

<b>Reference:</b>	21/01907/FUL	
<b>Application Type:</b>	Full Application	
<b>Ward:</b>	Kursaal	
<b>Proposal:</b>	Change of use from 6-person house in multiple occupation (Class C4) to 8-person house in Multiple Occupation (Sui Generis).	
<b>Address:</b>	208A York Road Southend-on-Sea Essex SS1 2RX	
<b>Applicant:</b>	Mr M Nunn	
<b>Agent:</b>	Mr Michael Coates-Evans of Town Planning Expert	
<b>Consultation Expiry:</b>	28.10.2021	
<b>Expiry Date:</b>	03.12.2021	
<b>Case Officer:</b>	Oliver Hart	
<b>Plan Nos:</b>	636- 301 Rev01; 636- 302 Rev01	
<b>Supporting Document:</b>	Planning Statement	
<b>Recommendation:</b>	<b>GRANT PLANNING PERMISSION subject to conditions</b>	



## **1 Site and Surroundings**

### **1.1**

The application site contains a semi-detached property on the southern side of York Road. The front curtilage is hard surfaced and used for off-street parking. A rear garden area is available for use by the existing occupants.

1.2 The surrounding area is predominantly residential in character, typified mainly by two storey semi-detached dwellings of similar size, scale and design, several of which have been subdivided into flats or multiple occupied dwellings.

1.3 The site has no specific allocation within the Development Management Document's Proposal's Map.

## **2 The Proposal**

2.1 The application seeks planning permission for a change of use of the site from a 6 bedroom house in multiple occupation (HMO) (Class C4) to an 8 bed house in multiple occupation (Sui Generis). The application form states that the existing use of the building is a 6 bedroom HMO.

2.2 Historically the property was operating as 2 self-contained flats however, permission for conversion of the building back into a dwellinghouse was granted in 2020 (under reference 19/02037/FUL). The applicant states that the property was then converted to a HMO for 6 people under the General Permitted Development Order.

2.2 The two additional rooms, numbered 6 & 8, are proposed following conversion of an existing storage room and loft office. The rooms will contain a bed with en-suite washing facilities. None of the rooms would have their own kitchen facilities. A communal kitchen/dining area of some 27sqm is provided at ground floor. Rear garden arrangements are unchanged.

2.3 2no. off-street parking spaces are proposed. Cycle parking and refuse storage facilities are not shown on the site plan although they are broadly referenced in the accompanying Planning Statement.

2.4 No external alterations are proposed as part of the development works.

2.5 The application has been called into this Committee by Councillor Dent.

## **3 Relevant Planning History**

3.1 19/02037/FUL - Convert two self-contained flats into one dwellinghouse, alter elevations-  
Granted

## 4 Representation Summary

### Public Consultation

- 4.1 15 neighbouring properties were consulted and a site notice was displayed. 4 letters of objection have been received which raise the following points;

#### Objection

- Parking concerns.
- The proposal constitutes a lack of safeguarding, overcrowding and poor housing conditions for the tenants.
- Harm to amenity.
- Information in application form inaccurate.

**[Officer Comment]:** These concerns are noted and they have been taken into account in the assessment of the application. The points of objection have been found not to represent a reasonable basis to refuse planning permission in the circumstances of this case.

### Environmental Health

- 4.2 No objection.

### Highways

- 4.3 There are no highway objections to this proposal the site benefits from being in a sustainable location with good links to public transport in close proximity. HMO's do not have parking standards however 2 off street parking spaces have been provided. It is not considered that the proposal will have a detrimental impact on the local highway network.

### Private Sector Housing

- 4.4 No objection and expectation that the units meet the Essex HMO standards.

## 5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2021).
- 5.2 Core Strategy (2007) Policies KP1 (Spatial Strategy) KP2 (Development Principles), KP3 (Implementation and Resources), CP3 (Transport and Accessibility), CP4 (Environment & Urban Renaissance), and CP8 (Dwelling Provision).
- 5.3 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM5 (Southend-on-Sea's Historic Environment), DM8 (Residential Standards) and DM15 (Sustainable Transport Management).
- 5.4 Design & Townscape Guide (2009).
- 5.5 The Essex HMO Amenity Standards (2018).
- 5.6 CIL Charging Schedule (2015).

