

<b>Agenda Item</b> A13	<b>Committee Date</b> 27 June 2016	<b>Application Number</b> 16/00053/CU
<b>Application Site</b> Green Dragon Hotel 54 Main Road Galgate Lancaster	<b>Proposal</b> Change of use of public house/cafe (A4/A3) to a 6-bed house of multiple occupancy (C4), a 2-bed flat (C3) and creation of a new access point	
<b>Name of Applicant</b> Mr Lookman Thagia	<b>Name of Agent</b> Mr David Tarbun	
<b>Decision Target Date</b> 11 March 2016 with extension of time agreed until 6 June 2016	<b>Reason For Delay</b> Awaiting further information	
<b>Case Officer</b>	Mrs Eleanor Fawcett	
<b>Departure</b>	No	
<b>Summary of Recommendation</b>	Refusal	

**(i) Procedural Matters**

This form of development would normally be dealt with under the Scheme of Delegation. However, the applicant is a member of staff and, as such, the application must be determined by the Planning Committee.

**1.0 The Site and its Surroundings**

1.1 This application relates to a large two storey stone building located on the corner of the A6 and Salford Road, in the centre of Galgate. It is currently vacant but was previously used as a public house, but more recently as a café, which was a permitted change of use not requiring planning permission. The building fronts onto the A6 and has a single storey extension to the north of the main part of the building, and a single storey attached garage to the west, which fronts onto Salford Road. In the vicinity of the site are predominantly terraced properties, with a row of 5 to the west set back from the highway, and a longer row to the south/ south west which abut the pavement. A number of the properties located around the main crossroads have a commercial use.

1.2 The site is located within the Countryside Area, as identified on the Local Plan Proposals Map. It is also within the Galgate Air Quality Management Area (AQMA) and Flood Zone 3.

**2.0 The Proposal**

2.1 Planning permission is sought for the change of use of the building to a six bedroom house in multiple occupancy (HMO) and a two bedroom flat. A new access point is proposed from the A6

**3.0 Site History**

3.1 The relevant site history is set out on the next page:

Application Number	Proposal	Decision
11/00440/CU	Change of use of part of the ground floor to a self-contained flat and erection of boundary fence to the northern yard area.	Approved
11/00131/CU	Change of use of part of the ground floor to self-contained flat and erection of boundary fence to the northern yard area	Withdrawn
10/01122/CU	Change of use of part of the ground floor to self-contained flat and replacement of existing windows throughout with uPVC windows.	Refused
07/01275/FUL	Erection of a covered area to rear and construction of new boundary wall	Approved
07/00736/FUL	Erection of an external covered area, decking and wall	Refused
1/79/27	Alterations and extensions to existing public house and new detached garage	Approved

#### **4.0 Consultation Responses**

4.1 The following responses have been received from statutory and non-statutory consultees:

Consultee	Response
Parish Council	<b>No objections</b> , but query where residents will park their cars, as there are no allocated parking spaces.
Environmental Health	<b>No objection</b> subject to conditions requiring: scheme for mechanical ventilation; assessment of noise impacts and mitigation; and hours of construction.
Environment Agency	<b>Comments</b> - Strongly recommend that there should not be sleeping accommodation on the ground floor.
County Highways	<b>No objection</b> . Any structures, such as air ventilation systems, should not overhang the highway.
Natural England	<b>No comments</b> to make

#### **5.0 Neighbour Representations**

5.1 Two pieces of correspondence have been received which comment that there is limited parking on Salford Road Parking and it is unclear where future residents would park.

#### **6.0 Principal National and Development Plan Policies**

- 6.1 National Planning Policy Framework (NPPF)
- Paragraphs 7, 14 and 17 - Sustainable Development and Core Principles
  - Paragraphs 49 and 50 – Delivering Housing
  - Paragraphs 56, 58 and 60 – Requiring Good Design
  - Paragraph 70 – Loss of services and facilities
  - Paragraphs 100 and 103 - Flooding
  - Paragraph 118 – Conserving and Enhancing Biodiversity
  - Paragraphs 135 – Non-Designated Heritage Assets
- 6.2 Lancaster District Core Strategy (adopted July 2008)
- SC1 – Sustainable Development
  - SC5 – Achieving Quality in Design
- 6.3 Development Management Development Plan Document (adopted December 2014)
- DM20 – Enhancing Accessibility and Transport Linkages
  - DM33 – Development Affecting Non-Designated Heritage Assets or their Settings
  - DM35 – Key Design Principles
  - DM37 – Air Quality Management and Pollution
  - DM38 – Development and Flood Risk
  - DM41 – New Residential Development

