

**Reference:** 06/18/0345/CU

**Parish:** Great Yarmouth

**Officer:** Mr J Beck

**Expiry Date:** 17-09-2018

**Applicant:** Miss Hunt

**Proposal:** Change of use from hotel to house in multiple occupation with managed accommodation

**Site:** Southern Hotel  
46 Queens Road  
Great Yarmouth

## REPORT

### 1. Background / History :-

1.1 The application site is situated on the eastern side of Queens Road, Great Yarmouth. It is largely situated amongst residential uses, but with a more mixed use on Nelson Road South further to the east. The converted Royal Navy Hospital is positioned to the south. The property itself was used as a Hotel until 2015, it has an attractive frontage and is part of a row of three storey buildings (with basements). The site is currently within an area the Local Plan designates as residential. The site is within a Conservation Area (number 1 Camperdown) and in flood zone 2.

1.2 The application is to change the use of a hotel to a 12 bed House in Multiple Occupation (HMO) in use class Sui generis with managers accommodation. The application is retrospective and has been used as a HMO since 2015. An HMO use has been refused twice previously at this address, please see the history below.

1.3 The site is currently subject to an enforcement notice.

1.4 Planning History:

06/15/0710/F - Retrospective application hotel to house in multiple occupation. Refused. 08-02-2015. Appeal Dismissed. 14-03-2017

06/17/0412/CU – Change of use from hotel to house in multiple occupation with managed accommodation. Refused. 13-10-2017. Appeal Dismissed. 26-03-2018

## **2. Consultations :-**

All Consultations are available to view on the website.

2.1 Highways – No objection.

2.2 Public Consultation – No public objections were received.

## **3. Policy and Assessment:-**

### **3.1 Local Policy :- Saved Great Yarmouth Borough-Wide Local Plan Policies (2001):**

3.2 Paragraph 213 of the NPPF states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the Local Plan is to the policies in the NPPF the greater the weight that is given to the Local Plan policy. The Great Yarmouth Borough Wide Local Plan was adopted in 2001 and the most relevant policies were 'saved' in 2007. An assessment of policies was made during the adoption of the Core Strategy December 2015 and these policies remain saved following the assessment and adoption.

3.3 Paragraph 11 states that where no relevant local policies exist or they are out of date then permission should be granted unless the adverse impacts demonstrably outweigh the benefits when assessed against the whole of the NPPF.

3.4 The Saved Policies listed have all been assessed as being in general conformity with the NPPF, and add further information to the policies in the NPPF, while not contradicting it. These policies hold the greatest weight in the determining of planning applications.

### **3.5 POLICY HOU23**

The conversion or change of use of properties to bedsits and other types of multi-occupied units of residential accommodation will be permitted where:

- (a) The site is outside an area shown as 'prime holiday accommodation' on the proposals map;
- (b) The character and amenities of the locality would not be significantly adversely affected;
- (c) The site is not in an area predominantly comprising properties in single family occupancy;
- (d) Clustering of properties in multiple occupation would not occur; \*
- (e) There is no property used as a single unit of family accommodation directly adjoining the proposed development;
- (f) The proposed development and associated facilities could be provided without significant detriment to the occupiers of adjoining or neighbouring buildings;
- (g) There is adequate on-street car parking and the onstreet car parking requirements of the proposal would not result in more than 70% of the available 'overnight' on-street residential parking provision being exceeded unless adequate alternative provision is made; and,
- (h) The building is 3 or more storeys high or more than 95sq m floor area.

(\*note: clustering constitutes 3 properties in multiple occupation forming a continuous group, or 50% of the length of any continuous frontage or sharing common boundaries.)

### **3.6 Adopted Core Strategy:**

#### **3.7 CS1 - Focusing on a sustainable future**

- A) Sustainable growth, ensuring that new development is of a scale and location that complements the character and supports the function of individual settlements
- B) Mixed adaptable neighbourhoods, that provide choices and effectively meet the needs and aspirations of the local community

E) Safe, accessible places that promote healthy lifestyles and provide easy access for everyone to jobs, shops and community facilities by walking, cycling and public transport

### **3.10 National Planning Policy Framework:**

Paragraph 127 - Planning policies and decisions should ensure that developments:

- a) Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users<sup>46</sup>; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

### **3.11 Strategic Planning Comments**

No comments on Local Policy, but noted that the previous planning inspectorate decision related to the layout only.

### **3.12 Emerging Local Plan Part 2**

Paragraph 48 of the NPPF states:



Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) The degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

A draft Local Plan Part 2 is currently out at consultation so may be given some weight.

Policy H7-dp relates to HMO's.

#### **4. Appraisal:**

4.1 46 Queen Street is the former Southern Hotel. It is an attractive building that has been recently redecorated on the external façade. The signs relating to the Hotel are still present. The property is three storey with a basement, it has an attractive bay front and is part of a row of three similar properties. The area is predominantly residential in character with flats and single dwellings present and the former Royal Navy Hospital opposite. To the east on Nelson Road South is a more mixed area with tourism uses more prevalent.

4.2 The application is for retrospective permission to change the use of the building to an HMO. The basement is shown as communal facilities and storage areas, the ground floor as a mix of manager's accommodation and communal facilities whilst the first and second floor are predominantly HMO rooms but with some communal facilities. The top floor is designated as storage.

#### **5.0 Assessment**

5.1 An application to create an HMO in this location was refused in 2016 and again in 2017. Both were appealed by the applicant and both dismissed. The first application was refused for the following reasons; The impact on character and appearance of the area, effect on living conditions of the neighbours, inadequacy of the living accommodation for the occupiers and flood risk. The planning inspector did

not concur with the council that the flood risk, impact to character of the area and loss of visitor accommodation to an unacceptable degree, but agreed that the layout was poor in terms of communal facilities and small room sizes of two rooms. The appeal was subsequently dismissed.

5.2 The second application removed the two smallest rooms and placed these into storage use. The application was refused due to insufficient communal facilities. Insufficient communal facilities create a poor environment for the occupants meaning the occupants spend more day-to-day activities within the confines of their room. The communal facilities provided were poorly located creating a significant distance of travel for those residing on the second floor thus discouraging use. In addition the communal facilities were positioned amongst the manager's accommodation creating an awkward arrangement whereby the manager's accommodation and communal facilities were indiscernible. The planning inspector again agreed with the council that the communal facilities were inadequate and the appeal was dismissed following an informal planning hearing.

5.3 This application is the third application since the use started in 2015. The planning inspectorate's decision for the previous application is an important consideration in the determination of this application whereby the principle of use of the building as an HMO was deemed acceptable but the inspector dismissed the appeal as the layout of communal facilities had not sufficiently improved upon the previous application. The inspectorate states in paragraph 13 of his decision that using the two rooms deemed too small for accommodation in the previous permission as communal facilities would negate the need to use the basement and reduce travel distances. The latest layout to address the previous concerns of the planning inspectorate.

5.4 The submitted layout has created a small kitchen on each of the first and second floor and provided a sizeable communal room on the ground floor. The kitchen and communal facilities on the ground floor and basement have been retained from previous applications. The new layout creates clearly defined areas of communal use outside of the managers accommodation whilst the kitchens on the first and second floor reduces the distance of travel in carrying out day to day activities such as making meals and hot drinks. This encourages less cooking, storage and other unhealthy activities within the rooms. The layout should be conditioned against the submitted plans to ensure that the kitchen is installed within a suitable time scale and to ensure the communal facilities remain available for such use.

5.5 Following the refusal of two planning permission it is felt that a position has now been reached where the concerns over living conditions have been suitably resolved.

5.6 The principle of use is considered acceptable taking into account the inspectors decision and both planning appeals have stated that the proposal would not significantly and adversely affect the character of the area. The hotel is outside the primary and secondary holiday areas so would not significantly reduce the town's tourism offer. A cluster of uses (defined under policy HOU23 as 3 properties in multiple occupancy in a continuous group) of flats and the proposed HMO contrary to criterion D of planning policy HOU23 has been created. However the inspector has argued that the need for HMO accommodation outweighs this issue. Accordingly whilst the proposal is still contrary to criterion D the proposal is not deemed to be significantly detrimental to overrule the benefits.

