

<b>Reference:</b>	22/01707/FUL	
<b>Application Type:</b>	Full Application	
<b>Ward:</b>	Milton	
<b>Proposal:</b>	Change of use from six bed HMO (Use Class C4) to eight bed HMO (sui generis), layout refuse storage to front and cycle storage to rear (retrospective)	
<b>Address:</b>	54 Burdett Avenue, Westcliff-on-Sea, Essex	
<b>Applicant:</b>	Mr James Sahota	
<b>Agent:</b>	N/a	
<b>Consultation Expiry:</b>	6th October 2022	
<b>Expiry Date:</b>	4th November 2022	
<b>Case Officer:</b>	Kara Elliott	
<b>Plan Nos:</b>	<b>841-100 Rev 01, 841-101 Rev 01 (6 Bed), 841-101 Rev 01 (8 Bed), 841-104 Rev 01</b>	
<b>Additional information:</b>	<b>Supporting Document by J2 Living, Planning Statement, Cover Letter for HMO licence, Notice of decision to grant HMO licence. Conditions of HMO licence</b>	
<b>Recommendation:</b>	<b>GRANT PLANNING PERMISSION subject to conditions</b>	



## 1 Site and Surroundings

- 1.1 This application site on the northern side of Burdett Avenue is occupied by an end-terrace building of traditional design. According to the information provided in the application, the building is currently used as an eight-bedroom House in Multiple Occupation (HMO). It was formerly used as a six-bedroom HMO.
- 1.2 The site is not within a conservation area or subject to any site-specific planning policies.

## 2 The Proposal

- 2.1 Planning permission is sought retrospectively for the change of use of the building from a six-bedroom HMO, falling within the definition of Use Class C4, to an eight-bedroom HMO which accommodates more than six occupiers and is a sui generis use. The additional bedrooms have been formed from the conversion of a gym room and a communal living area.

## 3 Relevant Planning History

- 3.1 The most relevant planning history for the determination of this application is shown on Table 1 below:

**Table 1: Relevant Planning History of the Application Site**

Reference	Description	Outcome [Date]
20/01735/FUL	Convert existing dwellinghouse and loft to form 2 self-contained flats, alter side and rear elevations and cycle and bin store to rear	Refused [30.12.2020]

## 4 Representation Summary

### Call-in

- 4.1 The application has been called-in to the Development Control Committee at the request of Cllr K Mitchell.

### Public Consultation

- 4.2 Twelve (12) neighbouring properties were consulted and a site notice was displayed. Representations from fourteen (14) interested parties were received which raised the following objections:

- Parking stress;
- Highway safety concerns;
- Overcrowded development;
- Loss of neighbour amenity from: noise, disturbance, loss of outlook; g
- Pressure on services;
- Lack of waste management;
- Anti-social behaviour;
- Property values;
- Building work and (completed) extension impacts;
- Impacts on local residents' health and stress;
- The applicant has deceptively told neighbours it would only be a 6-bed HMO.

- 4.3 Officer comment: The comments in the representations have been taken into consideration in the assessment of the application where they raise relevant planning matters but are not found to be justifiable reasons for refusing planning permission in

the circumstances of this case.

## **Highways**

- 4.4 No objections. The site benefits from being in a sustainable location with regard to public transport with good links in close proximity. Future occupiers will not be eligible for a residential parking permit. Secure cycle parking has been provided on site.

## **5 Planning Policy Summary**

- 5.1 The National Planning Policy Framework (NPPF) (2021)
- 5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2021)
- 5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP8 (Dwelling Provision).
- 5.4 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM7 (Dwelling Mix, Size and Type), DM8 (Residential Standards), DM15 (Sustainable Transport Management).
- 5.5 Southend-on-Sea Design and Townscape Guide (2009)
- 5.6 Technical Housing Standards Policy Transition Statement (2015)
- 5.7 Waste Storage, Collection and Management Guide for New Developments (2019)
- 5.8 Electric Vehicle Charging Infrastructure for new development Supplementary Planning Document (2021)
- 5.9 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020)
- 5.10 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 5.11 The Essex HMO Amenity Standards (2018)

## **6 Planning Considerations**

- 6.1 The main considerations in relation to this application include the principle of the development, the design and impact of the development on the character and appearance of the area, the residential amenity for future and neighbouring occupiers, traffic and parking implications, energy and water use sustainability, refuse and recycling storage, ecology and mitigation for impact on designated sites and CIL liability.

## **7 Appraisal**

### **Principle of Development**

- 7.1 Paragraph 119 of the NPPF states: "Planning policies and decisions should promote an effective use of land in meeting the need for homes and other users, while safeguarding and improving the environment and ensuring safe and healthy living conditions." Furthermore, the NPPF requires development to boost the supply of housing by delivering a wide choice of high-quality homes.

- 7.2 Policy DM8 states that non-self-contained accommodation should be directed toward the central area of Southend or where such type of accommodation is needed by certain institutions, such as Southend Hospital or University of Essex. Southend-on-Sea City Council's development framework does not currently contain any policies that specifically relate to HMOs.
- 7.3 There is no objection to the principle of increasing the capacity of an existing HMO in this location, subject to other material considerations which are discussed in the following sections of the report.

