

**Application Number: 17/01139/FUL**

**Removal of conditions 6 (internal wall sound insulation) and 7 (dropped kerb) attached to planning permission 16/01734/FUL**

**AT 4 Herdman Close, Greenleys, Milton Keynes**

**FOR Mr Reza Kazemi**

**Target:** 21st June 2017

**Ward:** Wolverton

**Parish:** Wolverton & Greenleys Town Council

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## **1.0 INTRODUCTION**

*(A brief explanation of what the application is about)*

- 1.1 The main body of the report set out below draws together the core issues in relation to the application including policy and other key material considerations. This is supplemented by an appendix which brings together planning history, additional matters and summaries of consultees' responses and public representations. Full details of the application, including plans, supplementary documents, consultee responses and public representations are available on the Council's Public access system [www.milton-keynes.gov.uk/publicaccess](http://www.milton-keynes.gov.uk/publicaccess). All matters have been taken into account in writing this report and recommendation.

This application is referred to the Development Control Panel for determination due to an objection received from Ward Councillor Middleton, Wolverton and Greenleys Town Council and the number of third party objections received.

### **The Site**

The application site comprises of a two-storey, brick-built, semi-detached dwelling, Situated in front of the property is parking for two vehicles with the rear garden serving the dwelling being located to the north-west. Directly adjoining the property from the south-west is neighbouring property No.3 Herdman Close with No.5 Herdman Close being connected via the attached double garage to the north-east of the site. Located to the north-west of the application site, to the rear of the dwelling is neighbouring property No.23 Buckman Close, Greenleys.

## 1.2 **The Proposal**

The application seeks planning permission to remove conditions 6 (wall sound insulation) and 7 (dropped kerb) pertaining the previously approved change of use from a C3 dwellinghouse to a C4 House in Multiple Occupancy with five lettable bedrooms (reference 16/01734/FUL).

## 2.0 **RELEVANT POLICIES**

*(The most important policy considerations relating to this application)*

### 2.1 **National Policy**

National Planning Policy Framework paragraph .....

### 2.2 **Local Policy**

Core Strategy 2013

Policy CS 10: Housing

Policy CS 13: Ensuring High Quality, Well Designed Places.

Milton Keynes Local Plan 2001- 2011

D1: Impact of Proposals on Locality

T15: Parking Provision

H10: Subdivision of dwellings and houses in multiple occupation

Supplementary Planning Documents

Houses in Multiple Occupation Adopted (2012)

New Residential Development Design Guide (2012)

Parking standards (2016)

### **National Policy**

National Planning Policy Framework 2012

Section 7: Requiring Good Design

## 3.0 **MAIN ISSUES**

*(The issues which have the greatest bearing on the decision)*

- 3.1 Whether proposed removal conditions would result in unacceptable harm cause to the amenity of neighbouring properties or through highway safety implication.

## 4.0 **RECOMMENDATION**

*(The decision that officers recommend to the Committee)*

- 4.1 It is recommended that planning permission be granted subject to the conditions set out at the end of this report.

## 5.0 CONSIDERATIONS

*(An explanation of the main issues that have lead to the officer Recommendation)*

### 5.1 Principle

The proposed development would fall under Saved Policy H10 of the Milton Keynes Local Plan 2001-2011 which allows for the creation of Houses in Multiple Occupation subject to an assessment against a set of 4 criteria. The principle of residential development on the site is acceptable. The application 16/01734/FUL was considered acceptable allowing the change of use from C3 to C4 with 5 lettable bedrooms as determined by the Development Control Panel in January 2017.

#### Removal of Condition 6 – Wall Insulation

Following the grant of permission and subsequent discussions with the Environmental Health Officer, it is noted by officers that the specific technical requirements of the condition relating to insulation in HiMO properties is out of date and should no longer be imposed. This is because the requirement for 40dB level does not practically relate to any measure and the requirement therefore prevents the consent being implemented.

The current condition states the following:

*Within 3 months of the date of the decision, the following shall be undertaken:*

*A) All internal bedroom walls and (where there is a habitable room above or below) bedroom ceilings and floors shall meet the sound insulation standard of a minimum value of 40dB.*

*B) Proof that the above standards have been achieved shall be provided by the submission of a noise assessment to the Local Planning Authority. The noise assessment shall be carried out in accordance with British Standard 8233:1999 (Sound Insulation and Noise Reduction in Buildings) and shall demonstrate that the sound insulation achieves the minimum values as stated above. The submitted details shall include the test methodology and results with all supporting data.*

*Reason: To avoid nuisance from noise and vibration between the proposed dwelling units, and to comply with saved policy H10 (i) of the Milton Keynes Local Plan 2001-2011.*

The applicant has sought specialist advice from a noise consultant who has also confirmed that the requirement for a minimum value of 40dB is an arbitrary assessment and cannot be complied with. However, it is accepted by Officers, that the reasoning for imposing the condition is reasonable, in order to protect the amenity of neighbouring properties.

Whilst the applicant has asked for the condition 6 to be removed, it is considered necessary that this condition is amended to the following wording:

*Within 4 weeks of the date of the decision, details of the noise mitigation measures for the party wall, shall be submitted to and approved in writing by*

*the local planning authority. The approved scheme of mitigation shall be fully implemented prior to first occupation of the property as a House in Multiple Occupation, and shall be retained as such thereafter.*

*Reason: To ensure the development does not adversely affect the amenity of future occupiers*

This allows the Local Authority to control the suitability of insulation along the shared third party wall in the interests of residential amenity. However, it should also be noted that insulation between ceilings and floors internally, is controlled by Approved Document E of the current Building Regulations. The requirements of this document would need to be met outside of the planning regulations through a Building Control application.

