environmental Health Team who have not raised any concerns, although await a licence application. Therefore the proposal is considered to be conform to Policies EN1 of the Core Strategy and Policies DPD, 'Consequently the application is recommended for approval.



## **8. Recommendation**

### **8.1 GRANT subject to the following conditions:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: - This condition is required by Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and drawings:-

Site Location Plan; drawing no. 01; 02 received 20.02.2020 and 03 rev H; 04 rev H received 6.7.2020 and 05 rev I received 7.8.2020.

Reason: - For the avoidance of doubt and in the interest of proper planning

3. The occupation of the HMO hereby permitted shall be limited to a maximum of 7 residents at any time.

Reason:-.To safeguard the amenity and character of the local area in accordance with policies SP6, EN1 and EN11 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

4. Facilities within the curtilage of the site for the storage of refuse and recycling materials shall be submitted to and approved by the Local Planning Authority. The agreed details shall be implemented prior to the occupation of the development hereby approved and retained thereafter.

Reason:- To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and the appearance of the locality in accordance with policies SP6 and EN1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

5. The development hereby approved shall not be first occupied unless and until facilities have been provided in accordance with details to be provided showing the secure parking of bicycles within the development site that have been approved in writing by the Local Planning Authority. Thereafter, the said approved facilities shall be retained and maintained to the satisfaction of the Local Planning Authority.

Reason:- In order that the development makes suitable provision for sustainable travel, in accordance with the sustainable objectives of Chapter 9 "Promoting sustainable transport" of the National Planning Policy Framework 2019, and policies CC2 and CC3 of Spelthorne Borough Council's Core Strategy and Policies Development Plan Document February 2009.

## INFORMATIVES TO APPLICANT

1. Access by the Fire Brigade  
Notice of the provisions of Section 20 of the Surrey County Council Act 1985 is hereby endorsed on this planning permission. Copies of the Section may be obtained from the Council Offices or from County Hall. Section 20 of this Act requires that when a building is erected or extended, proper provision must be made for the Fire Brigade to have means of access to the building or to any neighbouring buildings. There are also requirements relating to access and facilities for the fire service contained in Part B of the Building Regulations 2000 (as amended).
2. The applicant's attention is drawn to the Equalities Act 2010, which requires the property to be accessible to disabled people.
3. The applicant is advised that the extensions, new windows and conversion of the garages as shown on the approved plans may be carried out as permitted development providing they are done prior to the use of the property as an HMO.