5.7 The site is within a flood zone on the environment agency flood map and a Flood Risk Assessment has been provided. The first planning appeal stated that the ground floor was sufficiently raised and no sleeping accommodation was put in the basement thus the HMO would not create an unacceptable flood risk. This has remained the same and accordingly the Flood Risk is deemed acceptable although a Flood Response Plan should be submitted to provide guidance to the occupants in case of a flood.

5.8 In considering whether to grant planning permission for development which affects a Conservation Area, the local planning authority must have regard to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the Council to have special regard to the desirability of preserving or enhancing the character or appearance of that area. In this instance with no external alterations it is not considered to significantly and adversely affect the character of the area.

5.9 No neighbour objections have been received. However a Noise Risk Assessment detailing mitigation measures could be considered as a condition. This was noted by the planning inspectorate under paragraph 22 of the second appeal decision. Both would need to be subject to a suitable time scale as the application is already retrospective.

**6. RECOMMENDATION :- Recommended for approval,** subject to all conditions ensuring a suitable development. Subject to Conditions ensuring creation and

retention of communal facilities, the provision of a flood response plan and noise assessment.

The permission should be in accordance with the layout shown on the submitted plans ensuring that the number of accommodation rooms is not increased, that the management accommodation is retained and that the communal facilities are retained.

Jason Beck  
Great Yarmouth Borough Council  
Town Hall  
Hall Plain  
Great Yarmouth  
Norfolk  
NR30 2QF

Your Ref: 06/18/0345/CU  
Date: 25 July 2018

My Ref: 9/6/18/0345  
Tel No.: 01603 638070  
Email: stuart.french@norfolk.gov.uk

Dear Jason

**Great Yarmouth: Change of use from hotel to house in multiple occupation with  
managed accommodation  
46 Queens Road GREAT YARMOUTH Norfolk NR30 3JR**

Thank you for your recent consultation with respect to the above to which the Highway  
Authority raise no objection.

Yours sincerely

*Stuart French*

Highways Development Management & Licensing Officer  
for Executive Director for Community and Environmental Services



**Jill K. Smith**

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**From:** Jason Beck  
**Sent:** 27 July 2018 15:52  
**To:** Jill K. Smith  
**Subject:** FW: 06/18/0345/CU - 46 Queens Road, Great Yarmouth

Please find a consultation response

**JASON BECK**

Planning Officer (Development Control)

**Great Yarmouth Borough Council**

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**From:** Kim Balls  
**Sent:** 27 July 2018 15:41  
**To:** Jason Beck  
**Subject:** 06/18/0345/CU - 46 Queens Road, Great Yarmouth

Hi Jason,

I note that a previous application was dismissed at appeal, due solely to the configuration of the internal layout of the proposal and that the Inspector's Report did not raise any objections to the application of local planning policy. Given that the current proposal remains unchanged, bar revisions to the internal layout to address the Planning Inspector's previous misgivings, I do not offer any further comments on the proposal.

Kind regards,



**Kim Balls**

Senior Strategic Planner (Policy)  
Great Yarmouth Borough Council

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## Appeal Decisions

Hearing held on 7 February 2017

Site visit made on 7 February 2017

**by Mr Keri Williams BA MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14 March 2017**

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### **Appeal A: APP/U2615/W/16/3151847**

#### **Southern Hotel, 46 Queens Road, Great Yarmouth, NR30 3JR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Miss V Hunt against the decision of Great Yarmouth Borough Council.
- The application, ref:06/15/0710/F, was refused by notice dated 8 February 2016.
- The development proposed is a change of use from a hotel to a house in multiple occupation with managed accommodation.

**Summary of Decision: The appeal is dismissed.**

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### **Appeal B: APP/U2615/C/16/3151866**

#### **The land at Southern Hotel, 46 Queens Road, Great Yarmouth, NR30 3JR**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Miss V Hunt against an enforcement notice issued by Great Yarmouth Borough Council.
- The Council's reference is U2615.
- The notice was issued on 11 May 2016.
- The breach of planning control as alleged is the material change of use of the land from C1 Hotel to the Sui Generis use of a house in multiple occupation.
- The requirement of the notice is to cease the use of the property as a house in multiple occupation.
- The period for compliance with the requirements is 6 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) (b) and (g) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.

**Summary of Decision: The appeal does not succeed. The enforcement notice is varied to extend the period for compliance and is upheld.**

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### **Background**

1. The Southern Hotel is a 3 storey, terraced building with a basement and attic. It is on the north side of Queens Road and within the Camperdown Conservation Area. Drawing 1049/1 was submitted with application 06/15/0710/F. It is a survey drawing, dated November 2015, and shows the layout on each floor. Drawing 1049/2 provides a proposed layout for each floor. A House in Multiple Occupation (HMO) licence is in place and is dated 25 May 2016. Appendix 2 of the licence lists 14 rooms, of which 13 are single occupancy and 1 is a double occupancy room. In addition to these rooms, part
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of the building is used for manager's accommodation and for rooms occupied by the appellant's family members.

### **Ground (b) of Appeal B**

2. To succeed on this ground it is for the appellant to show, on the balance of probabilities, that the alleged material change of use from a hotel to an HMO has not occurred as a matter of fact. It is consistent with Planning Practice Guidance that the appellant's case should be accepted if there is no evidence to contradict or otherwise make her version of events less than probable, provided that her evidence is sufficiently precise and unambiguous.
3. The granting of an HMO licence is not conclusive of a material change of use. The appellant contends that considerable change can occur without a use falling outside use as a hotel for planning purposes. Reference is made to Circular 03/2005, Changes of Use of Buildings and Land – The Town and Country Planning (Use Classes) Order 1987 (UCO). The Circular referred to hotels as including *"not only hotels, but also motels, bed and breakfast premises, boarding and guest houses. These are premises which provide a room as temporary accommodation on a commercial, fee-paying basis, where meals can be provided but where residential care is not provided. In addition, short-term (i.e. purchased at a nightly rate with no deposit against damage being required) self-contained accommodation, sometimes called Apart-Hotels, will also fall into this class."*
4. It is also argued that some of those occupying the building would not comply with the definition of an HMO in section 254 of the Housing Act 2004. The test of residence in that section requires that the building is occupied by more than one household as their only or main residence. It is said that in this case at least some of the occupants have their main residence elsewhere. A list of those currently occupying the property is provided. 3 of the 11 residents on the list are said to return to a home elsewhere at weekends.
5. Hotels are in UCO Class C1, which covers use as a hotel or as a boarding or guest house where no significant element of care is provided. Class C4 covers HMO properties and refers to unrelated individuals who share basic amenities. The term "basic amenities" includes toilet facilities, personal washing facilities and cooking facilities. Class C4 is limited to those with no more than 6 residents so that it does not apply in this case.
6. Despite the withdrawal of Circular 03/2005 in 2014, its reference to a range of different types of premises falling within the hotel category remains pertinent. Amongst other things the Circular alludes to the provision of temporary accommodation and to the inclusion of nightly charged, self-contained accommodation, sometimes called Apart-Hotels. The provision of some services to clients is also characteristic of hotels. The submitted list of occupants is current rather than from May 2016, when the notice was issued. Some of those on the list are long-standing residents. The available evidence does not establish that, when the notice was issued, the premises were providing temporary accommodation. Nor has it been shown that the rooms were self-contained in the manner of an Apart-Hotel. At the time of my visit the bedrooms were behind lockable doors. While some had a kettle and a few had facilities such as a microwave or fridge, they did not have kitchen facilities and were not self-contained in respect of cooking facilities. The appellant's submitted evidence did not refer to any services provided to the



