

ITEM 5(b)

Application Number: 22/00910/FUL

Estimated reading time*: 25 minutes

Proposal: Retrospective change of use from Class C3 (residential) to Class C4 (HMO) at 144 & 146 Newport Road, Broughton, Milton Keynes, MK10 7AP

Applicant: Rosewoods Properties Ltd

Application type: Change of use

Ward: Broughton

Parish: Broughton and Milton Keynes Village

Statutory Target: 14.06.2022

Extension of Time: Yes - 26.08.2022

Case Officer: Lakeisha Peacock
Senior Planning Officer
lakeisha.peacock@milton-keynes.gov.uk

Team Manager: Chris Nash
Development Management Manager
chris.nash@milton-keynes.gov.uk

1.0 Recommendation

1.1 It is recommended that permission be **granted** subject to the conditions set out below (as may be supplemented/modified in any accompanying written or verbal update to the Panel).

2.0 Introduction

2.1 The application has been referred to the Panel at the request of Councillors Sam Crooks and Kerrie Bradburn raising a material planning concern in respect of a shortfall in parking provision.

2.2 It is also referred to Panel as a result of a material conflict with Policy CT10 of Plan:MK in respect of parking provision.

3.0 Background

The site and its context

3.1 The application site contains two semi-detached three-storey dwellings located within the residential area of Broughton. The lawful use of the site is as two separate residential (C3) dwellings, though the two dwellings are currently in use as two 6-bedroom Houses in Multiple Occupation (HMO), falling within use class C4.

* excluding conditions and annexes

- 3.2 To the east of the site is a block of flats, with further residential dwellings located to the west and south-west of the site. A courtyard providing allocated parking provision for surrounding residential uses is provided to the south, which also contains the parking provision associated with the application site. To the north is a footpath followed by Newport Road, with further residential dwellings located beyond.

The proposal (to be read in conjunction with the plan extracts at the end of this report)

- 3.3 Retrospective planning permission is sought for the change of use of the associated dwellings from residential use (Use Class C3) to two, six-bedroom HMOs (Use Class C4). While this change of use would usually fall under the scope of permitted development rights, there is an Article 4 Direction order across the City removing this right, and therefore requiring that any change of use from a dwellinghouse to a HMO to obtain full planning permission.
- 3.4 For the avoidance of doubt, the applicant states that No. 144 Newport Road has been in use as a HMO since 10th July 2015 and No. 146 since 13th August 2018.
- 3.5 While the proposal seeks the change of use of both units, assessments in respect of the change of use of each individual unit, as well as the units as a pair, have been considered where appropriate.

4.0 Relevant planning history

4.1 Application site

None relevant.

5.0 Consultations and representations

All responses and representations received can be viewed in full, online at www.milton-keynes.gov.uk/publicaccess using application ref. 22/00910/FUL. The following paragraphs summarise those responses and representations.

5.1 Broughton and Milton Keynes Parish Council

Objection due to shortfall of parking provision and not meeting the required standards.

5.2 Cllr Sam Crooks (Broughton Ward)

Objection received on three grounds:

- Shortfall of parking provision and not meeting the required standards;
- Precedent of granting approval; and
- Significant public interest from residents in surrounding area.

5.3 Cllr Uroy Clarke (Broughton Ward) (Member of Committee)

No response received.

5.4 Cllr Kerrie Bradburn (Broughton Ward)

Objection received on three grounds:

- Shortfall of parking provision;
- Precedent of granting approval; and
- Significant public interest from residents in surrounding area.

5.5 MKC Highways

Initial comments received

Requested additional information in respect of the useability of the proposed parking spaces within the rear courtyard. Concerns raised in respect of existing lighting columns and pedestrian access and whether the spaces can be safely used.

In respect of parking provision, there is an identified shortfall. State the scope of the parking survey is reasonable; however, question the useability of the proposed parking locations further away from the properties. Considers that the proposal would not result in a highway safety issue, but concerns raised in respect of future demand and as such proposals considered to be marginally acceptable.

Additional comments received

Tracking diagrams provided demonstrated that the parking spaces are accessible and as such no objection received in respect of the layouts.

Comments provided in respect of general parking layout and access to rear garden. Spaces do not provide access to move bins, etc. However, a path is provided to the side of No. 146.

No objection to the proposals, but condition is requested to retain parking and details of cycle parking.

5.6 MKC Environmental Health

No objection or recommendation of any conditions upon assessment of the scheme. The majority of internal noise mitigation measures are covered by building regulations, and there have been no records of any noise complaints associated with the use, which is standard practice to assess as part of a retrospective application.

5.7 Representations from interested parties

7 comments have been received from 7 addresses. The matters raised are summarised below:

- Shortfall in parking provision; and
- Accessibility of the site and increase in traffic.

A concern over property maintenance has been raised. This is not a material planning consideration, and therefore cannot be taken into account in the determination of the application.

6.0 Relevant policies, guidance and legislation

The Development Plan

6.1 [Plan:MK](#) (adopted March 2019)

- Policy HN7 - Houses in Multiple Occupation
- Policy CT2 - Movement and Access
- Policy CT3 - Walking and Cycling
- Policy CT5 - Public Transport
- Policy CT6 - Low Emission Vehicles
- Policy CT10 - Parking Provision
- Policy D1 - Designing a High Quality Place
- Policy D2 - Creating a Positive Character
- Policy D3 - Design of Buildings
- Policy D5 - Amenity and Street Scene

Supplementary Planning Documents/Guidance (SPDs/SPG)

6.2 The following [topic-based SPDs/SPGs](#) are relevant:

- Parking Standards SPD (2016)
- New Residential Design Guide SPD (2012)
- Houses in Multiple Occupation SPD (2012)

National planning policy and guidance

6.3 The [National Planning Policy Framework](#) (NPPF) and [Planning Practice Guidance](#) (PPG) are also material considerations.