## **6 Planning Considerations**

- 6.1 The main planning considerations in this case are: the principle of development, living conditions for future occupiers, car parking arrangements/transport considerations, design quality and impact on surrounding area, impact on the amenities of neighbouring occupiers and CIL (Community Infrastructure Levy).

## **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. 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 119 of the National Planning Policy Framework 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 Core Strategy Policies KP2 and CP4 seek to promote sustainable development, and Policy KP2 seeks to direct the siting of development through a sequential approach, minimising the use of 'greenfield' land. Policy CP4 seeks the creation of a high quality, sustainable urban environment which enhances and complements the natural and built assets of Southend.
- 7.4 Policy DM3 of the Development Management Document seeks the efficient and effective use of land, provided it responds positively to local context and does not lead to over-intensification. 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 National and Local planning policy encourages the efficient use of land. Whilst no certificate of lawfulness was sought or obtained, that is not an obligation upon the owner and the Design and Access Statement indicates that the building has been converted to a 6 person HMO (Class C4) as permitted development. This proposal would increase the size of the HMO from 6 bedrooms to 8 bedrooms. No objection is therefore raised to the principle of the development, subject to consideration of other material considerations including design, impact on neighbours' amenity and living conditions. The principle of a HMO use is established at the site through the stated change undertaken as permitted development.

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

- 7.6 Good design is a fundamental requirement of new development to achieve high quality living environments. Its importance is reflected in the NPPF, in the Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document. The Design and Townscape Guide also states that *“the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”*
- 7.7 Paragraph 126 of the NPPF states *‘The creation of high quality, beautiful and sustainable 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.’*
- 7.8 Policy DM1 of the Development Management Document states that all development should *“add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features”*.
- 7.9 Policy KP2 of the Core Strategy states that new development should *“respect the character and scale of the existing neighbourhood where appropriate”*. Policy CP4 of the Core Strategy requires that development proposals should *“maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development”*.
- 7.10 The proposed development would not result in any alterations to the external elevations of the building. As such it is not considered that the proposal would result in any significant harm to the character and appearance of the site or the wider surrounding area.
- 7.11 The submitted plans do not provide details of refuse or cycle storage although reference is made within the planning statement to provision to be provided within the rear garden. A condition can be imposed on any grant of consent requiring full details of these facilities to be approved. Subject to a condition in this respect no objection is raised on this basis.
- 7.12 The development is acceptable and policy compliant in the above regards.

## **Living Conditions for Future Occupiers**

- 7.13 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.’*
- 7.14 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 to have a minimum bedroom size of 6.5sqm for single bedrooms and 10.2sqm 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.”*

- 7.15 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.
- 7.16 The proposed rooms do not provide kitchen areas or cooking facilities. The Essex HMO Code of practice provides minimum sizes for rooms with no independent kitchen facilities as follows:
- One Occupier: 8.5sqm minimum size requirement
  - Two Occupiers: 12sqm minimum size requirement.
- 7.17 The proposal would provide the following sized rooms:
- Unit 1: 14.8 sqm
  - Unit 2: 10.9 sqm
  - Unit 3: 9.2sqm
  - Unit 4: 11.6 sqm
  - Unit 5: 9.3 sqm
  - Unit 6: 8.5 sqm
  - Unit 7: 8.5 sqm
  - Unit 8: 19.8 sqm

Each room would have en-suite facilities.

- 7.18 Taking account of the Essex Approved Code of Practice Standards, all of the rooms meet the minimum size requirement for single occupancy rooms. The information submitted with the application does not specify whether the rooms would be single or double occupancy rooms only. Two rooms (rooms 1 & 8) would exceed the minimum size requirement for a double occupancy room and as such the development would be capable of providing accommodation for up to 10 people in this respect (however, for the reasons set out below this would in fact be limited to 8 persons). The standards within Policy DM8 for non-self-contained accommodation indicate that four rooms would exceed the standard required for double occupancy rooms. Policy DM8 states that the licensing and management of Houses in Multiple Occupation, including space standards is governed under separate legislation. In this instance the Housing Act 2004 introduced mandatory licensing for buildings that are occupied by five or more persons. The proposed development is a three storey HMO which would be occupied by 5 or more people and given the sizes of the rooms and shared facilities provided, the proposed development would be likely to be licensed for a maximum of 8 persons under the relevant legislation. It is therefore considered that the proposed development would be capable of accommodating a maximum of 8 persons and that this is a reasonable basis for the assessment of the application and the application has been conditioned to ensure than no more than 8 persons reside at the property at any one time.
- 7.19 In terms of shared kitchen facilities, the Code of Practice states that a shared kitchen should normally provide for a maximum of 5 persons. In this respect the development would be for a maximum of 8 persons. One kitchen/dining area is provided on the ground floor some 27sqm in area. The Code of Practice states *'kitchen facilities should be no more than one floor away from the letting. Where this is not practicable, a dining area of a size suitable for the number of occupiers should be provided on the same floor, as, and close to, the kitchen. It would be expected that other food preparation and storage facilities are provided within the room for minor food preparation not involving cooking.*

