

**Report to:** PLANNING COMMITTEE

**Date:** 27 January 2016

**Report from:** Assistant Director of Housing and Built Environment

**Application Address:** 3 & 4 Linton Road, Hastings, TN34 1TN  
**Proposal:** Change of use from residential to HMO (retrospective).

**Application No:** HS/FA/15/00834

**Recommendation:** Grant Full Planning Permission

Ward: BRAYBROOKE  
File No: LI75003  
Applicant: Mr Branczyk per DIRECT PLANNING 95-97 Riverbank House Hight street St Mary Cray, Kent. BR5 3NH

Interest: Freeholder  
Existing Use: Unlicensed HMO

### **Policies**

Conservation Area: No  
National Planning Policy Framework:

Hastings Local Plan -  
The Hastings Planning Strategy:  
SC1 - Overall strategy for managing change in a sustainable way  
H2 - Housing mix  
H4 - Houses in Multiple occupation  
FA2 - Strategic policy for central area

Hastings Local Plan -  
Development Management Plan:  
DM3 - General amenity  
DM4 - General access  
HC1 - Conversion of existing dwellings  
LP1 - Considering planning applications

### **Public Consultation**

Adj. Properties: Yes  
Advertisement: No  
Letters of Objection: 7  
Petitions Received: 1

Application Status: Not delegated - More than 2 letters of objection received

## **Summary**

This application is for the retrospective change of use of the No.3 and No. 4 Linton Road to Houses of Multiple Occupation.

### 3 Linton Road

On the upper floors of the property there are 5 bedrooms, 2 bathrooms, a WC and a kitchen. The ground floor is currently used as a separate residential property for the applicant and his family. This use of the ground floor is proposed to continue and does not form part of the proposal for this application.

### 4 Linton Road

Within No. 4 there are 8 bedrooms, 1 bathroom, 1 WC and a kitchen.

It should be noted that within the curtilage of No. 4 a boiler room and ground floor WC have been erected without planning permission. Although the retention of these extensions is not included within this application, the Agent has been advised that a retrospective application should be submitted as a matter of urgency. If no such application is submitted, Planning Enforcement will progress the matter.

## **The Site and its Location**

No.3 and 4 form a pair of semi-detached, 3-storey dwellings located on the west side of Linton Road. The properties are set back from the highway and sited in a raised position with approx 21 steps up to the front doors. The front gardens are also terraced to reflect the topography.

This planning application has been submitted further to investigation by the Planning Enforcement team and the HMO Licensing department.

## **Details of the Proposal and Other Background Information**

Use class C4 Houses in multiple occupation (HMOs) are defined as small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom. Generally, under the Town and Country Planning (Use Classes) Order the change from a single private dwellinghouse to a class C4 HMO for up to 6 occupiers constitutes permitted development and therefore an application for planning permission is not required. The Council has implemented an Article 4 Direction for HMOs which means that planning permission will be required to change the use of a single family house into a shared house occupied by between three and six unrelated individuals. This direction came into effect on 02 July 2012 and covers the whole Borough. It is noted, irrespective of this order, that 4 Linton Road, with 8 bedrooms requires planning permission for use as an HMO.

## **Previous Site History**

### 3 Linton Road

HS/FA/79/00482 - Change of use from guest house to elderly person rest home -  
Granted - 22/08/1979

HS/FA/85/00523 - Erection of single storey rear extension - Granted - 27/09/1985

HS/FA/93/00640 - Change of use from rest home to residential - Granted - 14/02/1994

HS/FA/09/00068 - Loft conversion with dormers to side and rear on main roof. Rear

dormer to low level rear roof - Refused - 08/04/2009  
HS/FA/09/00563 - Loft conversion with dormers to side and rear - Granted - 05/02/2010  
HS/FA/10/00035 - Retrospective application for change of use of first and second floors from single dwelling to house in multiple occupation (C4) and proposed first floor extension - Refused - 13/10/2015 -Appeal Dismissed - 25/06/2015

4 Linton Road

HS/FA/14/00272 -Retrospective application for change of use from single dwelling to house in multiple occupation (sui generis) including proposed ground floor and first floor extensions - Refused - 13/10/2015 - Appeal Dismissed - 25/06/2015

## **Details of Consultations**

As part of this application 51 neighbouring properties were consulted and a site notice was displayed. In response to this 8 letters of objection were received and a valid petition has been submitted with 25 signatures.