- clients. Brief reference was made at the Hearing to the provision of clean sheets but it is not evident that such a service was in place when the notice was served.
7. The test of residence to which the appellant refers is derived from housing legislation and is not a requirement of planning legislation or regulation. Although this property falls outside UCO Class C4, the matters of unrelated individuals and sharing of facilities remain relevant when considering larger HMO properties. In this case it is not suggested that the residents are related and, as I set out above, there is reliance on shared cooking facilities.
  8. The distinction between a hotel or guest house use and an HMO use can be a fine one. As a matter of fact and degree I consider that in this case, there was a change of use from a hotel to a sui-generis use as an HMO. I have also considered whether this was sufficient to amount to a material change of use. There is little information on precisely how the hotel operated prior to its acquisition by the appellant in February 2015. The move to an HMO use is likely to have resulted in a significant change to the character of the use within the premises. There would be a more intensive use of the HMO rooms as they became the main place of residence for the occupiers. There would also be a shift towards the shared use of cooking facilities.
  9. The appearance of the building has not materially changed. However, there would be some changes to external effects when compared with a hotel in a seaside resort such as Great Yarmouth, where hotel use is likely to be markedly seasonal. There would, for example, be more comings and goings on a year round basis. The pattern of vehicle movements related to the premises would also change. Vehicle movements related to deliveries and servicing of the hotel would cease but those related to residents would no longer be seasonal. Mr Buck is the landlord of neighbouring flats. His evidence at the Hearing was of his tenants being unable to find parking spaces nearby as they were taken by residents at the former hotel.
  10. The Council provides no evidence of complaints arising from use of the premises as an HMO. Nevertheless, the appellant's evidence is not sufficiently precise and unambiguous to show, on the balance of probabilities, that the appeal should succeed on ground (b). I conclude that there was a change in the character of the use sufficient to amount to a material change of use as alleged in the notice.

### **Appeal A – The Planning Appeal. Ground (a) of Appeal B and the Deemed Planning Application**

#### *Main issues*

11. The manager's accommodation was in place when the enforcement notice was served. I approach the development in both appeals as the material change of use of the premises from a hotel to an HMO with manager's accommodation. The main issues are:
  - i) The effect on the character and appearance of the area;
  - ii) The effect on the living conditions for the occupiers of nearby properties with regard to noise and disturbance;



- iii) The adequacy of living conditions for the occupiers of the HMO accommodation;
- iv) The risk of flooding.

*Relevant Planning Policies*

12. Policy HOU7 of the Great Yarmouth Borough Wide Local Plan, 2001 (LP) provides criteria for residential development which must be met. They include avoiding significant detriment to the form character and setting of the settlement. Development should also not be significantly detrimental to the residential amenities of neighbours. Policy HOU23 provides criteria for changes of use to multi-occupied units of residential accommodation. It also includes criteria concerning the effect on character and appearance and on neighbours. In addition, criterion (D) requires that clustering of properties in multiple occupation would not occur. Clustering is defined as 3 properties in multiple occupation forming a continuous group or 50% of the length of any continuous frontage or sharing common boundaries. It seems to me that the term "properties in multiple occupation" encompasses HMO properties. Policy CS6 of the Council's Core Strategy (CS) is aimed at supporting the local economy. Policy CS8 contains criteria to promote tourism, leisure and culture.
13. The policies of the National Planning Policy Framework, 2016 (The Framework) are a material consideration. The Framework contains relevant policies on the issue of flood risk. LP policy criteria concerning harm to residential amenity are consistent with the Framework's approach of seeking a good standard of amenity for existing and future occupiers of land and buildings. Framework paragraph 58 refers to the need for development to respond to local character.

*The Effect on the Character and Appearance of the Area*

14. The immediately surrounding area is predominantly residential in character. There are flats on either side of the appeal property and terraced houses nearby. The former Royal Naval Hospital and its grounds are on the other side of Queens Road. It is now in residential use. The change of use to an HMO does not entail any changes to the external appearance of the building. There would be some change in the pattern and intensity of comings and goings related to the building. Unlike the hotel use, movements are likely to be less seasonal. It is likely that if all 14 HMO rooms are in use there would be somewhat more comings and goings than when the hotel was in operation. There is no evidence to quantify the likely extent of that increase. The Council is concerned about the potential for HMO residents to congregate immediately outside the property. Reference was made at the Hearing to this occurring on some other streets in Great Yarmouth where there are a number of HMO properties and to this leading to harm to local amenity. However, no substantive documentary evidence of this is submitted, nor is there evidence of complaints since this HMO use began or of other HMO properties in close proximity to this site. The presence of an on-site manager would assist in addressing such matters should they arise.
15. The Council refers to other decisions dismissing appeals concerning changes of use to an HMO in Great Yarmouth. Decision APP/U2615/C/15/3129107 concerned a property on North Denes Road. In that case there were up to 17 rooms and there is no reference on-site manager's accommodation. Amongst



other things the Inspector was concerned about the disruption to a mixed character of hotels, guest houses and residential properties in that area. Decision APP/U2615/C/15/3011913 concerned a property on Wellesley Road. Unlike in this case, the prevailing character was one of mixed holiday accommodation, predominantly guest houses. The Inspector found that the HMO use would materially detract from the holiday accommodation character of the area and harm the local tourism industry. No reference is made to on-site manager's accommodation.

16. While I take these appeal decisions into account, as I set out above their circumstances are materially different to those in this appeal. I conclude that in this case the change of use would not result in material harm to the character and appearance of the area. It would not conflict with LP policies in that respect. The Conservation Area's character and its appearance would be maintained. The adjoining buildings contain flats and the requirement of policy HOU23 with regard to clustering would not be met.

*The effect on the living conditions of the occupiers of nearby properties*

17. With 14 rooms in HMO use it is likely that there would be some noise transmission between rooms and through the party walls with neighbouring properties. On the other hand, this would be likely to some extent with a hotel use and a degree of disturbance such as this is not unusual where neighbouring residential uses are in close proximity. There is also scope to reduce noise to some extent through noise mitigation measures, which could be required by condition. For the reasons set out above, I consider it unlikely that there would be significant harm from noise and disturbance in the surrounding area arising from HMO residents congregating outside the property. I conclude that the change of use would be acceptable with regard to its effect on the occupiers of neighbouring properties. It would not conflict with LP policies in that respect.

*Living Conditions*

18. For the most part the HMO rooms are of an adequate size and configuration. However, one room is very small, with a floor area of only 9m<sup>2</sup>. Another is poorly configured, with varying floor levels. Communal facilities in the basement are said not to be favoured by residents. A further kitchen intended for communal use has been put in place but it has not been shown that it provides adequate facilities for up an HMO of this size. The appellant refers to the scope to reconfigure some of the accommodation to overcome these problems. However, no further drawings or specific alternative proposals are submitted within the scope of these appeals. There are no room size standards specified in the LP. Nevertheless, it is a material consideration to have regard to whether adequate living conditions for the HMO residents would be provided. I conclude that there would not be such provision. There would not be compliance with the Framework's approach of ensuring a good standard of amenity for the occupiers of buildings.

*Flood Risk*

19. The approach set out in Framework paragraph 100 is to avoid inappropriate development in areas at risk from flooding by directing it away from areas of highest risk. Where development is necessary it should be made safe without



increasing flood risk elsewhere. Hotels and buildings used as dwelling houses are classified as "more vulnerable" uses.

20. The appellant has submitted a Flood Risk Assessment (FRA). It finds that the site is in present day Flood Zone 1 and future climate change Flood Zone 2 with regard to the tidal River Yare. It is in present day Flood Zone 1 and future climate change Flood Zone 3a with regard to the open coast. There is an actual and residual high risk of flooding from the River Yare only during a future climate change 1 in 1000 year flood event. There is an actual and residual high risk of flooding from the open coast only during a future climate change in the 1 in 200 year and 1 in 1000 year flood events. The FRA also finds that there would be safe refuge across the ground and upper floors in all modelled flood events, other than a climate change 1 in 1000 year coastal flooding event.
21. The ground floor of the property is significantly elevated above street level. The FRA evidence is that there is a low residual risk of flooding other than in the most extreme flood events. Use of the basement for sleeping accommodation is not proposed. I conclude that, subject to a condition preventing use of the basement for that purpose, the change of use to an HMO would be acceptable with regard to flood risk.

#### *Other Matters*

22. The development would not conflict with policy CS6. A loss of tourist accommodation would not be consistent with one criteria of policy CS8. However, the site is not in a designated "prime holiday accommodation" area and this was not a reason for the Council's enforcement action. The Council's Environmental Health Officer supports the use of the property as an HMO, referring to the need for low cost rented accommodation in the Borough and the scope for control through the licensing system. While there may be some effect on the availability of parking spaces in the vicinity of the property, it would not be sufficient to weigh heavily against the HMO use.