7.0 Planning considerations

7.1 Taking account of the application type, the documents submitted (and supplemented and/or amended where relevant), the site and its environs, and the representations received; the main considerations central to the determination of this application are:

- Principle of development;
- Highway capacity, safety and parking provision;
- Impact on the character of the area; and
- Residential amenity and living conditions.

8.0 Appraisal

Principle of development

- 8.1 The principle of the change of use is considered under Policy HN7 of Plan:MK. This supports HMOs in contributing to the creation of mixed, balanced and inclusive communities, subject to proposals not resulting in an overconcentration of such accommodation creating an imbalance in the locality, or resulting in significant adverse impacts. The policy state proposals should comply with the adopted HMO SPD in order to be acceptable. The SPD criteria articulate that:
- i. Effective measures should be proposed to minimise the effects of noise and disturbance;
 - ii. Off street parking and manoeuvring space should be provided to meet the Council's standards;
 - iii. Adequate outdoor space should be available for bin storage and a drying area; and
 - iv. The proposal should not adversely affect the character of the surrounding area or lead to an unacceptable concentration of flats or HMOs within the area.
- 8.2 Each of these criteria is assessed within the relevant sections below. Overall, it is considered that the development is in accordance with policy HN7 and, as such, is considered to be acceptable in principle.

Highway capacity, safety and parking provision

- 8.3 Policies CT1 and CT2 seek to ensure development proposals do not result in additional traffic generation that results in an adverse negative impact to the surrounding road network, parking provision and access. In addition, Policy CT3 seeks to ensure proposals provide sufficient access for all users of the site, including pedestrians, cyclists and other vehicles.
- 8.4 Policy CT10 of Plan:MK states that development should provide parking in line with the full parking standards set out in the Parking Standards SPD, unless mitigating circumstances dictate otherwise. It also states that on-site parking should not be reduced below the Council's full expectations if this would increase additional pressure in off-site parking that could not be resolved by on-street parking controls. Policy CT6 also seeks the provision of Electric Vehicle (EV) charging points.
- 8.5 The application site is located within Zone B of the Parking Standards SPD as identified on the corresponding HMO Zone Map. Within this zone, there is a parking requirement for allocated spaces to be provided at a rate of 'n-1' where 'n' represents the number of bedrooms. In this instance, the site operates as two separate HMOs and the application is made on the basis of these continuing to operate independently. As such, it is considered that the requirement for each HMO is 5 allocated spaces. This results in a total requirement of 10 allocated spaces to serve the development.
- 8.6 In respect of the proposed parking provision, 3 allocated parking spaces have been provided to serve the HMOs at the rear of each dwelling. Upon receipt of amended plans and tracking diagrams to address concerns by the Highways Officer, these spaces are considered to be of a standard that meet the required dimensions as set out within the SPD. As such, the proposed

development would result in a shortfall of four allocated spaces to serve the use of the site, or two per property.

- 8.7 The submitted parking survey is considered by the Highways Officer to provide an appropriate survey coverage area. Though some concerns have been raised by the Highways Officer in respect of provision identified within streets beyond a 50-metre distance from the site within the survey, the majority of survey data has been collected within this radius. A minimum of 4 and a maximum of 9 on-street parking bays (i.e. off the active carriageway) were available throughout peak monitoring times, which includes evenings and weekends. It is considered by the Highways Officer that the availability of on street parking provision within close proximity of the site would ensure that there is unlikely to be a safety issue as a result of parking on the surrounding highway network.
- 8.8 Concern has been raised by the Highways Officer in respect of the pattern of ownership, use of the site, and future demand of spaces. However, future potential planning proposals are not a material consideration in the assessment of this proposal. An assessment has been made against the required parking standards, and the further supporting information by way of the parking survey has provided mitigating information to find the allocated parking provision acceptable. It is noted that the Highways Officer considered the acceptability to be *“marginal at best”*. However, paragraph 111 of the NPPF states that proposals should only be refused where there would be *“an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*.
- 8.9 Given this assessment, it is considered that the proposed development, while providing a shortfall in allocated parking provision, would not result in unsafe parking within the surrounding highway network and therefore is acceptable on balance.
- 8.10 In respect of cycle parking provision, there is a requirement of one cycle space per every two bedrooms. Each unit is served by secure cycle parking provision at a rate of 1 per bedroom, with each unit being provided with 6 spaces. As such, the proposal provides above the required cycle parking provision and is acceptable. Details of the cycle storage are to be secured by condition to ensure that suitable covered provision is provided and retained.
- 8.11 In addition, appropriate electric vehicle charging provision has been provided, in the form of 1 charging point per dwelling. This is to be secured by condition.
- 8.12 Overall, the proposed development is considered to provide sufficient parking provision to serve the development, with the shortfall in parking provision considered not to result in any adverse highways safety impacts. In addition, further cycle storage is also provided to promote sustainable methods of transport. The proposed development is therefore, on balance, and subject to conditions, considered to be in accordance with Policies CT3, CT6, CT10 and HN7 of Plan:MK.

Impact on the character of the area

- 8.13 Policies D1, D2 and D3 seek to ensure development proposals contribute positively to the surrounding local environment and character, and that buildings are of an appropriate scale in relation to the surrounding built environment, reflecting the aims of Section 12 of the NPPF.

- 8.14 The proposed development does not result in any external alterations that are considered to impact the character of the existing dwelling or surrounding local area and street scene. The proposal is therefore considered to be acceptable in this regard.