- DM42 – Managing Rural Housing Growth
- DM44 – Residential Conversions
- DM49 – Local Services

## **7.0 Comment and Analysis**

7.1 The main issues are:

- Type of accommodation proposed
- Loss of rural facility
- Flooding
- Highway Implications
- Impact on residential amenity
- Design

### **7.1 Type of accommodation proposed**

7.1.1 The application proposes a House in Multiple Occupation (HMO) to house 6 people and a self-contained two bedroom flat. The site is located within the centre of Galgate, which is a village identified as suitable for residential development in Policy DM42 of the DM DPD. Concerns have been raised with the agent with regards to the creation of a large HMO and further information was requested in relation to the proposed occupants. It was advised that accommodation for students may be acceptable, given the proximity to the University, but otherwise it would be unlikely that the Council would support an unrestricted HMO. The applicant has set out that the reason for the HMO is in order to preserve the building and bring it into a viable use, that there is an abundance of student accommodation in the area and still being approved/developed and there are other groups within the district that require accommodation such as local workers from the university as well as businesses within the Galgate area.

7.1.2 The Strategic Housing Officer has been consulted with regards to the proposal. Policy DM 44 states that proposals for residential conversions must provide accommodation that will address local housing needs and imbalances in the local housing market. The supporting text makes reference to HMOs and the negative impacts of living in HMO's can have both for the occupants and for the wider community. Whilst acknowledging that there is a shortage of one-bedroom accommodation for single people in Lancaster District, the main market need in Galgate is family housing and housing that meets the needs of the elderly. Whilst there could be a potential link to providing shared housing as workers' accommodation which may service staff working at Lancaster University, the actual demand and need for this is not proven, although these individuals may well be car owners and with no prospect of on-site car parking provision on a very busy main road, any potential change of use to an HMO may well cause further problems with existing limited on-street parking in that area. Furthermore, it would be difficult to practically control the future use of the HMO for workers only. As has been seen in other parts of the district, HMO's have been used to accommodate vulnerable and marginalised groups where demand from workers has fallen away, leading to a raft of issues that impact of the wider area where proper management arrangements have not been put in place or which are enforceable through the planning system. A proposal which seeks to create fully self-contained accommodation in this location is likely to better meet the needs of the occupier and would provide a more suitable housing solution in the longer term for the occupants.

7.1.3 It is therefore considered that that it has not been fully evidenced that this type of accommodation will address local housing needs and as such is contrary to Policy DM44 of the DM DPD.

### **7.2 Loss of a rural facility**

7.2.1 The property was previously used as a pub and more recently a café, although this change of use did not require planning permission. It is considered that the proposal results in the loss of a local service and as such it must comply with Policy DM49. This sets out that proposals that would result in the loss of buildings/ uses which currently (or have previously) provided the community with a local service must provide compelling and detailed evidence to show:

- A robust and transparent marketing exercise has taken place demonstrating that the use is no longer economically viable or feasible, comprising an advertising period of at least 12

months at a realistic price;

- That alternative provision of the service existing within the settlement or a nearby settlement;
- That the use no longer retains an economic and social value for the community it serves.

7.2.2 The initial submission set out that there has been a 'for sale' sign at the property since 2014 but provided no further information or evidence. As such, this was requested from the agent. The information now provided is limited. A letter has been submitted from Thwaites Brewery regarding the reason for the sale of the property in 2010 to the applicant and have set out that the business at the property was not viable under their tenanted business model. Following the sale the building continued to be operated as a pub and then a café but proved not to be viable. The applicant has provided details of the tenants from 2005 until November 2015, setting out that none of these managed to operate a viable business. The agent has set out that the property has been for sale for over 18 months with a For Sale sign erected on the building and the details were added to Northwood Estate agents website 7 months ago and to date there have been no enquires. The letter from Northwood Estate agents sets out that the property was marketed from 14 August 2013 to 3 October 2013 and there were no viewings then from 21 August 2015 to 15 April 2016 with 1 viewing. The feedback from the viewing was that a lack of parking would not allow a restaurant business to succeed. This does not seem to correspond to the statement from the agent. Neither of these periods are for a continual 12 months and no information has been provided with regards to how the property has been marketed and at what value. Therefore it is not considered that sufficient justification has been provided with regards to the loss of a local service/facility to comply with the requirements of Policy DM49.