#### *Conclusion on Appeal A, Ground (a) of Appeal B and the Deemed Planning Application*

23. I have concluded in favour of the appellant with regard to the effect on character and appearance, the living conditions of neighbours and flood risk. There would be conflict with policy HOU23 in respect of clustering but the need for HMO accommodation also weighs in the appellant's favour. However, the matters weighing in the appellant's favour are outweighed by my conclusion with regard to living conditions for the residents of the HMO. Appeal A and ground (a) of Appeal B should therefore not succeed and planning permission should not be granted.

#### **Ground (g) of Appeal B**

24. The appellant suggests that extending the period for compliance to at least 9 months would ensure sufficient time for residents of the HMO to find alternative accommodation. While no substantive evidence is submitted with regard to likely difficulties in securing such accommodation, it is likely that a longer period would assist that process. It would also give the appellant sufficient time to consider, prepare and submit alternative proposals should she choose to do so. I also take into account the effect on an extended period



in respect of the main issues as set out above with regard to any harm caused by a continuation of the use. I conclude that the 6 months compliance period is unreasonably short and should be extended to 9 months, as set out in the Formal Decision.

### **Overall Conclusion**

25. Having regard to the above and to all other matters raised, Appeal A should not succeed. Appeal B should not succeed other than in respect of extending the period for compliance.

### **Formal Decisions**

#### **Appeal A: APP/U2615/W/16/3151847**

26. I dismiss the appeal.

#### **Appeal B: APP/U2615/C/16/3151866**

27. I direct that the enforcement notice be varied at paragraph 7 by the replacement of the words "6 Calendar Months" with "9 Calendar Months". I dismiss the appeal and uphold the enforcement notice as varied.

*K Williams*

INSPECTOR



## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr P Kratz BA(Hons), LMRTPI      Solicitor, Birketts LLP.

### **FOR THE LOCAL PLANNING AUTHORITY:**

Ms G Manthorpe	Senior Planning Officer, Great Yarmouth Borough Council.
Mr M Whitton	Planning Enforcement Officer, Great Yarmouth Borough Council.
Ms J Williams	Community Protection Manager, Great Yarmouth Borough Council.
Mr Algar (Site visit only)	Community Protection Officer, Great Yarmouth Borough Council.

### **OTHER INTERESTED PERSONS:**

Mr D Buck      Landlord of neighbouring property.

## **DOCUMENTS SUBMITTED AT THE HEARING:**

1. Copies of drawings 1049/1 and 1049/2.
2. List of current occupiers of the Southern Hotel.
3. Map of Conservation Area No.1: Camperdown.
4. List of HMOs currently licensed by Great Yarmouth Borough Council, last updated 21 October 2015.
5. Copies of policies CS6 and CS8, Core Strategy, 2015.
6. Extract from property register showing ownership at 12 March 2015.
7. Copy of appellant's Statement of Case in APP/U2615/W/16/3151847.
8. House in Multiple Occupation Licence, 25 May 2016.





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## Appeal Decision

Site visit made on 21 March 2018

**by Graham Chamberlain BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 26<sup>th</sup> March 2018**

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**Appeal Ref: APP/U2615/W/17/3190619**

**Southern Hotel, 46 Queens Road, Great Yarmouth, Norfolk NR30 3JR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Miss Victoria Hunt against the decision of Great Yarmouth Borough Council.
  - The application Ref 06/17/0412/CU, dated 3 July 2017, was refused by notice dated 13 October 2017.
  - The development proposed is change of use from hotel to house in multiple occupation with managed accommodation.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters and Background

2. I observed during my site visit that the proposal is retrospective and that the appeal scheme drawings do not accurately reflect the layout of the building or the use of all of the rooms. For example one of the rooms indicated as a store is occupied as a bedroom. Thus, I have based my assessment on drawing 1049/1 only in so far as it is a diagram explaining how the different areas of the building are intended to be used.
3. The Southern Hotel is a 3 storey building with a basement and attic currently in use as a House in Multiple Occupation (HMO). A previous planning application (reference 06/15/0710/F) for the change of use of the building from a hotel to a HMO was refused by the Council and an enforcement notice subsequently served. Both were unsuccessfully appealed in 2017.
4. Appeal decision (Ref APP/U2615/W/16/3151847) is reasonably recent and there have been no relevant intervening changes in planning policy. Moreover, the appeal site, its environs and the substance of the appeal scheme before me are broadly the same. Thus, the previous appeal decision is a material consideration of significant weight in my deliberations as like applications should be considered in a like manner.

### Main Issues

5. The main issues in this appeal are: 1) Whether the proposed development currently provides adequate living conditions for occupants; and 2) Whether the HMO is in a suitable location, with particular reference to local policies concerned with the siting of multi occupied units of residential accommodation.



## Reasons

### *Whether the proposed development provides adequate living conditions*

6. The Council's concerns with the adequacy of Bedroom 17 on the first floor and 7 on the second floor<sup>1</sup> flow from the previous appeal decision referred to above. The previous Inspector had assessed the living conditions of the occupants of the HMO and was concerned with the size and configuration of these bedrooms. I share the concerns as the limited space available to residents of the relevant bedrooms would engender a sense of being cramped and confined. Nevertheless, a planning condition could be imposed to ensure the ensuite bathrooms are removed and that the bedrooms are used as stores. Such a condition would be enforceable as inspections could be undertaken in parallel with the annual monitoring required by the HMO licence. As such, this is not a matter weighing against the grant of planning permission.
7. The manager's accommodation is a large ensuite bedroom on the second floor. The manager would share the communal facilities with the residents of the HMO and I understand such an arrangement is a common occurrence in HMOs when there is a live-in manager. Moreover, the manager, who is the appellant, also has access to the residential accommodation occupied by her family. It is also a point of note that the previous Inspector made no criticism of the manager's accommodation. As such, for the reasons given, I find the manager's accommodation to be adequate.
8. It is essential that adequate communal facilities are provided in an HMO so that the residents have acceptable living conditions. In this instance communal facilities in the form of a kitchen, dining room and sitting room are provided in the basement, which is accessed from a flight of stairs that is connected to the main entrance hall by a corridor. The bedrooms of the appellant's family<sup>2</sup> are accessed off this corridor. The appellant's family have no dedicated living space but it is likely that they are the primary users of the ground floor kitchen, the adjoining covered yard and perhaps the basement. The extent of personal possessions in these areas would suggest this is the case.
9. The family bedrooms, connecting corridor, kitchen and covered yard, along with a room containing fitness equipment, have the character of a private space separate from the rest of the HMO. This 'private space' commences at the fire door that separates the main entrance hall/reception area from the corridor. Consequently, the area beyond the fire door does not have the character of communal space. It appears to be primarily the living accommodation of the appellant's family.
10. There is nothing before me to suggest there is anything inherently wrong with the appellant's family occupying this part of the building. However, it is unreasonable to expect the occupants of the HMO to pass through what is ostensibly private space in order to access the communal areas as they would be imposing upon the private space of the appellant's family. This would discourage the use of the communal area, diminish the privacy of the appellant's family and would occur in spite of an induction process that explains that the communal area is available to residents of the HMO. The distance

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<sup>1</sup> The room numbers annotated on drawings 1048/1 do not correspond with the room numbers I observed during my site visit and there is a room labelled '7' on the first and second floors. Nevertheless, when referring to a room I have taken the number from drawing 1049/1.

<sup>2</sup> Parents, brother and daughter.



between the basement accommodation and the upper floor rooms is a further aggravating factor that would discourage the residents of the HMO from using the communal facilities in the basement.