Concentration of flats and HMOs

- 8.15 Within the adopted SPD and Policy HN7 of Plan:MK there is a requirement for HMOs to be limited to an acceptable concentration within a given area, which is taken to be within a 50-metre radius of the application site. To retain an appropriate character and mix of dwelling types within a given area, the HMO SPD requires the concentration of HMOs and 1-bedroom flats in the area to not exceed 35%. This is calculated by considering the proportion of 1-bed flats and HMO rooms against the overall number of dwellings.
- 8.16 In respect of the application, an assessment of the concentration of HMOs has been taken for each individual unit, taking into account the use of dwellings as six-bedroom HMOs within the calculations.
- 8.17 In respect of No. 144, there are 28 dwellings (comprising 14 dwellings and 14 two bed flats) within 50 metres and no 1-bed flats. Including the 6 rooms at no. 144 and at no. 146 gives an overall concentration of HMOs and flats of 25%. In the case of No. 146, the resultant concentration would be 18% (2 HMOs and 38 dwellings (consisting of 14 dwellings and 24 two-bed flats)). These calculations take into account the operation of both of these units. Both fall below the maximum concentration of 35%. As such, the development is considered to be acceptable in this regard.
- 8.18 As outlined in section 4.35 of the HMO SPD a non-sandwiching approach will be applied to prevent any one property (HMO or non-HMO) being 'sandwiched' between two HMOs. In this case, the proposed HMO would not cause a sandwiching issue as the units are adjacent to each other and the next adjacent houses are private dwellings or flats. The change of use would therefore accord with policy HN7 in this regard.

Residential amenity and living conditions

- 8.19 Policy D5 of Plan:MK seeks to ensure that development proposals do not cause an unacceptable loss of light, loss of privacy or create a visual intrusion between residences. Policy HN4 also seeks to ensure development proposals meets the Nationally Described Space Standard (NDSS).
- 8.20 There are no external alterations proposed as part of the development and as such the proposals are considered not to result in an adverse on residential amenity in this regard. In addition, there are no internal alterations proposed as part of the development, with the proposals being retrospective. The floor plans provided demonstrate that the development is in accordance with the NDSS.
- 8.21 The HMO SPD states that *"applicants will need to show what measures are proposed in order to ensure that noise from the property would not have an unacceptable impact on surrounding properties"*.

- 8.22 There is an expectation within the HMO SPD for applicants to submit a noise assessment in support of a change of use to HMO to demonstrate that there is a minimum sound insulation standard of 40dB. This has not been submitted as part of this application. However, given the comments from the EHO, a condition can be imposed requesting details of the noise mitigation measures which have been, or will be, installed.

Outside space, bin storage and drying area

- 8.23 Policy HN7, in conjunction with the HMO SPD, requires adequate outdoor space and bin storage to be provided for all HMOs. The HMO SPDs states *"15 square metres of storage space should be provided, as part of the change of use to a HMO, for drying area and storage of the following waste receptacles:*
- *1 black sack per bedroom*
 - *1 pink recycling sack per bedroom*
 - *1 blue recycling box per 3 bedrooms*
 - *1 x 240 litre green bin for food and garden waste per 6 bedrooms"*
- 8.24 In addition, Policy D5 (Part C) also states that appropriate provision of service areas and refuse storage and collection areas should be made according to the nature of the development. Refuse storage areas and access to them should also be designed to perform effectively without prejudicing other functions and users, maintain an attractive and coherent street scene and avoid risks to human health or an environmental disturbance.
- 8.25 In respect of the required bin storage provision, appropriate storage is provided in each of the rear gardens associated with the units. This provision is also considered to be future-proofed for the introduction of new bin storage including the provision of multiple wheelie-bins. A drying area is also provided adjacent to the cycle storage. These are considered to be appropriate storage methods. Consideration is given to the fact that an area of parking provision was previously used as garden space, this however, has been completed within the scope of permitted development rights – it confirmed by legal officers that such rights can apply to a HMO. Case law¹ establishes that it is a test of the ability to afford, to those who use it, the facilities required for day-to-day private domestic existence, as to whether the accommodation is a 'dwellinghouse' for the purposes of permitted development rights. That ability is considered to exist in this case.
- 8.26 In respect of the required amenity space associated with the proposed scheme, there is no set guidance on this. The New Residential Design Guide SPD sets out a criteria of private amenity space of 10m in depth for family units. In this case, an area of private amenity space of 4m depth is provided. While this is lower than that required for a family dwelling, it is considered that the provision would be an appropriate level for the proposed use. Weight and consideration is also given to the location of a large area of open space, and Broughton Brook, within a 10 minute walk from the site. The level of amenity space provided is therefore considered to be acceptable to serve the use of the site.

¹ *Gravesham Borough Council v Secretary of State for the Environment and Michael W O'Brien (1982) 47 P & CR 142*

9.0 Conclusions

- 9.1 The proposed development is considered to be in on balance, in accordance with the principles of the development plan. While it is acknowledged that the allocated parking provision is below the required standards, it is considered that there is capacity within the wider highway network, as demonstrated within the submitted parking survey, to accommodate additional on street parking provision within on-street parking bays. The proposal provides HMO accommodation within an area that would not adversely affect the character of the surrounding area, nor result in significant harm to existing and future occupiers of the site and the surrounding local area. While the issues raised are considered and acknowledged as part of the application, it is considered that, on balance, the scheme is of a quality that is in accordance with the principles of the development plan.
- 9.2 None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations are recommended where meeting the tests for their imposition.
- 9.3 Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change and human rights legislation (including Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions).

10.0 Conditions

1. Within two months of the granting of the development hereby permitted, details of noise mitigation measures for the approved scheme shall be submitted to the Local Planning Authority for approval. These measures, if not already installed, shall be fully implemented within three months of the approval of the measures. These measures shall thereafter be maintained and retained as approved. Where the details required are not submitted within two months of the date of this decision, the use hereby permitted shall cease and the use shall revert to the former lawful use as two dwellinghouses.

