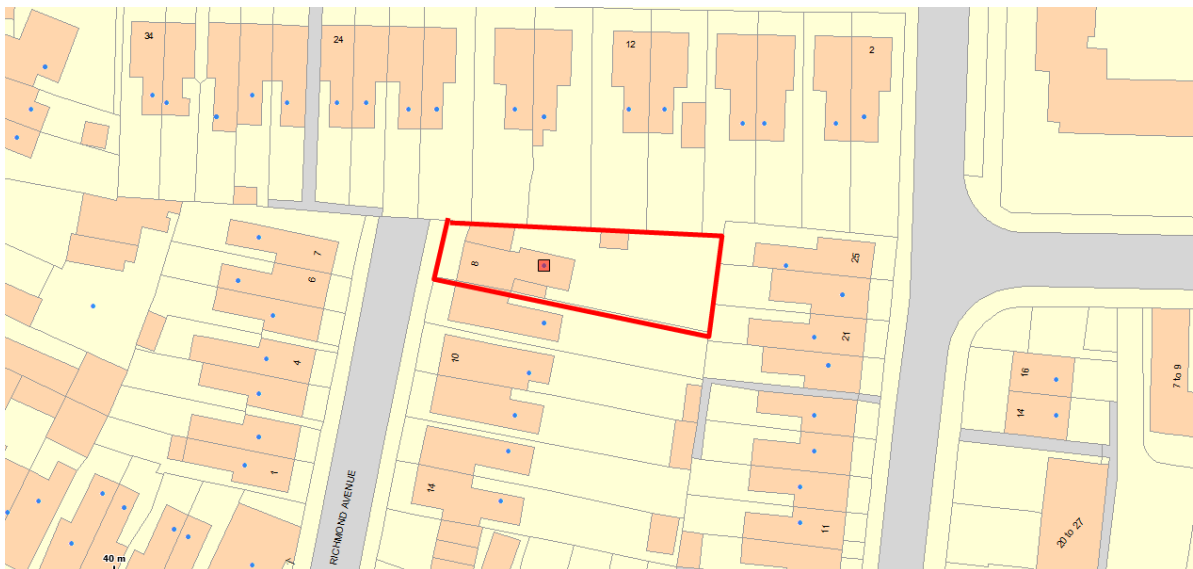


<b>Reference:</b>	20/01086/FUL	
<b>Application Type:</b>	Full Application	
<b>Ward:</b>	Victoria	
<b>Proposal:</b>	Change of use from 6-bedroom HMO (Class C4) to 9 bedroom HMO (Sui Generis), erect two storey side extension (Amended Proposal)	
<b>Address:</b>	8 Richmond Avenue, Westcliff-On-Sea, Essex	
<b>Applicant:</b>	Mr Ben Page	
<b>Agent:</b>	Mr Luis Mulry of Edith Garland Architecture	
<b>Consultation Expiry:</b>	27th August 2020	
<b>Expiry Date:</b>	16th September 2020	
<b>Case Officer:</b>	Robert Lilburn	
<b>Plan Nos:</b>	141 C00 rev B, 141 R02, 141 R03 rev C	
<b>Recommendation:</b>	<b>REFUSE PLANNING PERMISSION</b>	



## **1 Site and Surroundings**

- 1.1 The subject building is a semi-detached former dwelling house, licensed as a six-person House in Multiple Occupation (HMO) (use class C4) with a substantially sized rear garden. It is finished externally in white-painted render and brick with interlocking roof tiles.
- 1.2 At the time of officer site visit work was under way to convert the dwelling. The use of a dwelling house by 3-6 residents as a 'house in multiple occupation' (HMO) is 'permitted development'. The applicant states that the property is currently licensed as a 6-bed HMO with 2 bathrooms, 3 ensuite bathrooms, a separate kitchen and a storage room. The applicant states that the kitchen is a large kitchen/dining room and represents a shared living space within the property.
- 1.3 The building is located at the end of a short cul-de-sac within a residential area. The immediate surroundings are residential in character. However, the property is situated some 70m walking distance from London Road which is identified as a secondary shopping frontage. The property is situated some 100m walking distance from the Hamlet Court Road district centre.
- 1.4 The site is not specifically identified in the Development Management Document (2015) policies map. The site is in Flood zone 1.