11. Thus, residents are likely to spend a disproportionate amount of time in their bedrooms and this was evidenced by the presence of fridges and microwaves in some of the rooms. This suggests that residents regularly prepare and take meals in their bedrooms. There was little overt evidence in the basement of it being in active and regular use by the residents of the HMO. Thus, the location of the communal areas in the basement results in harmfully inadequate living conditions.
12. The appeal property is large and consequently there is scope to reconfigure the internal arrangement so that reliance is not placed on the basement to function as the communal living accommodation. This was a point put to me at the hearing and it was also something suggested to the previous Inspector. However, and like the previous appeal, further drawings have not been provided demonstrating how such a reconfiguration would work.
13. At the hearing it was suggested that a condition could be imposed that requires the provision of a kitchen on the first floor in Room 17. Additionally, there is also scope for a kitchen to be provided in Room 7 on the second floor and for rooms off the main ground floor entrance space, such as the store, to be converted to communal areas. Such changes would negate the need for residents to have access to the basement and thus the private areas occupied by the appellant and her family. However, these would be notable changes that would go beyond the scope of what could reasonably be imposed through a planning condition. The Council has no standards to guide a qualitative assessment of the living conditions of residents of HMOs but a fresh submission would enable the configuration of the HMO as a whole, alongside the accommodation needs of the appellant and her family, to be considered holistically.
14. There was some debate at the hearing as to whether the previous Inspector was actually concerned with the communal facilities being located in the basement. In my view he was as he provided a strong inference in Paragraph 18 that a reconfiguration of the communal facilities in the building would be necessary to make the proposal acceptable. Such changes have not occurred or been presented as part of the proposal. As such, my findings are consistent with those of the previous Inspector.
15. Although not shown on any of the drawings it appears that a door has been removed from the corridor leading to the basement and this has opened up the approach. However, if the removal of a single door was the only concern the previous Inspector had with the location of the communal space then it is likely that a planning condition could have been imposed to ensure it was removed. It seems to me that the previous Inspector considered a broader reconfiguration of the building is necessary. In any event, I have already explained that the character of the use of building changes when entering the corridor from the main hall and therefore the removal of the door has had little effect on this.
16. Thus, the communal areas are not adequately sited and consequently the living conditions of the occupants of the HMO are inadequate. As such, the proposal is in conflict with Paragraphs 9 and 17 of the National Planning Policy



Framework, which seek to improve living conditions and provide a good standard of amenity for all existing and future residents of land and buildings.

*Whether the HMO is in a suitable location*

17. Saved Policy HOU23 of the Great Yarmouth Borough Wide Local Plan 2001 only permits multi-occupied units of residential accommodation if clustering of properties in multiple-occupation would not occur. To my mind an HMO is a multi-occupied unit of residential accommodation. There are flats either side of the appeal site and therefore the Council are of the view the appeal scheme has resulted in clustering. The appellant's suggestion that flats are not multi-occupied units of residential accommodation because they are, by definition, individual self-contained units of accommodation has some traction. However, the previous Inspector found that clustering has occurred and thus a conflict with Policy HOU23 has arisen. It would be unreasonably inconsistent for me to depart from this conclusion.
18. The Council are concerned that clustering can result in an undesirable intensification in the use of land. However, there is no evidence that the use of the appeal building as an HMO has resulted in an intensification that can be regarded as being harmful to the amenity of the area. There have been no formal noise complaints or evidence of antisocial behaviour in the two years the HMO has been operating. This is testament to the appellant's careful management of the premises, which is aided by her living on site. Moreover, there is adequate parking nearby and the change of use has not required any harmful external changes to the building. In addition, the change of use has to be considered in the context of the previous use as a hotel and thus the historic and well-established nature of regular comings and goings from the building. As such, the change of use has not undermined the aims of Policy HOU23.
19. Furthermore, a point of further weight justifying a departure from Policy HOU23 is that this matter was already considered by the previous Inspector. He concluded that the need for further HMO accommodation outweighs the policy conflict. The evidence of need presented to the Inspector is not before me and may have been limited but this was a conclusion reached only a year ago and I have seen nothing to suggest there is a local over provision of HMOs or that the need for low cost rental accommodation is limited.
20. Collectively, the points raised in the preceding paragraphs are material considerations that indicate that a departure from the development plan in this instance and on this issue can be justified. As such, I find that the HMO is in a suitable location.

**Other Matters**

21. An HMO licence was granted by the Council in 2016. However, the licensing regime is a parallel legislative process which I understand is focussed on an assessment of quantitative requirements against national standards. However, the planning system deals with amenity and this can include qualitative judgments on living conditions. For the reasons already given I have found the quality of the accommodation to be inadequate and the granting of an HMO licence does not alter this. Moreover, the previous appeal was dismissed notwithstanding the granted HMO licence.



22. Subject to suitably worded planning conditions the matters of flood risk and noise mitigation could be adequately addressed. Moreover, the proposal would preserve the character or appearance of the Camperdown Conservation Area within which it is located. However, the absence of harm in these respects is a neutral matter rather than a benefit.
23. The HMO provides additional low cost rental homes but it does so in a way that currently provides inadequate living conditions. The benefits from providing additional homes are outweighed by the impacts arising from inadequate living conditions. This is particularly so as the living conditions can be markedly improved through a comprehensive reconfiguration of the accommodation.

### **Conclusion**

24. The HMO is in a suitable location but this does not mitigate for the inadequate living conditions of residents. Accordingly, for the reasons given above, I conclude the appeal should be dismissed.

*Graham Chamberlain*  
INSPECTOR



## **APPEARANCES**

### **FOR THE APPELLANT**

Miss Victoria Hunt (Site visit only)  
Philip Kratz BA (Hons) Solicitor LMRTPI

Appellant  
Solicitor, Birketts LLP

### **FOR THE LOCAL PLANNING AUTHORITY**

Gemma Manthroe LLB (Hons) MA  
Jason Beck MA

Senior Planning Officer, Great  
Yarmouth Borough Council  
Planning Officer, Great Yarmouth  
Borough Council

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Drawing 1049/2 and 1049/1 submitted as part of application 06/15/0710/F.
2. Additional list of suggested planning conditions.



28 JUN 2018

06/18/0345/CU

Andrew Middleton

NORFOLK

Tel. (01493) 858611

Change of use to residential.

Souther Hotel, Queens Road, Gt Yarmouth  
Site Location Plan.