The letters of objection and the comments within the petitions are summarised as follows;

- No. of HMOs within the Ward
- Increased noise levels
- Loss of privacy
- Harmful impact on the character of the area
- Poor waste storage facilities
- Insufficient Parking

## **Planning Policy**

### **Housing Mix and Size of Accommodation**

Policy HC1 of the Development Management Plan relates specifically to the conversion of existing dwellings. This policy requires that, to support the provision of quality homes and dwelling mix, converting all or part of a dwelling to another use or into multiple dwellings will normally be permitted provided that:

- a) The building can no longer be retained in its entirety for single family housing occupancy;
- b) It would not include significant extension(s) or significant changes to room layouts to achieve an adequate standard of accommodation;
- c) It would not involve the self-containment of basement areas or other parts of any property having inadequate light or low ceilings or which would result in a poor outlook from main windows; and
- d) It would make adequate provision for refuse storage.

Policy HC1 is supported by the following paragraphs;

Hastings Development Management Plan (para 3.1) states that it is an aim of the Planning Strategy to both increase the supply of new dwellings and at the same time promote an appropriate mix of dwellings types and sizes in the Borough, with an emphasis on increasing the supply of larger and family sized units. This paragraph goes on to state that Policy SC1 of the Planning Strategy seeks to meet the housing needs of all sectors of the community and that this can be achieved through new development and/or the conversion of existing dwellings. It is agreed that the conversion of large single dwelling houses into flats can

provide a useful source of new dwellings. However, at the same time care needs to be taken to ensure that valuable family housing is not lost or, that, as a result of inappropriate conversions poor living environments are created either for the occupiers of such units or existing neighbouring residents.

Paragraph 3.2 states that Policy HC1 supports the Planning Strategy policies with regard to housing mix and quality. Judgements about a house and whether it should be retained as a single dwelling will be made based on the existing number of bedrooms within the dwelling, and amenity factors such as whether the proposed layout of rooms reflects, as far as practicable, the existing room layout. The subdivision of floorspace to create internal rooms to provide facilities will not normally be acceptable, for example.

Paragraph 4.12 (supporting regeneration) of the Hastings Planning strategy states that the Council's preferred way forward is a housing target that allows us to support the following objectives without increasing the pressure to build in the town's most environmentally sensitive areas:

- Employment-led growth – a scale of housing growth that is proportionate to the town's ability to attract new jobs, retain existing ones and help facilitate sustainable travel to work patterns
- Meet the needs of those of working age, including promoting the right mix of housing that encourages higher skilled people to move to the town and to create opportunities for younger people to remain in Hastings. This includes providing more family homes and larger dwellings
- Maximise the provision of affordable housing
- Meet the needs of those residents currently living in unsuitable accommodation – such as overcrowded properties or those in disrepair
- Provide for the needs of the growing number of people of retirement age

Policy H2 of the Planning Strategy states that the Council will seek to ensure a genuine mix of housing types within existing and future communities

Chapter 8 Housing, Paragraph 8.7 of the Planning Strategy notes that the Council wishes to encourage a greater variety of provision in terms of dwelling types and sizes. In particular, the development of larger homes (3 or more bedrooms) given the bias in the stock towards smaller dwellings and flats, will be encouraged. It is likely that developments within the existing suburban areas will provide the best opportunities to deliver larger homes where relatively lower density development will be appropriate.