*This is to comprise a kettle as a minimum.* The Code of Practice requires kitchens to be up to 14 sqm or requires 2 kitchens of 7 sqm to be provided for premises of 8-10 people. In this respect, one kitchen has been provided which is in excess of the required 14sqm. The kitchen would have 2 sinks, 2 hobs, 2 fridge freezers, an oven and washing machine.

- 7.20 Each unit will be provided with an en-suite measuring between 1.8 sqm-2.3m sqm which would include a shower, WC and a wash hand basin. There is no specific space standard in the guidance for en-suites and the proposal is considered acceptable and satisfies the requirements.
- 7.21 In terms of amenity provision the development includes a rear garden area which would provide a usable external amenity space for the enjoyment by occupants. Details have not yet been agreed for a bin store and cycle store to be provided although space is available within this area and could be dealt with by way of condition. Having regard to the prevailing characteristics of the area, the proposed amenity space would be acceptable and policy compliant.
- 7.22 The Essex Approved Code of Practice Standards states: *All habitable rooms must be provided with natural lighting with a glazed area of window equivalent to 1/10 of the floor area of the room. Bedsit rooms that do not have access to shared communal living space are expected to have an external view, not just a skylight view.* Each room would be provided with sufficient light and ventilation and an acceptable standard of accommodation.
- 7.23 In summary, it is considered that the development would provide adequate living conditions for any future occupiers of the site. The development is acceptable and policy compliant in this respect.

### **Impact on Residential Amenity**

- 7.24 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities "having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight."
- 7.25 Further to the above policies and guidance development proposals must protect the amenity of neighbours having regard to matters such as privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight.
- 7.26 The proposed development would not result in any changes to the external elevations of the building. It is not proposed to increase the size of the existing building or insert any additional windows. As such, it is considered that the proposal would not result in any material harm to the residential amenity of nearby and adjoining residents in terms of dominance, an overbearing impact, loss of light and outlook, overshadowing, a material sense of enclosure or loss of privacy and overlooking. It is not considered that the proposed change of use would result in relationships that are materially different than the prevailing views available from the existing first and second floor windows.
- 7.27 The proposal seeks to change the use of the site from a Class C4 HMO of up to 6 persons to a Sui Generis HMO comprising 8 bedrooms. Under permitted development and expressly restricted within that Legislation, a C4 HMO could only accommodate a maximum of 6 persons.

- 7.28 Having regard to paragraph 7.18 (noted above), it is considered reasonable to conclude on the balance of probability that the proposed development would be likely to accommodate a maximum of 8 persons only. In terms of any additional noise and disturbance generated by the additional occupants, the proposed loft room (Unit No.8) does abut the party boundary wall of No.206 York Road however, it would abut the neighbouring loft area which has not been converted to habitable accommodation such that its impact is considered to be negligible when the requirements of other legislation are taken into account. Moreover, the other proposed unit (No.6) is set away from the party wall with No.206. Given the fallback of the 6 person C4 HMO, it is not considered that the additional 2 bedrooms and 2 additional persons results in materially different impact on future occupants of this flat.
- 7.29 The Design and Access statement submitted indicates that the applicant has applied for a HMO licence for eight rooms and considers that the property would be licensed for 8 persons only. Given the fallback position of 6 persons HMO under class C4, and the relationship of the rooms with the neighbouring building, it is considered that an increase to a maximum number of 8 people would not result in additional noise and disturbance to a degree that would warrant refusal of the application on these grounds.