## **2 The Proposal**

- 2.1 The application proposes the erection of a two-storey side extension in association with the proposed change of use from a 6-bedroom House in Multiple Occupation (HMO) to a 9-bedroom HMO. No alterations to existing elevations are proposed.
- 2.2 The submitted plans show that the extension would project from the north side elevation of the building and would be some 5.5m in depth, 2.3m in width and with a ridge height some 0.8m below the ridge height of the existing building. It would be set back from the existing front elevation by some 2.5m. A roof light would be provided on the rear of the extension together with a rear door.
- 2.3 The development would provide two bedrooms within the proposed extension; these are annotated on the submitted plans as bedroom 7 at ground floor and bedroom 9 at first floor. In association with the alterations an existing storage space at the first floor of the building would be converted into a further bedroom, marked on the submitted plans as bedroom 8. The proposed bedroom 8 would measure some 6.3sqm in gross internal area (GIA). The proposed bedroom 9 would measure some 9.4sqm GIA and the proposed bedroom 7 would measure some 9.3 sqm GIA. Following the development, the GIA of the building would increase from some 157.7sqm to some 177.3sqm.
- 2.4 Proposed external materials are described as white render to walls, to match existing, roof tiles to match existing and UPVC white window frames to match existing. No additional proposed car parking is proposed, however five additional cycle storage spaces are identified on the submitted application form.

2.5 The submitted plans show that the proposal would lead to the loss of an existing car port but would allow for the provision of a parking space at the front of the building, measuring some 2.4m wide by 4.8m in depth, and accessed via an existing vehicular access from Richmond Avenue. In addition, the submitted plans show that a bin store and cycle store would be provided to the rear of the building, accessible along the side of the proposed extension where there would be a 1m gap with the boundary to the north.

2.6 This application has been submitted following the refusal of application 20/00019/FUL, to “*Change of use from 6 bedroom, 6-person HMO (Class C4) to 10 bedroom, 10-person HMO (Sui Generis), erect two storey side extension, alter elevations*” that was refused planning permission for the following reasons:

1. *The proposed development by reason of its size and design would be a poorly designed and incongruous addition, materially harmful to the character and appearance of the host building and wider area. This would be unacceptable and contrary to the National Planning Policy Framework, Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).*

2. *The proposed development by reason of its size, design and proximity to the site boundary would be an overly dominant and incongruous addition, creating an undue sense of enclosure, overbearing and visually obtrusive to the amenities of neighbouring occupiers in the flats and private amenity space at 14 Windsor Road. This would be unacceptable and contrary to the National Planning Policy Framework, Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).*

2.7 The main changes in the current proposal from the previously refused application are as follows:

- The proposed side extension has been reduced in size and scale;
- The proposed rear extension has been omitted;
- The proposal would reduce the number of proposed rooms from ten to nine.

2.8 The application has been called in to Development Control Committee by Councillor Borton.

### **3 Relevant Planning History**

3.1 20/00019/FUL: Change of use from 6 bedroom, 6-person HMO (Class C4) to 10 bedroom, 10-person HMO (Sui Generis), erect two storey side extension, alter elevations. Refused.

## **4 Representation Summary**

### **4.1 Public Consultation**

27 neighbouring properties were notified and a site notice was posted. 8 letters of representation have been received from 6 occupiers, and are summarised as follows:

- Proposal does not overcome earlier concerns in relation to previous application for 10-bedroom HMO, with respect to vehicle parking, infrastructure impacts, refuse and waste management, noise and disturbance, anti-social behaviour, maintenance of the building;
- The property has never been used as a 6-bed HMO and is a single occupation dwelling house;
- Noise and disturbance from occupiers at the address impacting on surrounding occupiers;
- Property occupied by ten or more persons;
- Impact on character and existing residents' enjoyment of street;
- Amenity impacts on occupiers and area;
- Proposal will add to parking problems, already identified;
- Impact on access for emergency vehicles;
- Lack of fire access at property.

4.2 These concerns are noted and where relevant to material planning considerations they have been taken into account in the assessment of the application. Those remaining are found not to represent a reasonable basis to refuse planning permission in the circumstances of this case.

### **4.3 Environmental Health**

No objection.