### 7.3 Flooding

7.3.1 The site is located within Flood Zone 3, defined by the Planning Practice Guidance to the National Planning Policy Framework as having a high probability of flooding. As it involves the change of use of a building, the applicant is not required to undertake a sequential test to demonstrate that the proposal cannot be provided in an area at lower risk of flooding. However, it needs to be ensured that the development is appropriately flood resilient and resistant, including safe access and escape routes where required.

7.3.2 The application proposes an HMO over two floors of the main building, with one of the bedrooms located on the ground floor, in addition to a two bedroom flat in the existing single storey extension. The Environment Agency have strongly recommended that there should not be sleeping accommodation on the ground floor. They have set out that, notwithstanding the mitigating measures now proposed in the submitted Flood Risk Assessment, the risk to life within the development from fluvial inundation remains high. The provision of sleeping accommodation on the ground floor, especially in the self-contained flat where there is no internal access to a safe haven, is of particular risk. The proposed development of self-contained ground floor flat does not have a safe means of access and/or egress in the event of flooding and no satisfactory alternative option for managing the safety of people has been provided as part of the application. Consequently, there would be a high risk to the health and safety of the occupants in a flood event. During a flood, residents trying to leave the site to reach safe haven would be at considerable danger from the floodwater itself and also from various other hazards such as unmarked drops and water-borne debris.

7.3.3 Following the comments from the Environment Agency, the agent has contacted them to discuss the concerns. They have advised, directly to the agent, that as the application is for a Change of Use where the vulnerability of the development does not change from 'More Vulnerable', they cannot object to the proposal. However, they would strongly recommend against the location of sleeping accommodation on the ground floor. The agent has suggested that a safe room is provided in the loft space of the single storey element to provide a safe haven in the event of a flood. In response, the Environment Agency has set out that they would consider that a safe room in the loft, accessed via a permanent staircase, and provided with emergency exit windows, would help reduce the risk from flooding and make this proposal more acceptable. However, the nature of the expected occupants must be taken into account and, if the dwelling is intended for elderly or infirm then this proposed compromise would not be suitable. In 2011, the Environment Agency did not raise an objection to the creation of the self-contained flat in the same part of the building, however this was partly due to it being occupied in association with the public house.

7.3.4 The solution proposed by the applicant does not seem to be ideal as there does still seem to be some concern by the Environment Agency regarding risk to occupants. It would also be too difficult to condition the age or health of the occupiers to ensure that they could access a safe space in the loft. The agent has set out that the safe room to the loft would have a simple boarded floor, suitable access stair and an escape type velux rooflight to the front elevation, but there is no detail regarding the proposed access stair. It also potentially raises issues with bats given the close proximity to a watercourse and proposed use of the roofspace. A survey would need to be carried out, at least to examine the potential for bats in this part of the building. Further information will be requested in relation to this and the Environment Agency contacted directly regarding the proposed solution. Members will be updated in relation to this issue at the Committee Meeting.

#### 7.4 Highway Implications

7.4.1 The Highways Authority has raised no objection to the proposal and set out that the use of extensive traffic regulation orders restricting vehicle movements over surrounding lengths of the public highway network are likely in themselves to act as a deterrent and limit any perceived vehicular access problems one might associated with the consequences of additional on street parking requirements due to use of the site as a house in multiple occupation. There is very little in the way of on street parking in the vicinity of the site and a number of terraced properties that have no off street parking. The overall scheme would potentially likely have at least 8 occupants, and potentially a further 6 if the rooms in the HMO are let to couples, which would likely put strain on the existing limited parking provision in the area. The submission sets out that the existing garage can be used to house a car and provide cycle storage. A new access is proposed from the A6 but it is not clear how the yard is intended for the use of vehicles and the highways officer does not appear to have referred to this aspect in the response. Clarification has been sought with regards to this.