Reason: To safeguard the amenity of existing and future residents.

2. Each property shall not be operated with more than six lettable rooms at any time.

Reason: To control future intensification of the application property, and to recognise that the proposal has been found acceptable having regard to material considerations.

3. Within two months of the date of this decision, details of the proposed bicycle parking shall be submitted to the Local Planning Authority. These details shall be approved by the Local Planning Authority and the development shall be completed in accordance with the approved details and shall thereafter be retained for those purposes. Where the details required are not submitted within two months of the date of this decision, the use hereby permitted shall cease and the use shall revert to the former lawful use as two dwellinghouses.

Reason: To ensure the provision and availability of adequate cycle parking.

4. The car parking provision associated with the development hereby permitted and shown on the approved plan ref. 737 002 A shall be maintained as a permanent ancillary to the development and shall be used for no other purpose thereafter.

Reason: To ensure adequate parking provision at all times so that the development does not prejudice the free flow of traffic or the safety on the neighbouring highway.

5. Within two months of the date of this decision, details of the proposed bin storage shall be submitted to the Local Planning Authority. These details shall be approved by the Local Planning Authority and the development shall be completed in accordance with the approved details and shall thereafter be retained for those purposes. Where the details required are not submitted within two months of the date of this decision, the use hereby permitted shall cease and the use shall revert to the former lawful use as two dwellinghouses.

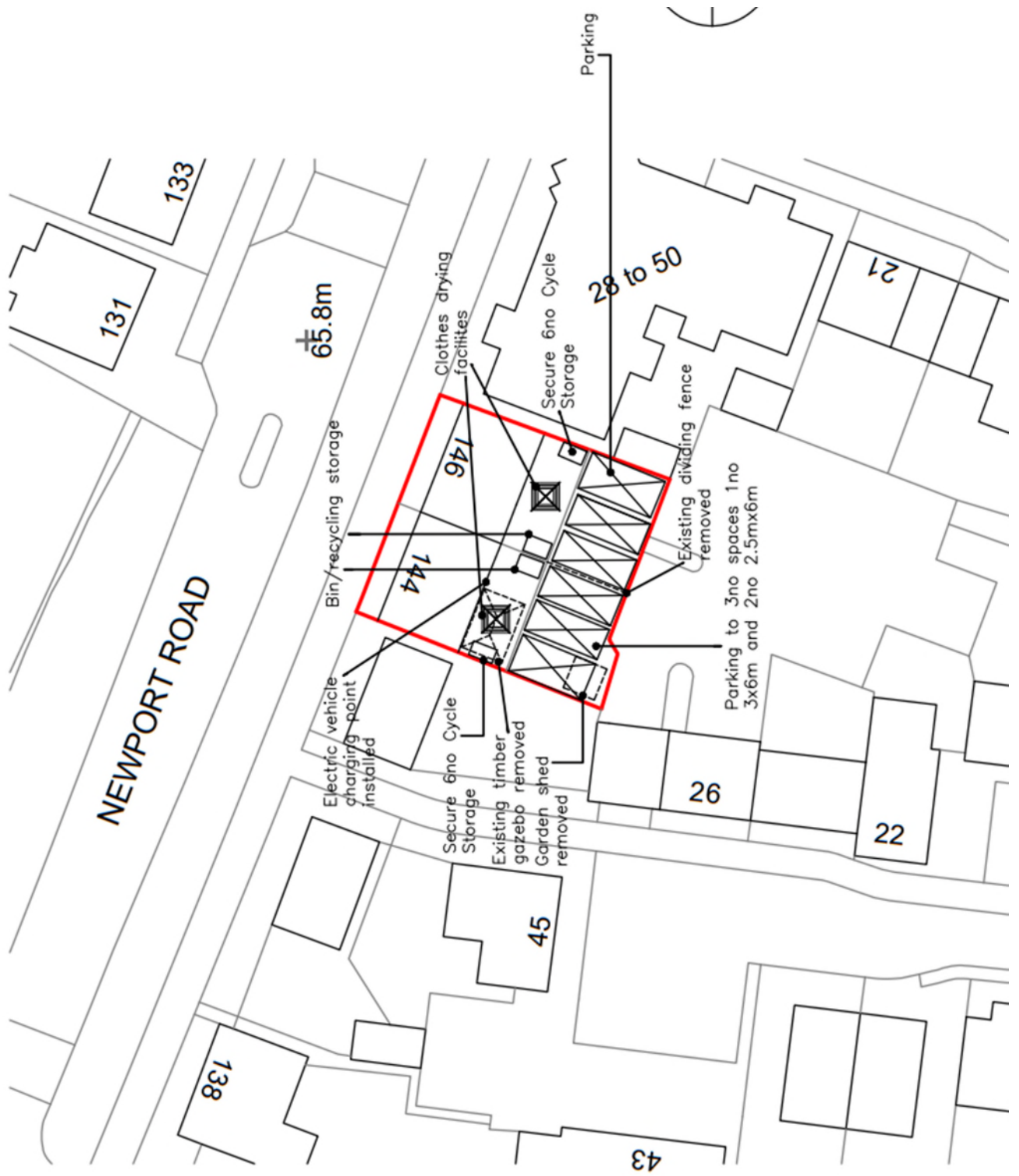
Reason: To ensure the provision and availability of adequate bin storage.