### **4.4 Private Sector Housing**

The most occupiers these proposals would allow is for 5 persons. The WC facilities are only suitable for 5 persons. From the information provided the kitchen appears to be only suitable for 6 persons. On the basis that there are no shared living/ dining areas, Room 8 is undersized.

## **5 Planning Policy Summary**

5.1 The National Planning Policy Framework (NPPF) (2019)

5.2 Planning Practice Guidance and National Design Guide (2019)

5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy) KP2 (Development Principles) CP3 (Transport and Accessibility) CP4 (Environment & Urban Renaissance) CP8 (Dwelling Provision)

5.4 Development Management Document (2015): Policies DM1 (Design Quality) DM3 (The Efficient and Effective Use of Land) DM8 (Residential Standards) DM15 (Sustainable Transport Management)

5.5 Design & Townscape Guide (2009)

5.6 Essex HMO Standards (2018)

5.7 CIL Charging Schedule (2015)

## **6 Planning Considerations**

6.1 The main considerations in relation to this application are the principle of the development, design, visual impact in the street scene and the surrounding area, potential impact on neighbouring occupiers, standard of accommodation for future occupiers, parking, traffic and transportation issues, CIL (Community Infrastructure Levy) and whether the proposals have successfully overcome the earlier reasons for refusal.

## **7 Appraisal**

### **Principle of Development**

7.1 Southend Borough Council's development plan does not currently contain policies that specifically relate to Houses in Multiple Occupation (HMO). Paragraph 11 of the National Planning Policy Framework states that *'where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole'*.

7.2 Paragraph 117 of the NPPF states *'Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.'*

7.3 Policy KP2 of the Core Strategy requires that *"all new development contributes to economic, social, physical and environmental regeneration in a sustainable way"* and seeks to *"make the best use of previously developed land, ensuring that sites and buildings are put to best use"*. Policy CP8 of the Core Strategy identifies the need for 6,500 homes to be delivered within the whole Borough between 2001 and 2021.

7.4 Policy DM3 of the Development Management Document promotes *"the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification, which would result in undue stress on local services, and infrastructure, including transport capacity"*. Policy DM8 of the Development Management Document provides for additional dwellings in the Borough but seeks to resist the loss of existing valuable residential resources.

7.5 The site is within the residential area. The use of the property, formerly established in use as a single family dwelling house, as a small HMO (use class C4) is permitted development. At the time of the planning officer's site visit (07.02.2019) work to convert the property to a six-bedroom six-person HMO was well underway.

7.6 National and local planning policy encourages the efficient use of land. Whilst no certificate of lawfulness has been granted, it is noted that the conversion of a dwelling to a 6 person HMO (Class C4) is permitted development.

- 7.7 It is therefore not considered reasonable to object to the general principle of the development, subject to other material considerations including design, impact on neighbours and living conditions. The principle of an HMO use is established at the site through the change under permitted development.

### **Design and Impact on the Character of the Area**

- 7.8 Paragraph 124 of the NPPF states that “*The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities*”.
- 7.9 The National Design Guide seeks well-designed places in which development integrates and relates well into its surroundings.
- 7.10 The importance of good design is reflected in Policies KP2 and CP4 of the Core Strategy and also in Policies DM1 and DM3 of the Development Management Document. These policies seek to maintain and enhance the amenities, appeal and character of residential areas.
- 7.11 The Design and Townscape Guide (‘the Guide’) describes at para.351 that the design of side extensions should be fully integrated into the existing property, and that poorly designed side extensions will detrimentally affect the proportions and character of the existing property.
- 7.12 The proposed development would include a two-storey side extension which would adjoin the main part of the building. This would provide space for two of the three rooms which would be added to the six created under ‘permitted development’ rights.
- 7.13 The extension would integrate acceptably to the existing building, subservient, reflecting its form and clearly legible as an extension. The pattern and proportions of window openings would correspond reasonably to the existing building. The appearance would be acceptable subject to matching materials which can be secured by condition in the interests of visual amenity.
- 7.14 The provision of frontage car parking would be consistent with the existing arrangement and would not be materially harmful.
- 7.15 The proposal is considered acceptable and policy-compliant in regard to design and visual amenities.