## **Planning Considerations**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

Previous applications for the change of use of these properties to HMOs were refused by the Council and dismissed by the Planning Inspectorate as noted in the planning history section above. The inspector considered three key points. The first was whether the HMO use was acceptable, the second was whether the proposed extensions were acceptable and the third was whether the loss of family sized housing was acceptable. The Inspector concluded that the change of use to an HMO was acceptable in principle, however due to the overriding concerns about the proposed extensions, the appeal was dismissed. These extensions have now been removed from the proposal and this application purely seeks retrospective

permission for the change of use of the properties to houses of multiple occupation.

In respect of the third issue and the inspector's assessment of the loss of family sized housing the following points were noted:

- Both properties have extensive accommodation over three floors
  - Both properties are approached by means of steep steps
  - There is a preponderance of smaller family houses within the immediate vicinity
- on these three points the Inspector concluded the loss of the family sized housing was acceptable.

The inspector's report closes by stating that the change of use is in accordance with the thrust of the HC1 of the DM Plan and H4 of the Planning Strategy.

### **Use of properties as Houses in Multiple Occupation**

Policy H4 of the Hastings Borough Local Plan states that planning permission will not be permitted where more than 10% of the total number of properties within a 100 metre radius of the application property are already in use as either Class C4 or other types of HMO in a Sui Generis use.

Having carried out the calculation for this site it is apparent that there are 2 HMOs and 92 properties within 100 metres of No. 3 and 4 Linton Road. This equates to approx 2.1%. The number of HMOs is based on a list provided by Housing on Nov 2014, Council Tax on Nov 2015 and LLPG HMO classifications on 4 Jan 2016. As this application is retrospective the existing properties (3 & 4 Linton Road) have been excluded from the calculation. If they are included then there are 4 HMOs and therefore this equates to approx 4.3%.

### **Living Environment**

Hastings Borough Council Planning Department currently have no accommodation size standards for Houses of Multiple Occupation. However, having assessed this proposal against the relevant standards for self-contained flats it is apparent that bedrooms meet the space standards. Policy DM3 of the Development Management Plan introduces new standards for residential accommodation, however these relate more to total floor areas rather than individual bedroom sizes within an HMO. In light of this, the room sizes have been assessed against the Department for Communities and Local Government technical guidance. Having carried out this assessment it is apparent that the rooms meet the criteria. However, it should be noted that Bedrooms 4 and 5 within No. 3 Linton Road and 8 and 10 within No. 4 are only considered large enough for single rooms. The Inspector concluded at appeal on this point that the use of the properties as HMOs was acceptable and as such this aspect of the application is considered acceptable.

It is noted that concerns have been raised in respect of insufficient parking, noise arising from the use, loss of parking and impact on the character of the area.

In respect of parking, whilst there is no off street parking provided, the site is within walking distance of the Town Centre with easy access to public transport. The Highway's Officer has previously raised no objection subject to conditions which are included within the recommendation.

Environmental Health have advised that there have been no recorded noise complaints for either property. Whilst it is appreciated that there may be a slight change in the way the property is used, it is not considered that the noise levels would rise to a point that would

make the HMO use unacceptable.

No further windows are proposed as part of this application and it is not considered that the proposed use will cause unacceptable overlooking. As noted above no extensions are now proposed and as a result there would be no significant change to the character of the area.

### **Loss of Family Sized Housing**

As with the previous applications no evidence has been submitted by the applicant demonstrating that the dwellings can no longer be retained as single family dwelling units. The Council acknowledges the checkered history of No. 3, which has had several different uses however, the most recent lawful use of No. 4 was as a single family dwellinghouse. In essence it is clear that the objectives of the Local Plan are both to provide accommodation to meet all the different types of housing need and to address the significant bias towards smaller dwellings in the existing stock by both promoting the provision of larger dwellings in new development and preventing, where reasonable, the loss of family sized units through change of use. The Council's policy for family sized housing is not based on an identified shortfall of family sized housing but rather an aim to retain and build family sized housing which forms part of a wider objective in order to change the demographic of the population. This in turn will improve prospects for economic development and regeneration.