# Victoria Hunt

Date \_\_\_\_\_

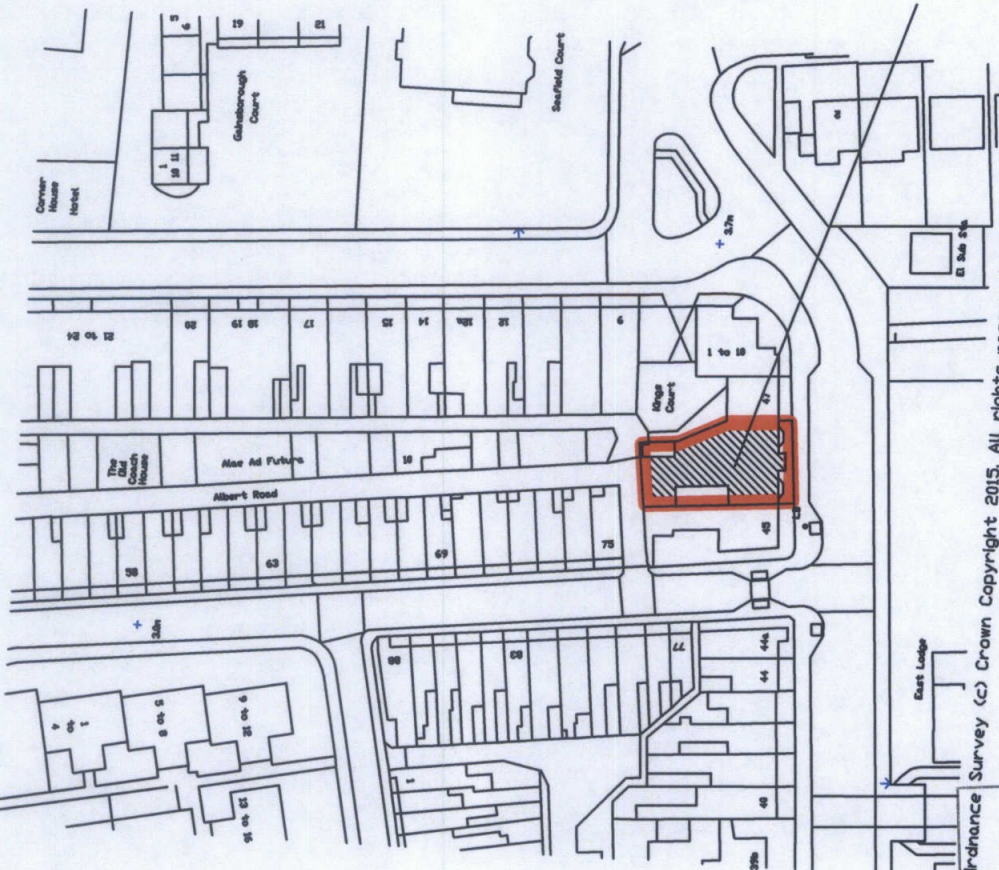
November 2015

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1049/3

Revision

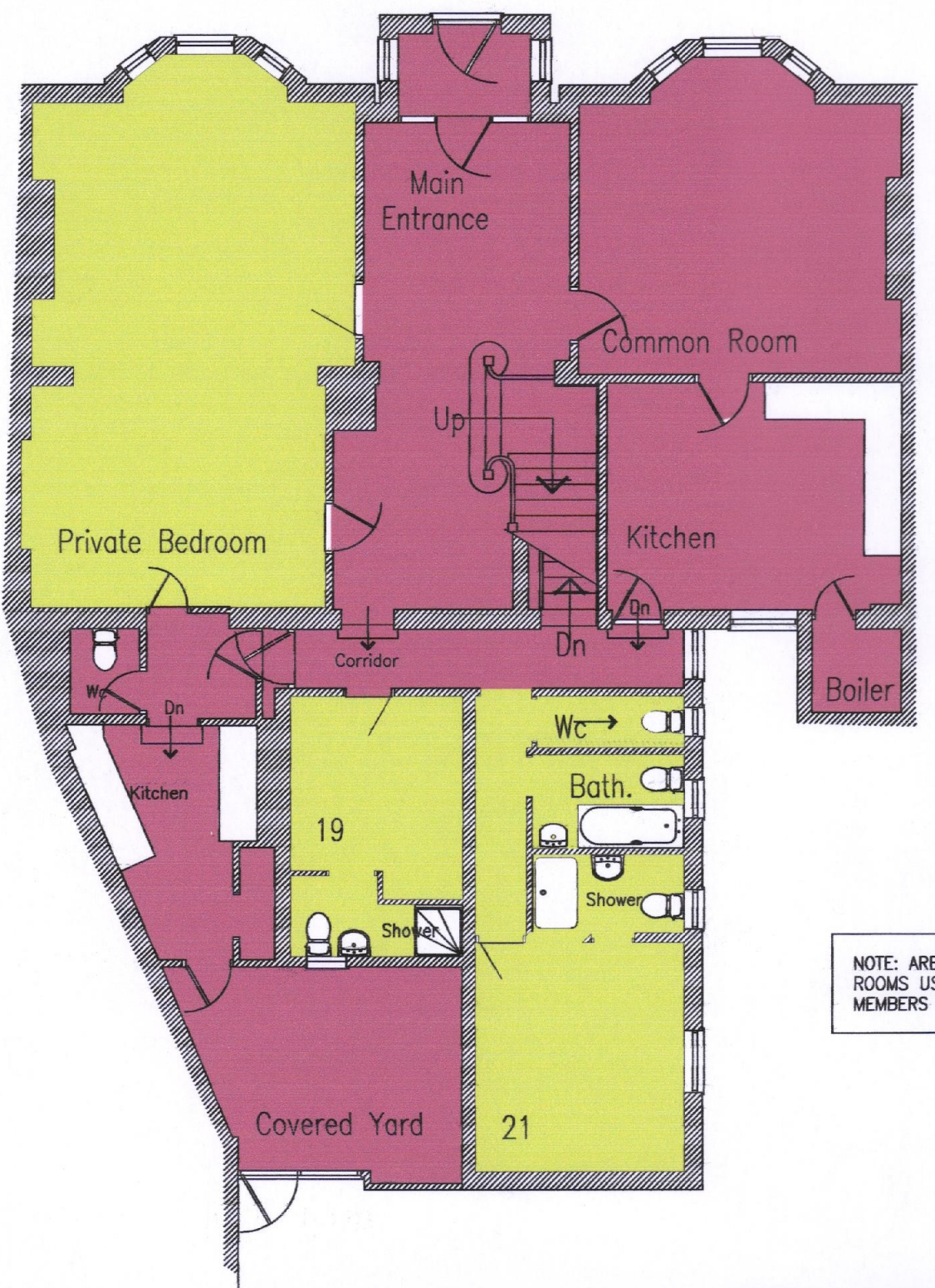
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