Plans and drawings extracts

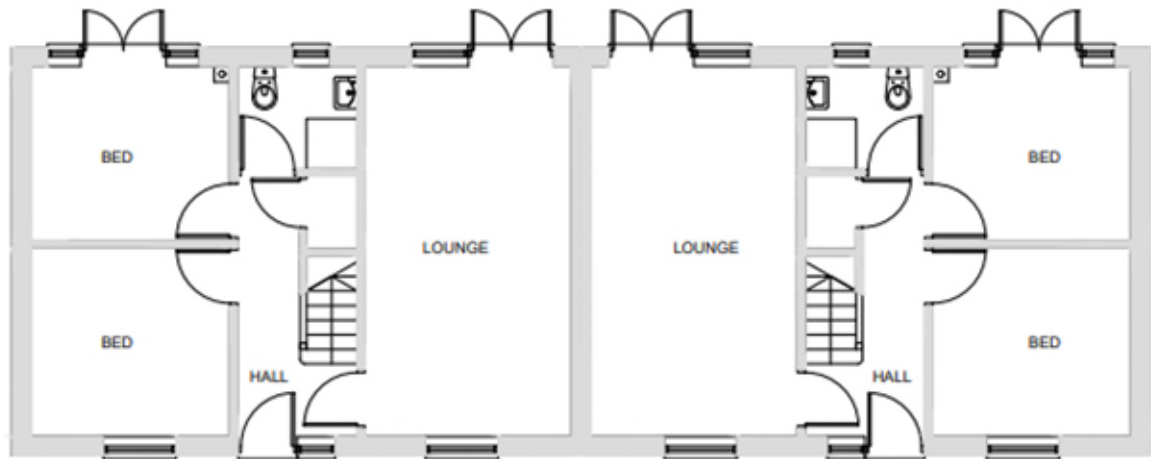
Site location plan



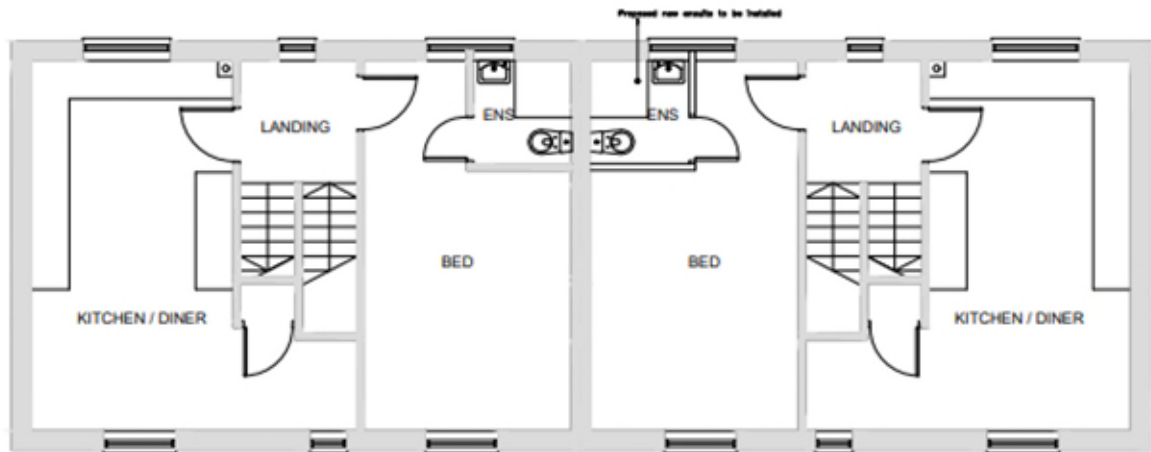
Site Layout Plan



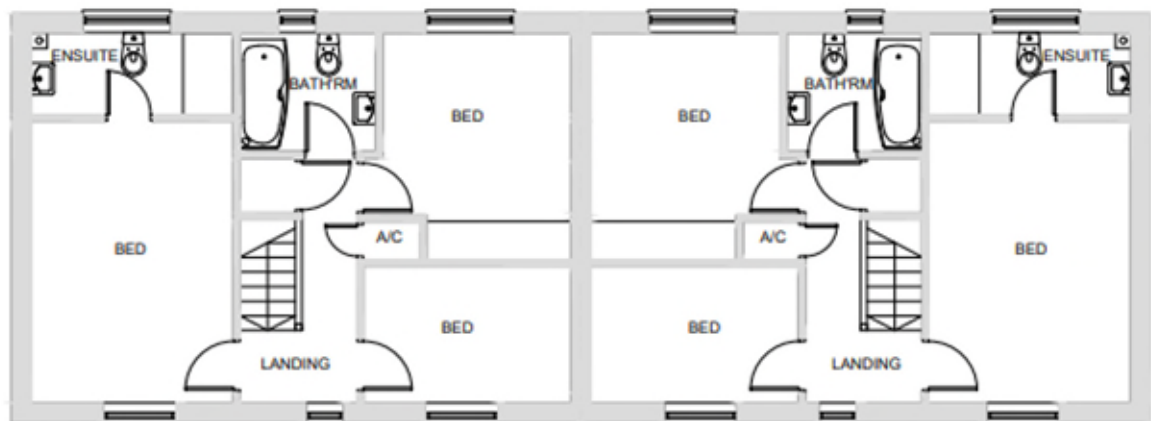
Proposed layout



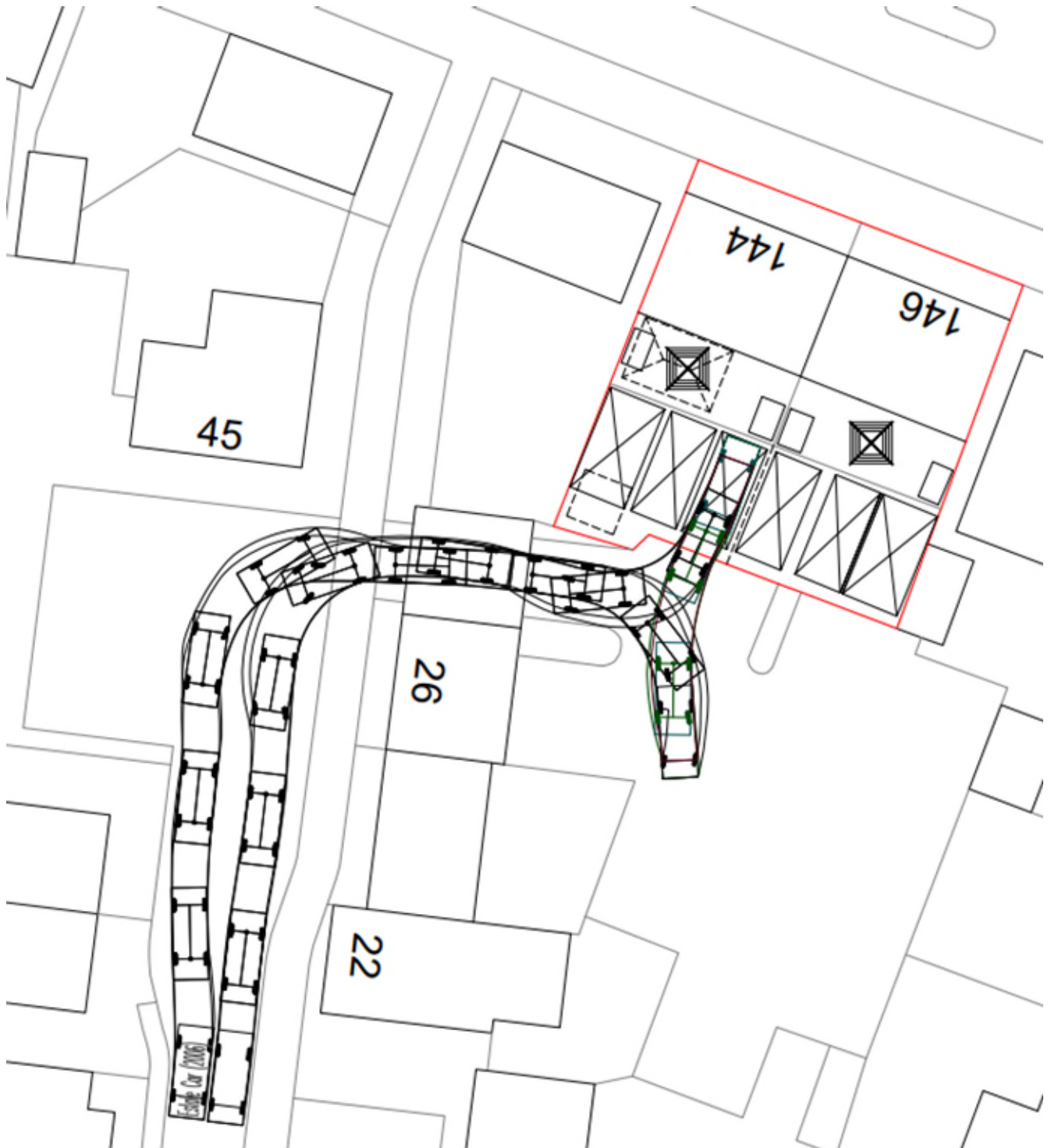