### **Traffic and Transportation Issues**

- 7.30 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.
- 7.31 The development provides 2no. off-street parking spaces. The site is in a sustainable location, within reasonable walking distance of Southend Central station and main bus routes. 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.
- 7.32 Taking into account the permitted development fallback position that has enabled the site to be occupied by up to 6 people as a HMO under Class C4 of the General Permitted Development Order 2015 (as amended) and the provision of 2no. off street parking spaces, on balance, it is considered that the additional occupation as a result of this application would not result in increased parking demand such that it would result in material harm to highway safety or the free flow of traffic. In coming to this conclusion, consideration has been given to comparative findings in a recent appeal decision at 117-119 Hamster Road (reference APP/D1590/W/18/3214190) in which the Inspector concluded that 5 off-street parking spaces were sufficient for a HMO to serve up to 18 people.
- 7.33 The proposal is for a HMO with 8 bedrooms and based on the information submitted the rooms would be restricted to single occupancy units i.e. eight persons. Cycle parking is not shown although mention is made in the accompanying planning statement. Taking account therefore of the Essex Approved Code of Practice Standards which states, *“Where required, planning permission is likely to be dependent on the provision of either adequate vehicle parking and/or secure cycle storage for the number of occupants,”*

subject to a condition requiring the provision of a minimum of 8 secure and covered cycle parking spaces no objection is raised on this basis.

7.34 The development is acceptable and policy compliant in the above respects.

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

7.35 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 subject to compliance with the attached conditions, on balance, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. Taking account of the existing lawful use of the property as a 6 person HMO, the principle of the development is found to be acceptable and the proposed development would provide satisfactory internal living conditions for future occupiers. The proposal would have an acceptable impact on the amenities of neighbouring occupiers, highway safety and parking, and the character and appearance of the application site, the street scene, the neighbouring listed building and the locality more widely. The provision of additional residential accommodation is considered to be a public benefit of the scheme which has been weighed in the balance of material factors including the fall-back position of a 6 person HMO. The application is recommended for approval subject to conditions.

## **9 Recommendation**

**9.1 GRANT PLANNING PERMISSION subject to the following condition(s):**

**01 The development hereby permitted shall begin no later than 3 (three) years from the date of this decision.**

**Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.**

**02 The development hereby permitted shall be carried out in accordance with the approved plans: 636- 301 Rev01; 636- 302 Rev01**

**Reason: To ensure that the development is carried out in accordance with provisions of the Development Plan.**

**03 Notwithstanding the details shown on the drawings submitted and otherwise hereby approved, prior to the first occupation of the development hereby approved, full details of refuse and bicycle storage facilities for the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation of the development, refuse and bicycle storage facilities shall be provided and made available for use at the site in accordance with the approved details and retained for the lifetime of the development.**

**Reason:** In the interests of residential amenity for future occupants, to ensure the provision of adequate cycle parking and in the interests of visual amenity as set out in the National Planning Policy Framework (2021), Core Strategy (2007) policies KP2 and CP4 and Policies DM1, DM8 and DM15 of the Development Management Document (2015) and the guidance within the Design and Townscape Guide (2009).

- 04** Notwithstanding the provisions of the Town and Country Planning Act 1990 (as amended) the building subject of this permission shall not be adapted or altered to form more than 8 bedrooms at any time and no more than 8 persons shall reside at the property at any time without the prior receipt of express planning permission from the Local Planning Authority.

**Reason:** To clarify the terms of the permission and enable the suitable consideration of any intensification of the use of the site.

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

- 05** 2no. car parking spaces shall be provided on site and made available for use prior to the first occupation of the development hereby approved. The car parking spaces shall thereafter be permanently retained only for the parking of vehicles of the occupiers and visitors to the development.

**Reason:** To ensure that satisfactory off-street car parking is provided in the interests of residential amenity and highways efficiency and safety, in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) policy KP2, Development Management Document (2015) policy DM15 and the Southend Design and Townscape Guide (2009).

**Informatives:**

**01** You are advised that as the proposed extension(s) or change of use to your 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. See [www.southend.gov.uk/cil](http://www.southend.gov.uk/cil) for further details about CIL.

**02.** You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the borough.