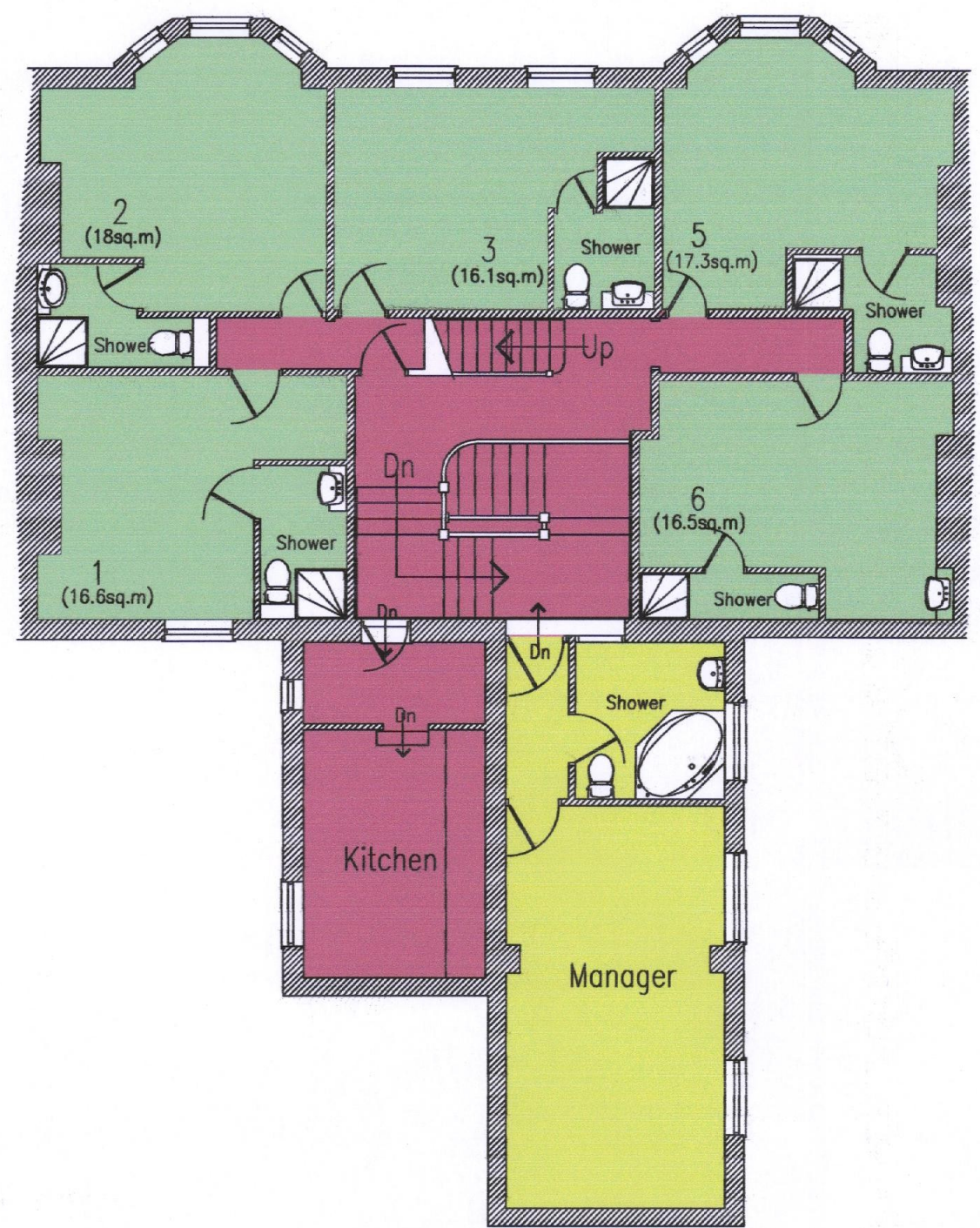
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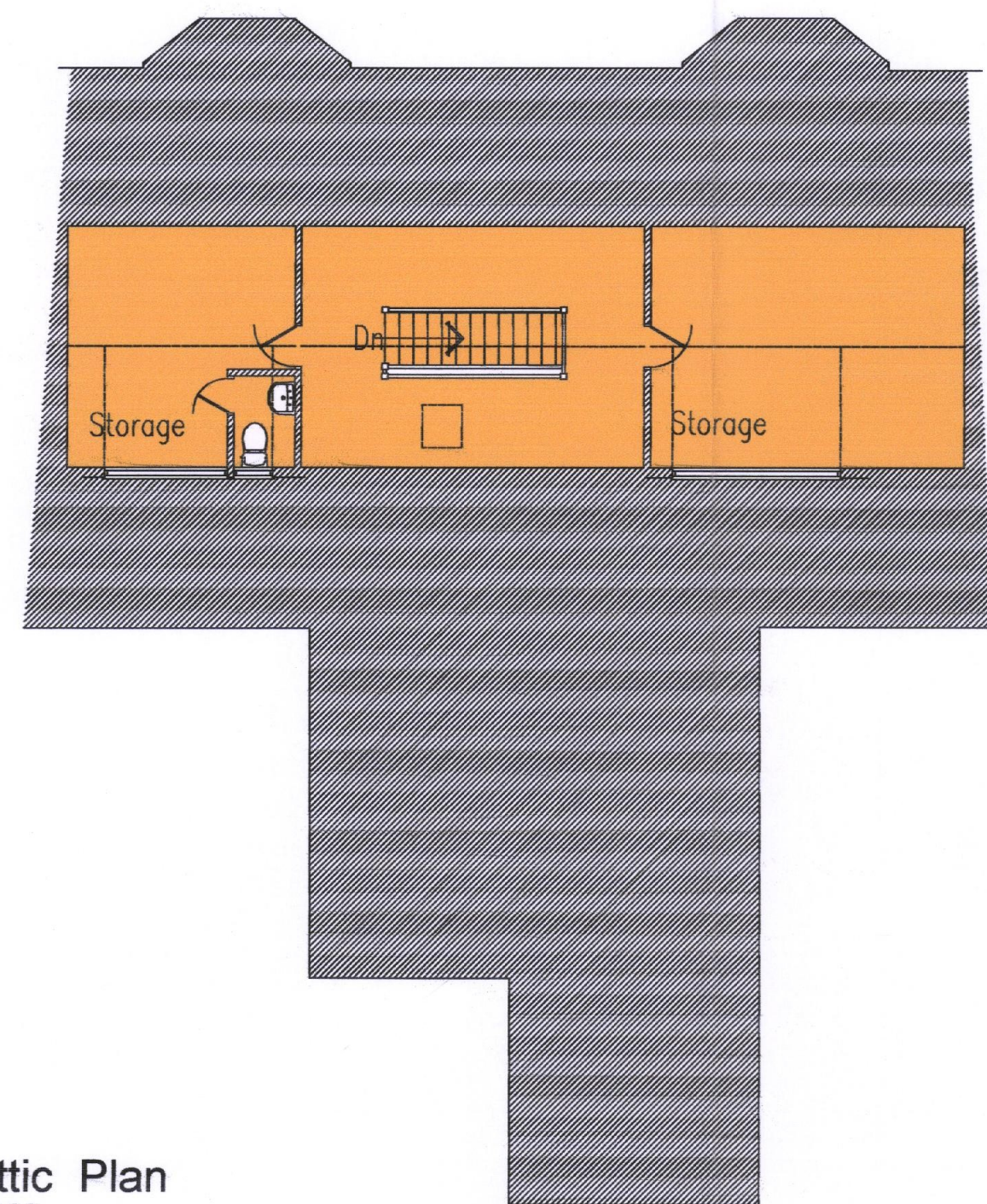
- Manager's accommodation
- HMO rooms to let
- Kitchen and communal space/  
circulation
- Storage