### **Impact on Residential Amenity**

- 7.16 Paragraph 127 of the NPPF seeks to secure a good standard of amenity for all existing and future occupants of land and buildings. Policy KP2 of the Core Strategy seeks to secure improvements to the urban environment through quality design. Policy CP4 seeks to maintain and enhance the amenities, appeal and character of residential areas.
- 7.17 Policies DM1 and DM3 of the Development Management Document seek to support sustainable development which is appropriate in its setting, and that protects the amenity of the site, immediate neighbours, and surrounding area, having regard to matters including privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.
- 7.18 The Guide also states that "*the Borough Council is committed to good design and will seek to create attractive, high-quality living environments*" and that "*extensions must respect the amenity of neighbouring buildings and ensure not to adversely affect light, outlook or privacy of the habitable rooms in adjacent properties*".
- 7.19 The Guide (para.349) states that "*Rear extensions can sometimes adversely affect neighbouring properties through overlooking and blocking of light. The design should therefore ensure that these are kept within reasonable limits.... Extensions on the boundary can have a significant effect on the neighbouring property and may not be considered appropriate*".
- 7.20 The Guide states that side extensions should be designed to appear subservient to the parent building, and at Para.353 states that "*Side extensions will undoubtedly impact on neighbouring properties and care should be taken to ensure that they do not cause an unreasonable loss of light. This is particularly important when the adjacent property has side windows, to habitable rooms, which are the sole source of light. Each application will be assessed on a site by site basis*".
- 7.21 The rear gardens of the properties at Windsor Road measure some 14m in depth. The rear gardens of the properties at Balmoral Road are some 5m deep but separated from the host building by the 20m deep garden at the application site. The proposed extension would not materially affect surrounding or neighbouring occupiers through overshadowing or loss of daylight given this degree of separation. The layout and design would preclude a material increase in overlooking.
- 7.22 The scale and design of the extension would be such that it would not be visually imposing, overbearing or otherwise visually dominant for neighbouring occupiers. Its subservience to the host building would preclude any materially harmful impact on the nearest neighbours.
- 7.23 The submitted plans show that none of the proposed bedrooms would adjoin the attached dwelling at no.9 Richmond Avenue. The proposal would intensify the use of the building as an HMO. Considering the permitted change of use to a six-person HMO, the proposal would not alter this situation materially and would therefore not be likely to result in a material increase in noise disturbance transmitted through the building fabric.

- 7.24 The proposal would introduce additional occupiers, whose general activity and comings and goings in general may cause additional potential for a degree of noise disturbance. However, in light of the location within the built-up area, it is considered that this is unlikely to be materially harmful to neighbours' quiet enjoyment of their dwellings and gardens.
- 7.25 It is considered subject to conditions that the development would maintain neighbour amenities to a satisfactory degree and is policy-compliant in this regard.

### **Living Conditions for Future Occupiers**

- 7.26 Paragraph 127 of the NPPF states '*Planning policies and decisions should ensure that developments...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, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience*'.
- 7.27 In relation to residential standards for non-self-contained accommodation Policy DM8 states that all proposals for non-self-contained accommodation (such as student and hospital staff accommodation) will be required to meet the internal space standards. This requires accommodation where there is a shared kitchen but no shared living room, to have a minimum bedroom size of 8.5sqm for single bedrooms and 12sqm for double bedrooms. Paragraph 4.46 of the Development Management Documents states, "*The licensing and management of Houses in Multiple Occupation, including space standards, is set out in relevant housing legislation*".
- 7.28 The Council has adopted the Essex Approved Code of Practice with respect to Houses in Multiple Occupation and this document represents a material planning consideration, although it is noted that this is not a planning policy document.
- 7.29 Policy DM8 identifies at Policy Table 6 Standards for Non Self-Contained Accommodation. The proposal would be reasonably capable of meeting these standards.
- 7.30 Taking account of the Essex Approved Code of Practice Standards, all of the rooms except Bedroom 08 would meet the minimum size requirements for single and double occupancy rooms. Bedroom 08 would measure some 6.3sqm while the Standards require 6.51sqm as minimum. The Standards are not a planning policy document, but they are a material planning consideration and this is illustrative of a poor standard of accommodation, particularly given the slightly irregular shape of the floor plan in this room.
- 7.31 The detailed design and layout of the accommodation would preclude the capability to provide the quantum of accommodation sought, i.e. that it is not capable of providing an acceptable standard of accommodation for 9 occupiers. For example, it has been identified in consultation that the WC facilities proposed would be suitable for a maximum of 5 persons and that the kitchen as shown would only facilitate occupation by 6 persons appropriately. Given the constraints of the proposal it would not be reasonable to seek to overcome these matters through condition.