The Inspector in their appeal decision has clearly taken the view that the loss would not be harmful. The loss of the housing would represent 2 units out of the overall housing stock and would enable the provision of cheaper accommodation, meeting other needs in the Borough. The views of the Inspector on this specific point are considered questionable however, to refuse an application on this point where the issue has already been determined at appeal would potentially mean an award of costs against the Council in respect of a future appeal. In this respect, therefore, although a finely balanced issue, it is considered that the loss of family housing is acceptable.

### **Extensions / Room Layout**

No significant extensions or room layouts are proposed.

### **Basement/Lighting**

The scheme does not comprise a basement and the accommodation is considered to benefit from suitable satisfactory levels of daylight.

### **Refuse Storage**

The refuse storage provision on site is limited due to the terracing of the front garden. As a result of this, the bins have previously been left on the public foot way. As part of the previous applications, it was indicated by the applicant that he would be prepared to create a refuse storage area for No.s 3 & 4 Linton Road similar to that at No. 5. This would involve a large amount of excavation works to the front garden of No. 4 to create a street level storage area. A similar area has been created at No. 5 which was granted planning permission in 1957. A bin store area of this nature may be acceptable. No alternative proposal for the storage of the bins has been submitted with this application. The inspector's appeal decision made clear that the lack of a refuse bin storage area was not acceptable. If minded to approve this application, a condition could be attached to require details submitted and approved.

## **Approach to the properties**

Due to the topography of the Borough of Hastings, the Council do not consider the reference to the stepped entrance pertinent to the consideration of the use of the properties.

## **Evidence of Community Involvement**

These proposals comply with the development plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004.

The Council has considered the implications of the Human Rights Act 1998 during the consideration of this application. It is considered that the interference with the human rights of the applicant and the residents under Article 8 and Article 1 of the Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the freedom of others or the control of his/her property in this way is in accordance with the general interest.

## **Conclusion**

Having reviewed the Council's Local Plan in relation to the retention of single family dwellings, it is considered that the proposal meets the aims of the Hastings Planning Policies having regard to the previous decision issued by the Planning Inspectorate. However, due to the planning history of this site and the previous decision by the Planning Inspectorate, this application must be carefully considered. Although it is considered that the change of use of these properties would result in the loss of family sized units, this was not thought harmful by the Planning Inspectorate. Should the Members of the Committee chose to refuse permission in this instance, it should be noted that, if the application were to be appealed by the applicant, there is a likelihood that costs could be awarded against the Council.

## **Recommendation**

### **Grant Full Planning Permission subject to the following conditions:**

1. Within 3 months of the grant of this permission details of a bin storage area(s) shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be completed in accordance with the approved details and once provided the bin storage area(s) shall be used for the storage of refuse only and for no other purpose unless otherwise agreed in writing by the Local Planning Authority.
2. Within 3 months of the grant of this permission, details of a cycle parking area shall be submitted to and approved in writing by the Local Planning Authority. The area shall thereafter be retained for that use and shall not be used other than for the parking of cycles unless otherwise agreed in writing by the Local Planning Authority.
3. Within 3 months of the grant of this permission a travel plan statement for the residents of the properties shall be submitted to and approved in writing by the Local Planning Authority.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: DP/2641/PP/REV C/01, P/2641/PP/REV B/02 and DP/2641/PP/REV B/03

**Reasons:**

1. To ensure a satisfactory standard of development that causes no obstruction to the public highway.
2. In order that the development site is accessible by non-car modes and to meet the objectives of sustainable development.
3. In order that the development site is accessible by non-car modes and to meet the objectives of sustainable development.
4. For the avoidance of doubt and in the interests of proper planning.

**Notes to the Applicant**

1. Failure to comply with any condition imposed on this permission may result in enforcement action without further warning.
2. Statement of positive engagement: In dealing with this application Hastings Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.
3. Consideration should be given to the provision of a domestic sprinkler system.

---

**Officer to Contact**

Mrs E Meppem, Telephone 01424 783288

**Background Papers**

Application No: HS/FA/15/00834 including all letters and documents