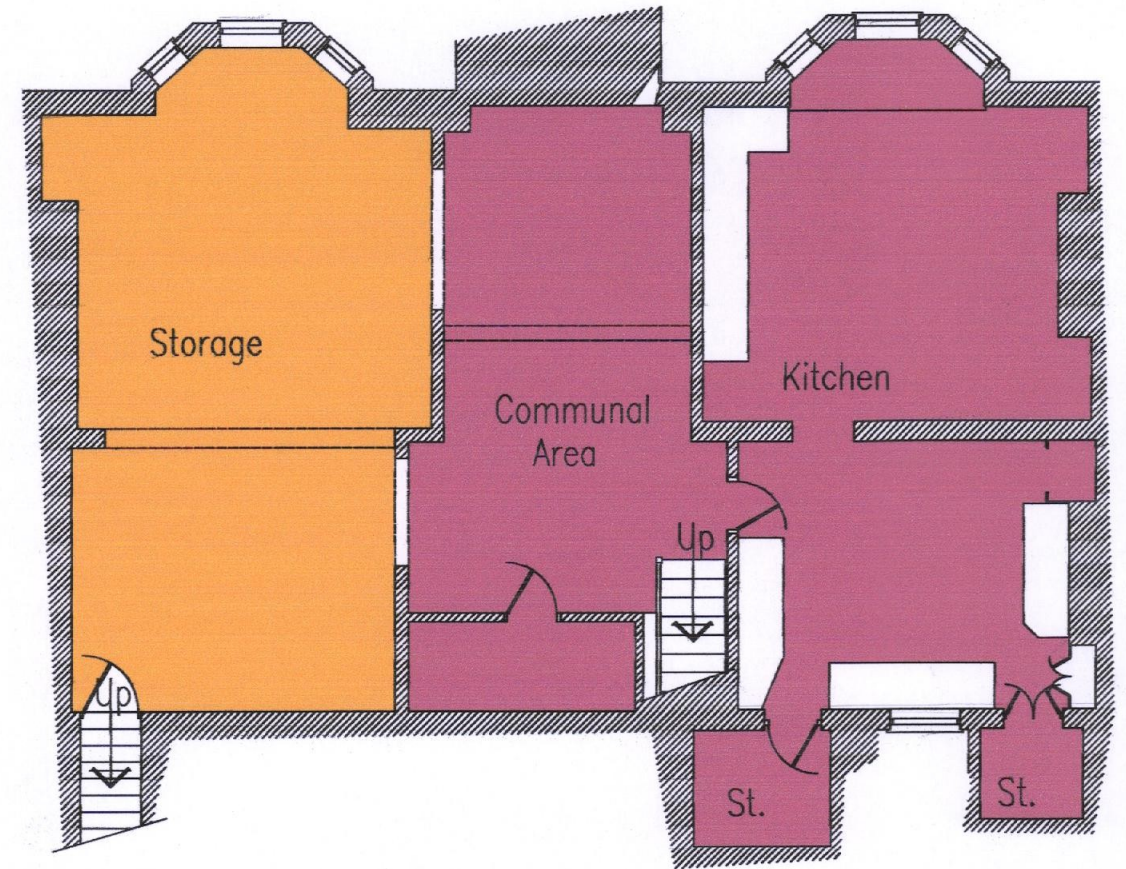
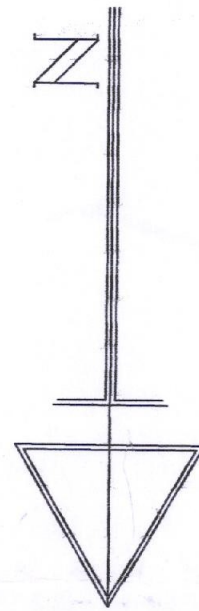
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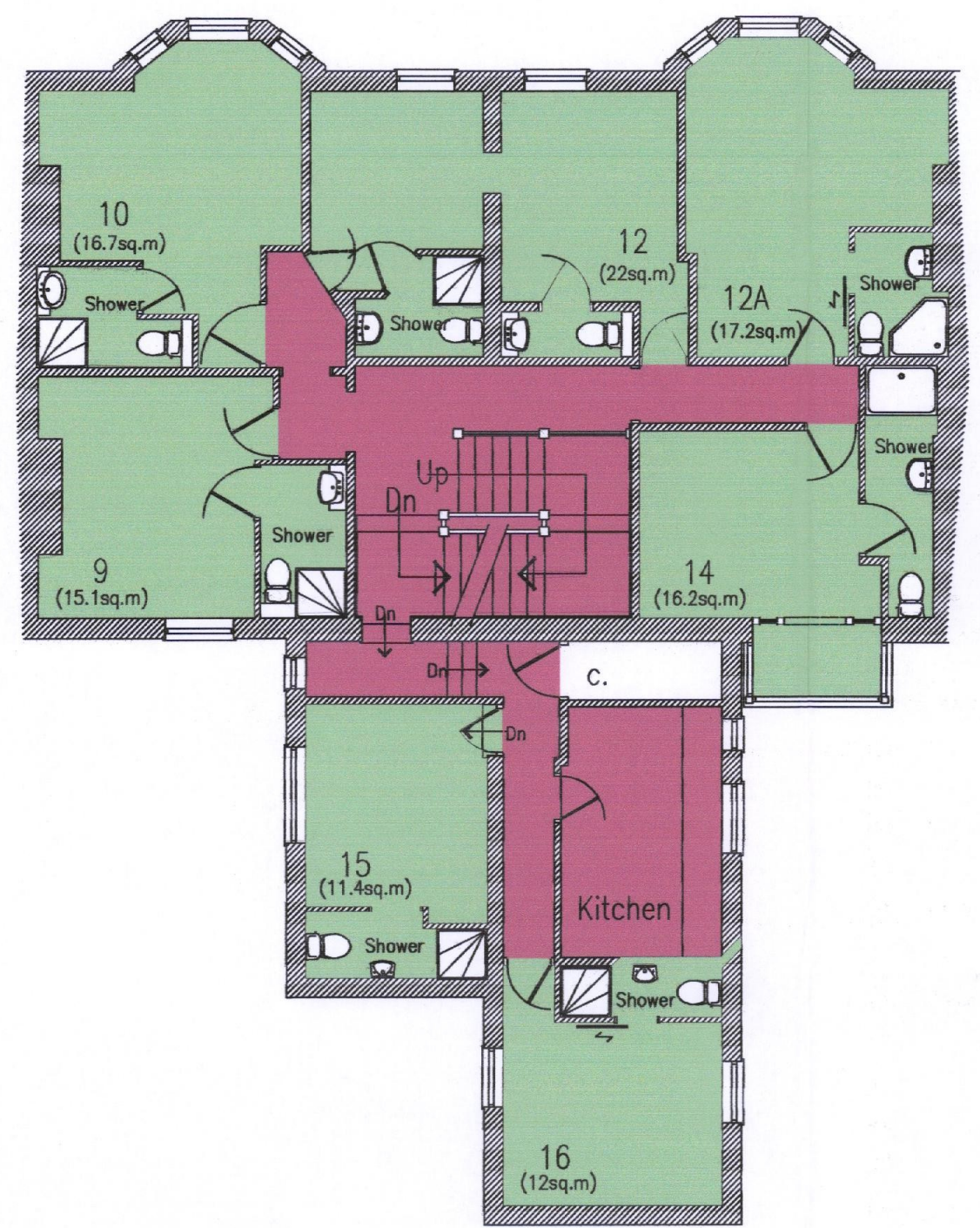
Second Floor Plan  
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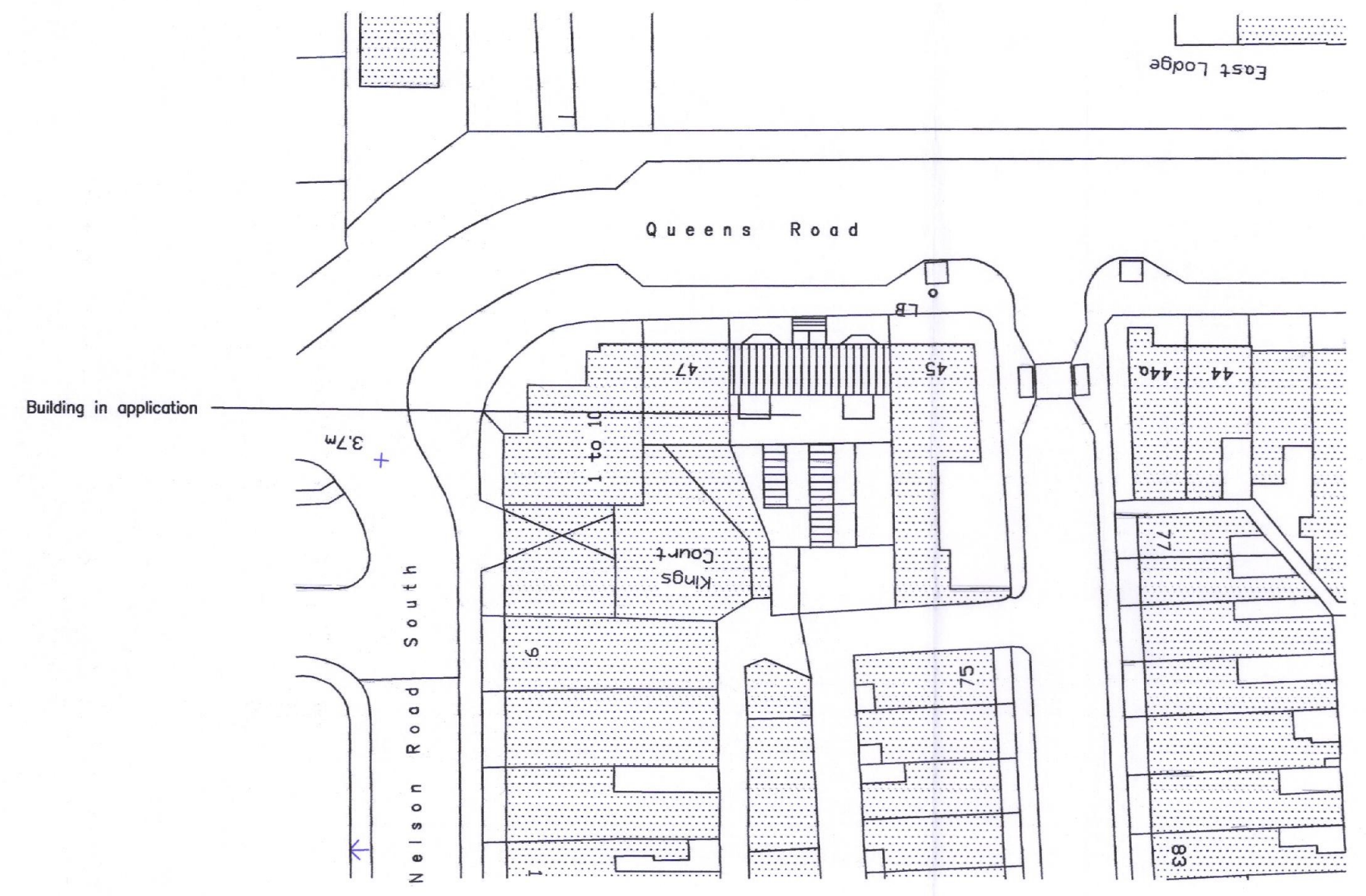
Attic Plan  
1:100



Basement Plan  
1:100



First Floor Plan  
1:100



Block Plan  
1:500

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<span style="border: 1px solid black; padding: 2px;">S</span>	Automatic Fire Detection-Smoke
<span style="border: 1px solid black; padding: 2px;">K</span>	Key in Glass Fronted Box

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**Project**  
Change of use to residential.  
Souther Hotel, Queens Road, Gt Yarmouth.  
Proposed plans.

**Client**  
Victoria Hunt

**Scale** 1:100 **Date** November 2015

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**Dwg no.**  
1049/2

**Revision** Rev.A(April'18)/Amendments to layout  
Rev.B(June18)/Kitchen added to upper floors