GROUND FLOOR PLAN

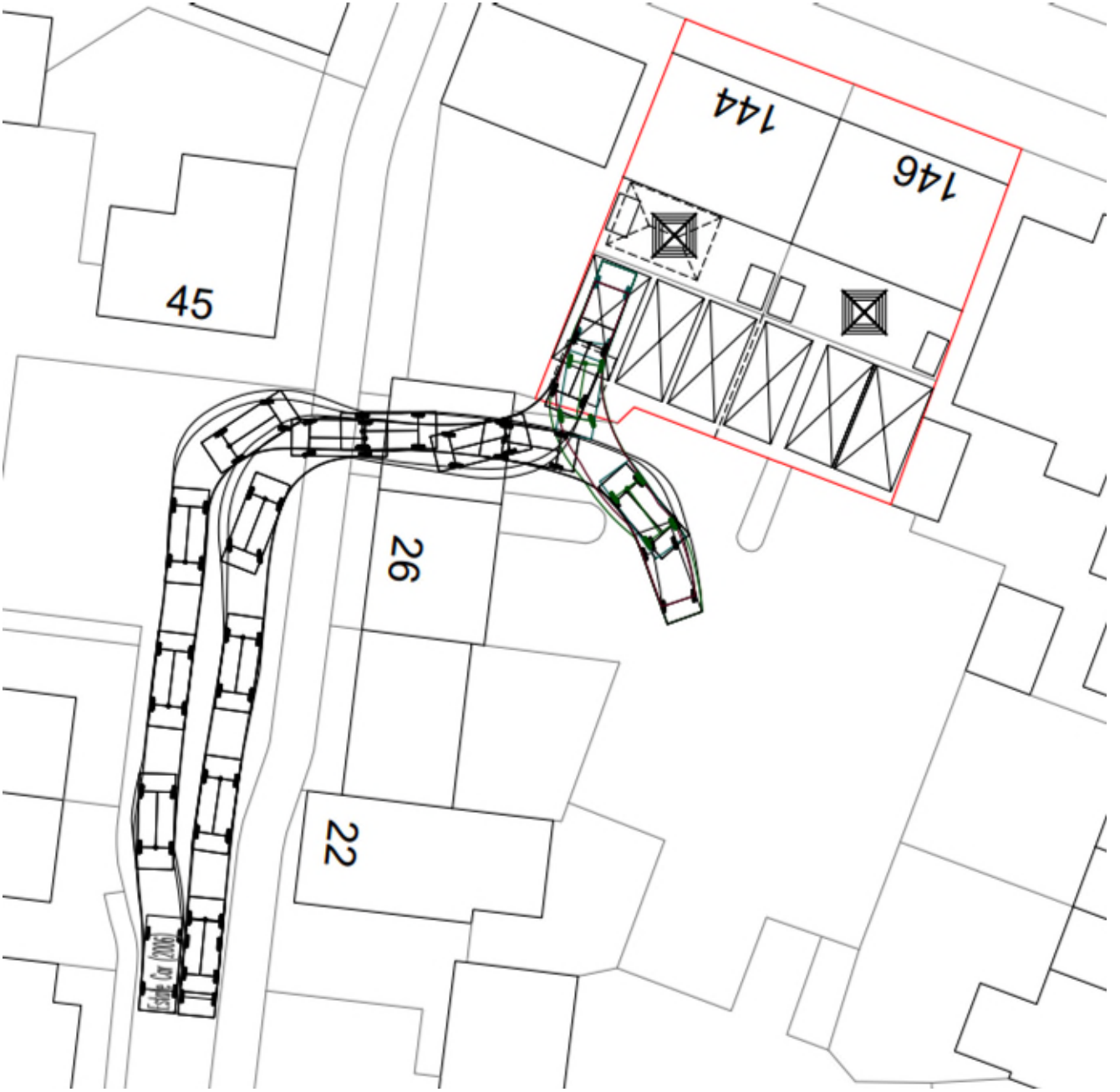


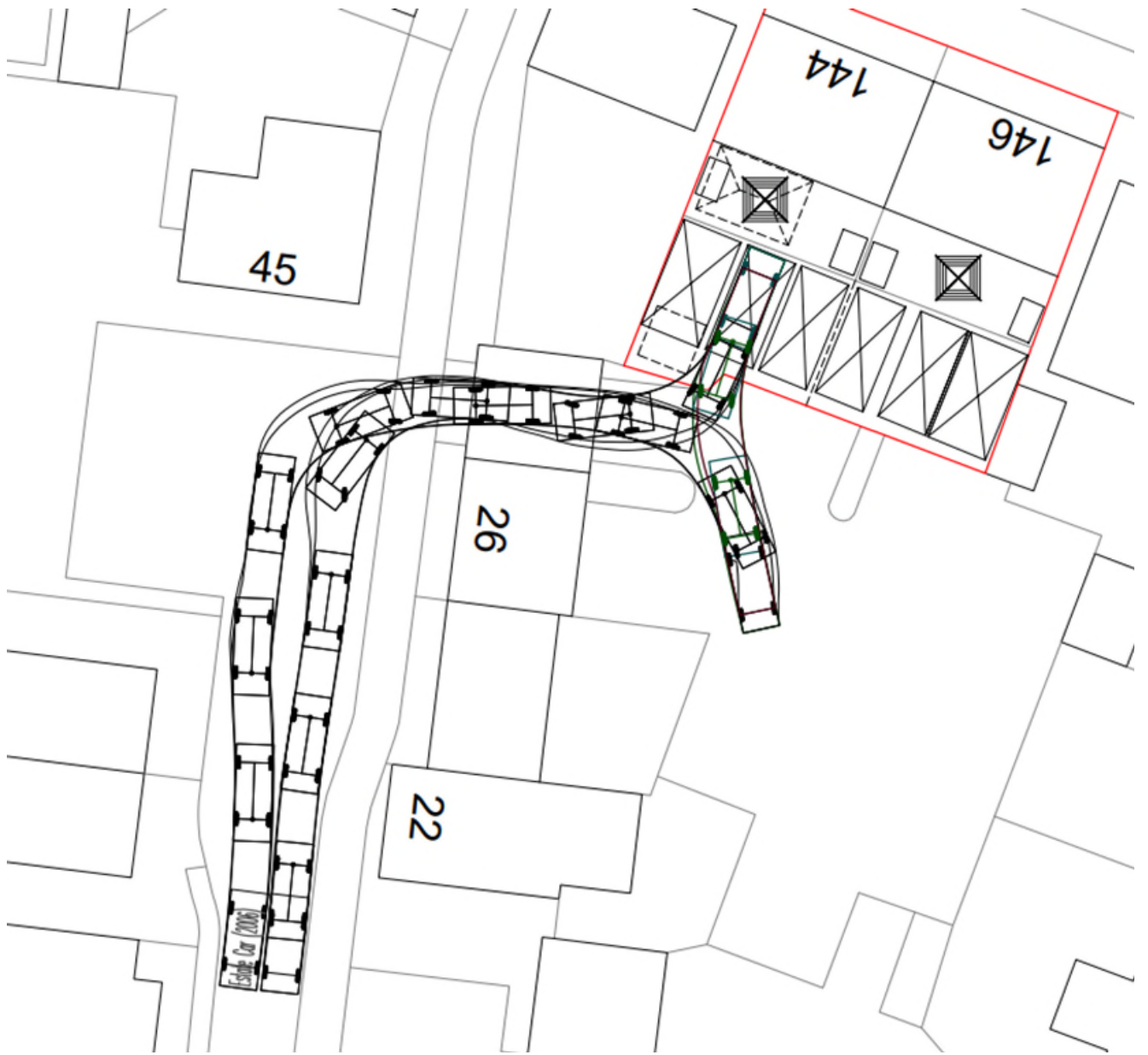
FIRST FLOOR PLAN



Tracking Diagrams







Annex

A1.0 Consultations and representations

The following paragraphs present the original text of responses and representations made by consultees. All responses and representations received can be viewed in full, online at www.milton-keynes.gov.uk/publicaccess using application ref. 22/00910/FUL.