#### 7.5 Impact on residential amenity

7.5.1 No extensions are proposed to the building and limited external alterations. The upper floor has already been used as residential accommodation in relation to the public house. Although the separation distance is less than would usually be expected with facing habitable room windows, this is due to the historic layout of the settlement and is an existing situation. There is a first floor window which faces towards the end of the adjacent terrace, 2 Salford Road, but this is a blank gable. The boundary wall adjacent to this property is also proposed to be raised to 2 metres. Given the above, it is not considered that there will be a significant impact on the amenities of the adjacent residential properties.

7.5.2 The application site adjoins a busy road and therefore a noise assessment is required to determine satisfactory mitigation measures in respect of noise impacts. Environmental Health have advised that this can be requested by way of condition. The site is also located within the Galgate AQMA. The submitted air quality assessment proposes the installation of mechanical ventilation system to take air from roof level at the rear of the development, as far as possible from the Main Road. Without the benefit of further air quality modelling based assessment it is recommended that the ventilation system serves the totality of the proposed residential development. Environmental Health have recommended that a condition is imposed to require a mechanical ventilation scheme for the totality of the proposed development to be submitted to the LPA for approval and subsequent installation in accordance with agreed scheme.

7.5.3 In terms of the standard of living accommodation, if an HMO was considered acceptable, it would comply with the standards that are usually applied to student accommodation, and the standard of flat accommodation is acceptable. There appears to be a small area of external space associated with the HMO and a larger area with the flat, although it is not clear if this is proposed for parking.

#### 7.6 Design

7.6.1 There are limited alterations proposed to the external appearance of the building with just some external windows, facing into the site, increased in size. On a previous application, the replacement of the timber windows with UPVC was refused. However, the current windows in the building are UPVC and have been replaced without consent. The agent has argued that they do not look any different to the top hung timber windows. However, although the design is similar, it is clearly identifiable that they are UPVC and the central glazing bar appears to be integral so is not as

pronounced and, from some angles, is barely discernible. It would have been preferable if the timber windows had been retained, given the prominent position of the building and the likelihood that this would be considered as a non-designated heritage asset. However, the site is not in a Conservation Area and a number of the properties around the junction have UPVC windows. As such, this is not considered to be a substantive reason to refuse the application.

## **8.0 Planning Obligations**

8.1 There are no planning obligations to consider as part of this application.

## **9.0 Conclusions**

9.1 The application proposes an unrestricted HMO without sufficient justification of how this will meet identified local needs. Although the scheme provides residential accommodation, it is not in a form that the Council would wish to encourage. It also results in a loss of a local facility, with limited evidence provided to demonstrate that it has been adequately marketed. Therefore it is considered that the proposal does not comply with Local or National planning policy, in particular Policies DM44 and DM49 of the Development Management DPD.

## **Recommendation**

That Planning Permission **BE REFUSED** for the following reasons:

1. The proposal will result in the conversion of the main part of the building to a large House in Multiple Occupancy (HMO) without sufficient justification as to how this form of accommodation will address local housing needs and imbalances in the local housing market. It is not considered that the scheme will provide an appropriate form of residential accommodation and is contrary to the aims and objectives of the National Planning Policy Framework, in particular the Core Planning Principles and Section 6, and Policies DM41 and DM44 of the Development Management Development Plan Document.
2. Insufficient evidence has been provided to justify the loss of the local facility within this rural settlement. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, in particular the Core Planning Principles and Section 8, and Policy DM49 of the Development Management Development Plan Document.

## **Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015**

In accordance with the above legislation, the City Council can confirm the following:

Lancaster City Council takes a positive and proactive approach to development proposals, in the interests of delivering sustainable development. As part of this approach the Council offers a pre-application service, aimed at positively influencing development proposals. Regrettably the applicant has failed to take advantage of this service and the resulting proposal is unacceptable for the reasons prescribed in the report. The applicant is encouraged to utilise the pre-application service prior to the submission of any future planning applications, in order to engage with the local planning authority to attempt to resolve the reasons for refusal.

## **Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

## **Background Papers**

None