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

- 7.4 Local and national planning policies and guidance seek to ensure that new development is well designed. 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.
- 7.5 Local development plan policies seek to ensure that new development is designed so that it adds to the overall quality of the area and respects the character of the site, its local context and surroundings, provides appropriate detailing that contributes to and enhances the distinctiveness of place; and contribute positively to the space between buildings and their relationship to the public realm. Policy DM1 and the Council's Design and Townscape Guide provide further details on how this can be achieved.
- 7.6 No changes to the exterior of the property have taken place as a result of this development. The two additional bedrooms created internally through conversion of existing floorspace are not considered to have resulted in a material change in the character and function of the property. The development is therefore considered to be acceptable and policy compliant in terms of its impact on the character and appearance of the site, the streetscene and the area more widely.

### **Amenity Impacts**

- 7.7 Local and national planning policies and guidance seek to secure high quality development which protects amenity. Policy DM1 of the Development Management Document specifically identifies that development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight. Further advice on how to achieve this is set out in the Council's Design and Townscape Guide.
- 7.8 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities and also: *"having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight."*
- 7.9 The nearest neighbouring residential properties to the application site are the properties at Nos. 52 and 56 Burdett Avenue, the properties attached either side of the application site. No physical alterations have taken place as part of this development so there have been no materially different impacts on neighbours in terms of privacy, overlooking, outlook, sense of enclosure/overbearing relationship, daylight and sunlight when compared with the 6-bed HMO situation before the development took place. The level of occupancy does not give rise to any unduly harmful noise and disturbance or pollution that is to the significant detriment of the amenity of neighbouring occupiers. HMOs are generally compatible with a residential setting. The development is acceptable and

policy compliant in these regards.

## Standard of Accommodation

- 7.10 Delivering high quality homes is a key objective of the NPPF. Policy DM3 of the Development Management Document states that proposals should be resisted where they create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents.
- 7.11 In relation to residential standards for non-self-contained accommodation, Policy DM8 of the Development Management Document, states that all proposals of this nature will be required to meet the internal space standards set out in Policy Table 6 which states that a minimum bedroom size should be 6.5m<sup>2</sup> for single and 10.2m<sup>2</sup> for double bedrooms and that the accommodation must have some communal areas, such as a living room, kitchen, diner.
- 7.12 The Council has adopted the Essex Approved Code of Practice with respect to HMO's and this document represents a material planning consideration when read along with the above policy table, although it is noted that the Code of Practice is not a planning policy document. This document sets out the following standards for HMOs:

**Table 1: Minimum room size requirements**

Room size requirements are given in sq.m. For clarity, a room size of 12sqm is equivalent to a room measuring 4m by 3m and also a room measuring 6m by 2m.

Room use	Number of occupants	HMO with shared facilities (kitchen/ dining/living)	HMO with shared kitchen facilities (no shared living room)	HMO without shared facilities (i.e. bedsits or studios)
Bedroom or Letting	1	6.51sqm	8.5sqm	11sqm
	2	10.22sqm	12sqm	15sqm
Shared Kitchen	Up to 5	7sqm	7sqm	
	6	8.5sqm	8.5sqm	
	7	10sqm	10sqm	
	8 -10	14sqm (or 2 rooms each 7sqm)	14sqm (or 2 rooms each 7sqm)	
Shared Living/Dining Room	up to 5	11sqm	*5sqm	
	6	12sqm	*6.5sqm	
	7	13sqm	*8sqm	
	8	14sqm	*10sqm (or 2 rooms each 5sqm)	
	9	15sqm	*10sqm (or 2 rooms each 5sqm)	
	10	16.5sqm	*10sqm (or 2 rooms each 5sqm)	

\*In HMOs without a shared living room additional shared dining space is required close to a shared kitchen that is more than 1 floor distant from any letting room it serves

**Table 3: Minimum requirements for bathrooms/shower rooms and WC compartments**

Occupants sharing	Bathrooms Comprising 1 Bath/Shower Unit (With Hot and Cold Water) and may contain a WC (but see * below)	Separate WC compartment with wash hand basin with H & C	Ventilation (suitable and adequate)	Adequate size and layout: Minimum floor area for safe use of bathroom
Less than 5	1	0	Mechanical ventilation is required in all bathrooms and WC compartments which lack natural ventilation via an openable window. It will also be required, in addition to any natural ventilation, where necessary, to mitigate problems of damp and mould. It is always recommended that where possible, in addition to any natural ventilation, mechanical ventilation is provided in all bathrooms and WC compartments.	Bath only 2.3sqm Bath & WHB 2.5sqm Bath,WC&WHB 2.8sqm Shower only 1.7sqm Shower&WHB 2.0sqm Shower,WC&WHB 2.2sqm WC & WHB 1.2sqm
	1	1		
6	2*	1		
7	2*	1		
8	2*	1		
9	2*	1		
10	2	2		
Ensuite for 1 or 2	1	0	Comments as above	