A1.1 Broughton and Milton Keynes Parish Council

“Committee RESOLVED that Broughton & Milton Keynes Parish Council objections to this application, due to it not having the required parking spaces as outlined in MKC Parking Standards:

C4-Houses in Multiple Occupancy (HiMOs), Milton Keynes Parking Standards, Supplementary Planning Document, January 2016

Parking standard of HiMOs in Zone B: standard to be calculated using the formula: $n-1$ where n = the number of bedrooms (e.g., 6 bedroom = 5 spaces). Therefore, each property is short 2 spaces (total of 4 parking spaces short)”.

A1.2 Cllr Sam Crooks- Broughton Ward

“First, in the interest of transparency may I say that I have been involved with these houses on two previous occasions. First, last year in resolving a waste collection issue where a considerable amount of rubbish had been left out *circa* five days before the normal collection date. And second, more recently, to facilitate residents of Dempster Court (opposite the properties) make a request that there be a HiMO inspection by the Private-sector Housing department.

Turning to the specific application I believe that there are insufficient parking spaces to support both houses as indicated in the MK Parking Standards SPD of January 2016 with particular reference to HiMOs in Zone B. The formula to be used is $n-1$ where n = the number of bedrooms. This would necessitate each residence having 5 parking spaces but at the back only 3 are provided per house.

Thus I wish to object to the proposed change of use as it cannot meet a specified requirement of the category into which the change is proposed - it falls 4 parking spaces short.

Furthermore, should you be minded to approve the change of use, I would ask that it be referred to the Development Control (now Planning) Panel. I do so on three grounds:

- first the breach of parking standards referred to above
- second, the precedent that a decision to approve would set
- third, the significant public interest there is in this application encompassing the Newport Road, Dempster Court, Bluebell Gardens and the adjacent Milton Keynes Preparatory School”.

A1.3 Cllr Kerrie Bradburn – Broughton Ward

“I believe that there are insufficient parking spaces to support both houses as indicated in the MK Parking Standards SPD of January 2016 with particular reference to HiMOs in Zone B. The formula to be used is $n-1$ where n = the number of bedrooms. This would necessitate each residence having 5 parking spaces but at the back only 3 are provided per house.

I wish to object to the proposed change of use as it cannot meet a specified requirement of the category into which the change is proposed - it falls 4 parking spaces short.

Furthermore, should you be minded to approve the change of use, I would ask that it be referred to the Development Control (now Planning) Panel. I do so on three grounds:

- first the breach of parking standards referred to above
- second, the precedent that a decision to approve would set
- third, the significant public interest there is in this application encompassing the Newport Road, Dempster Court, Bluebell Gardens and the adjacent Milton Keynes Preparatory School”.

A1.4 MKC Highways

Initial comments received

“I have looked through the plans and visited the site.

The proposed parking spaces are located off a private courtyard which gives access to / from Bluebell Gardens. However, the red line is not showing up to the public highway so I would question the validity of the planning application.

The proposals include 6 parking spaces. The plans show that one of the parking spaces is positioned behind some landscaping and a street lighting column. I can only assume that this is a drafting error because on site there are two spaces to the east side of the column and one to the west.

The submitted existing site plan is not reflecting how the site is set out on the ground as shown below:

For the three spaces on the west side of the site, these appear to lack 6m reverse distance. Entering and exiting these spaces is made awkward by the entry / exit angle and the landscaping area by number 26.

The site survey and dimensions should be checked and tracking to demonstrate that the spaces are accessible.

The calculation of the parking requirement depends on whether the application should be treated as 12 bedrooms or 2 x 6 bedrooms. In other words does the “n – 1” standard result in a requirement of 11 spaces or 10?

Against the parking standards the proposals will be either 4 or 5 parking spaces short of the parking standards and more than this if the geometry of the parking spaces layout cannot be agreed.

The planning application has been supported with a parking survey. The coverage of the survey is reasonable although I would question whether occupiers would realistically park within the areas on the outer limits of the survey as these are in different streets and beyond a line of sight. It was already observed at other properties that inappropriate parking activity was taking place as occupiers prefer this rather than to park safely in dedicated spaces further away. The supporting statement and parking survey has provided some information on car ownership and use of the site.

Taking account of these factors, the six spaces being provided and some availability of on street parking close by would suggest that there is unlikely to be highway safety issues with the proposals.

My concern is whether this pattern of ownership will continue and if there were to be future demand for 10 spaces then this will exhaust the local on street spaces and probably exceed them which will likely cause highway safety issues. The proposals are therefore marginal at best”.

Additional comments

“I refer to the revised plans (rev c) and the tracking diagrams showing access to/from the two spaces at the west side of the site.

The tracking plans demonstrate that the parking spaces are accessible albeit the movements will be tight. In that respect I have no objections to the layout.

My only other comment refers to the general layout of the parking area and the access to/from the rear garden. The parking spaces which front the fence / garden do not, (due to constraints on the overall width of the site), provide for pedestrian access e.g. for moving bins in and out of the site. It would normally be expected to provide a 1m path for this but in this case the moving of bins etc would need to be between vehicles. There is a path, albeit just below 1m on the number 146 side of the site.

While this is a concern, in this case it does not lead to an objection to the proposals.

If planning permission is granted I recommend conditions to set out and retain the parking and to submit details for the cycle parking”.

A1.5 MKC Environmental Health

“Any alterations to properties, eg change of rooms, provision of additional services (eg bathrooms) would be a Building Control function.

For retrospective applications we research our records for any complaints in respect of the use, and this case, none have been reported.

We would have no reason to object or recommend conditions”.