- 7.32 The submitted plans indicate a cycle store and a bin store provided to the rear and side of the building respectively. Access would be available via the side of the building. Subject to a condition requiring full details of these facilities, a waste management plan and full details of the cycle store to ensure a covered and secure facility, no objection is raised.
- 7.33 A reasonable amount of amenity space would be available, although it would be reduced to a degree by requirements for cycle storage for example.
- 7.34 By reason of being a conversion it is considered that it would be unrealistic to require the development to accord with the M4(2) standards. On this basis it is considered that the application should not be refused on the grounds that it has not been demonstrated that the development would accord with Part M of the Building Regulations.
- 7.35 In summary, it is considered that the development would fail to provide adequate living conditions for future occupiers of the site. The development is unacceptable and contrary to policy in this respect.

### **Traffic and Transportation Issues**

- 7.36 Policy CP3 of the Core Strategy and Policy DM15 of the Development Management Document aim to improve road safety, quality of life and equality of access for all. Policy DM15 of the Development Management Document states that development will be allowed where there is, or it can be demonstrated that there will be physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner. Further to Policy DM15, proposed development is expected to contribute to sustainable transport objectives and promote walking, cycling and public transport as the preferable form of transport.
- 7.37 The development would provide one off-street parking space within the front consistent with the existing frontage provision. There would be a reduction in availability of off-street car parking given the position of the former car-port would be occupied by the proposed extension.
- 7.38 The site is in a sustainable location, within walking distance of the Hamlet Court Road District Centre, close to the town centre, close to bus services, and cycle parking is proposed. The Council does not have any Vehicle Parking Standards in respect of HMOs (sui-generis use) and the parking implications therefore need to be assessed as a balanced judgement in the individual circumstances of the case.
- 7.39 The proposal is for an HMO with nine bedrooms. The applicant has not confirmed the intended level of occupancy.
- 7.40 Taking into account the relatively sustainable location and the limitations of on-street car parking locally, together with the availability of public car parking nearby, it is considered that subject to a condition requiring the provision of a minimum of ten secure and covered cycle parking spaces no objection should be raised on the basis of car parking.
- 7.41 As noted above, secure cycle storage could be achieved through a condition on planning permission. The proposal is considered to be acceptable and policy compliant in relation to parking and highway and pedestrian safety.

## **Community Infrastructure Levy (CIL)**

- 7.42 As the proposed extension(s) or change of use to the property equates to less than 100sqm of new floorspace, and does not involve the creation of a new dwelling (Class C3), the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

## **8 Conclusion**

- 8.1 Having taken all material planning considerations into account, it is found that the proposed development would be unacceptable and contrary to the objectives of the relevant development plan policies and guidance. Given the existing use of the property, the general principle of the development is found to be acceptable. The proposal would have an acceptable impact on the amenities of neighbouring occupiers, highway safety and parking, the character and appearance of the application site, and the street scene and locality more widely. However, by reason of its internal layout and configuration it would not be capable of providing satisfactory living conditions for its proposed 9 occupiers. For this reason, the proposed development is unacceptable and fails to comply with planning policy which requires that planning decisions should ensure a high standard of amenity for existing and future users. This would not be outweighed by the acceptable, neutral and positive aspects of the development, including the provision of additional living accommodation.

## **9 Recommendation**

**REFUSE PLANNING PERMISSION for the following reasons:**

- 01. The development would, by reason of its internal layout, design and the level of facilities provided, fail to provide an adequate standard of living conditions for its future occupiers to the detriment of their amenity. This is unacceptable and contrary to the National Planning Policy Framework, Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the Essex HMO Amenity Standards (30 July 2018).**

**The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action.**

## **10 Informatives**

- 01. The development would benefit from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge would be payable. See [www.southend.gov.uk/cil](http://www.southend.gov.uk/cil) for further details about CIL.**