In light of the above, Officers believe it is necessary for the condition to be varied to allow for the Local Authority to control the impact on residential amenity whilst allowing the applicant to have an implementable consent.

#### Condition 7 – Dropped Kerb

Condition 7 requires the following:

*Within three months of the date of this permission, the alteration to the access which includes the installation of a dropped kerb shall be completed in accordance with the approved plans and retained thereafter.*

*Reason: To ensure satisfactory facilities and to prevent harm to the amenities of the area to comply with the Parking Standards 2016 Supplementary Planning Document.*

The applicant has provided photographs and a cover letter which demonstrates that the application benefits from a kerb type which allows vehicular access to the on plot parking spaces. As such, a dropped kerb is not required and it is recommended that the condition can be removed. The proposed development would still accord with T15 and the Parking Standards SPD should the condition be removed.

## 6.0 CONDITIONS

*(The conditions that need to be imposed on any planning permission for this development to ensure that the development is satisfactory. To meet legal requirements all conditions must be Necessary, Relevant, Enforceable, Precise and Reasonable )*

1. The house shall not be operated with more than 5 lettable rooms at any time.

Reason: To control future intensification of the application property.

2. The approved drying area shall be provided and retained as approved under discharge of condition application 17/00475/DISCON.

Reason: To ensure satisfactory facilities and to prevent harm to the amenities of the area to comply with saved policy H10 (iii) of the Milton Keynes Local Plan 2001-2011.

3. The on-site bin storage for the storage of household refuse and recyclables will be provided and retained as approved under discharge of condition application 17/00475/DISCON.

Reason: To safeguard the appearance of the area and the amenities of local residents to comply with saved policy H10 (iii) of the Milton Keynes Local Plan 2001-2011.

4. The cycle storage for the storage of cycles will be provided and retained as approved under discharge of condition application 17/00475/DISCON.

Reason: To ensure satisfactory facilities and to prevent harm to the amenities of the area to comply with the Parking Standards, 2016, Supplementary Planning Document.

5. Within 4 weeks of the date of the decision, details of the noise mitigation measures for the party wall, shall be submitted to and approved in writing by the local planning authority. The approved scheme of mitigation shall be fully implemented prior to first occupation of the property as a House in Multiple Occupation, and shall be retained as such thereafter.

Reason: To ensure the development does not adversely affect the amenity of future occupiers

## **Appendix to 17/01139/FUL**

### **A1.0 RELEVANT PLANNING HISTORY**

*(A brief outline of previous planning decisions affecting the site – this may not include every planning application relating to this site, only those that have a bearing on this particular case)*

#### **A1.1 16/01734/FUL**

Change of use from residential dwelling (use class C3) to house in multiple occupancy (use class C4) with 5 lettable rooms (part-retrospective)  
PER 23.01.2017

#### **17/00475/DISCON**

Details submitted pursuant to discharge of conditions 3(cycle storage), 4 (bin storage), 5 (external drying area) and 7 (access and dropped kerb) attached to planning permission 16/01734/FUL  
DTAPP 19.04.2017

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PDE

### **A2.0 ADDITIONAL MATTERS**

*(Matters which were also considered in producing the Recommendation)*

#### **A2.1 None.**

### **A3.0 CONSULTATIONS AND REPRESENTATIONS**

*(Who has been consulted on the application and the responses received. The following are a brief description of the comments made. The full comments can be read via the Council's web site)*

#### **Comments**

#### **Officer Response**

##### **A3.1 Environmental Health Manager**

The application has been discussed internally with the environmental health officer although formal comments have not been submitted. It is noted that the Environmental Health officer accepted that the 40dB requirement is not relevant and should not be imposed.

**Noted.**

##### **Parish - Wolverton & Greenleys**

The Committee RESOLVED to OBJECT to the applicants request to remove the condition number 6, as this was a recommendation that was imposed previously by MKC Planning and agreed by the Committee as a reasonable request to impose.

**Noted.**

The Committee RESOLVED to make NO OBJECTION to condition 7 being removed with regards to the dropped kerb

**Noted.**

##### **Ward - Wolverton - Cllr Miles**

No response received

**Noted.**

##### **Ward - Wolverton - Cllr Middleton**

It would appear that this application is seeking the removal of two important planning conditions. These conditions serve to mitigate the adverse effect to the local community and in particular the immediate next door neighbours from

**Noted.**

having a House in Multiple Occupation on their street.

Parking and noise pollution are two matters which are considered relevant to the grant of a HiMO under the Local Plan. The removal of these two conditions would risk the quiet and peaceful enjoyment of adjacent properties through unreasonable noise levels and inconsiderate parking. **Noted.**

Ward - Wolverton - Cllr Marland

No response received. **Noted.**

### **Local Residents**

The occupiers of the following properties were notified of the application: **Noted.**

20 Herdman Close Greenleys Milton Keynes

1 Herdman Close Greenleys Milton Keynes

19 Herdman Close Greenleys Milton Keynes

2 Herdman Close Greenleys Milton Keynes

24 Herdman Close Greenleys Milton Keynes

22 Buckman Close Greenleys Milton Keynes

23 Buckman Close Greenleys Milton Keynes

24 Buckman Close Greenleys Milton Keynes

5 Herdman Close Greenleys Milton Keynes

3 Herdman Close Greenleys Milton Keynes

Two third party objections have been received outlining the following:

- Harm caused through increased noise generation
- Existing kerb is suffering from wear and tear

Comments raised which are not materially relevant to the consideration of this application:

- Existing issues with the landlord over fencing



- Existing parking issues
- Noise of vehicles