- 7.13 The rooms included in the application are stated to be for single occupancy with sizes as follows:

Bed 1	9sqm	(3sqm ensuite)
Bed 2	8.5sqm	(2sqm ensuite)
Bed 3	9.5sqm	(2sqm ensuite)
Bed 4	11sqm	(2sqm ensuite)
Bed 5	8.5sqm	(2sqm ensuite)
Bed 6	11sqm	(3sqm ensuite)
Bed 7	14sqm	(3sqm ensuite)
Bed 8	13sqm	(2sqm ensuite)

- 7.14 The premises also provide some 23m<sup>2</sup> of shared floorspace for a kitchen/dining area at the front of the ground floor. The property also has a garden to the rear.
- 7.15 The bedrooms of the development meet the Essex HMO Standards for an HMO without shared living room space (each bedroom must be a min of 8.5sqm). The development would fall short by 1sqm of the required standards in relation to the communal kitchen/dining area which is required for an 8-room, 8-person HMO (a minimum of 24sqm). It is noted that 2 of the rooms are larger and meet the size requirements for double occupancy. It is considered reasonable in this instance in view of the minimal under provision of the size of shared facilities to limit all rooms to single occupancy with a planning condition. The development, on balance, is acceptable and policy compliant on this basis.
- 7.16 All rooms benefit from acceptable outlook and natural light. The communal amenity space to the rear would be sufficient for the development. On this basis and subject to conditions, the development is considered acceptable and in line with policy in the above regards.

### **Traffic and Transportation Issues**

- 7.17 The NPPF states (para 111) that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or, the residual cumulative impacts on the road network would be severe.”
- 7.18 Policy DM15 of the Development Management Document states: “*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*”. The policy also requires that adequate parking should be provided for all development in accordance with the adopted vehicle parking standards.
- 7.19 The parking standards do not include any requirements for HMOs. The proposal would not provide any parking. The site is in a sustainable location, in close proximity to public car parks and within reasonable walking distance from the District Centre of Hamlet Court Road and close to the boundaries of the City Centre. The site is half a mile from Westcliff Rail Station. It is not considered that the development results in significant harm to parking conditions, highway safety or the traffic network. Highways have not objected.
- 7.20 A cycle store is shown in the rear garden. It is not clear how many spaces will be provided and if it is secure and covered. The provision of this to adequate standard can be secured by condition. Subject to this condition the development is considered to be acceptable and policy compliant in relation to traffic and transportation issues.

## **Sustainability**

- 7.21 Policy KP2 of the Core Strategy requires that: “at least 10% of the energy needs of new development should come from on-site renewable options (and/or decentralised renewable or low carbon energy sources)”. Policy DM2 of the Development Management Document states that: “to ensure the delivery of sustainable development, all development proposals should contribute to minimising energy demand and carbon dioxide emissions”. This includes energy efficient design and the use of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting.
- 7.22 No details have been submitted with the application to demonstrate whether the development meets the target of renewable energy sources covering at least 10% of the anticipated energy consumption in line with policy requirement or if/how the water consumption is limited. It is considered that the requirements for renewable energy and restrictions on water usage can be controlled with conditions. Care would be needed to ensure that any renewable technologies submitted for approval under such a condition would not harm the character and appearance of the area. Subject to conditions, this aspect of the development is, therefore, considered to be acceptable and policy compliant in these regards.

## **Ecology, Biodiversity, HRA and RAMS**

- 7.23 The site falls within the Zone of Influence for one or more European designated sites scoped into the emerging Essex Coast RAMS. It is the Council’s duty as a competent authority to undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation. Any new residential development has the potential to cause disturbance to European designated sites and therefore the development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations 2017.
- 7.24 In this instance, the development has not resulted in a net increase of residential units. The development does not need to offer mitigation as it does not have a significant effect on habitats and species. The development is acceptable and in line with policies in this regard.

## **Refuse and Recycling**

- 7.25 The submitted plans show a refuse store in the front garden. This is considered to be reasonable provision for the number of occupants. It is also noted that this was the existing situation before the development took place. The development is acceptable and policy compliant in this regard.

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

- 7.26 As the development does not create more than 100m<sup>2</sup> of floorspace and does not involve the creation of a new dwelling (Class C3), the proposal benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

## **Equality and Diversity Issues**

- 7.27 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty.

Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application and preparing this report had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

## **Conclusion**

- 7.28 Having taken all material planning considerations into account, it is found that the development is acceptable and in line with the objectives of the relevant local and national policies and guidance. The development is considered to offer acceptable living conditions for its current and future occupiers and to have an acceptable impact on the highway safety, traffic and parking conditions of the area. The development also has an acceptable impact on neighbouring residential amenity and can provide adequate refuse and recycling storage for the maximum number of occupiers which is to be controlled through a planning condition. This application is, therefore, recommended for approval subject to conditions.

## **8 Recommendation**

**Members are recommended to GRANT PLANNING PERMISSION subject to the following conditions:**

- 01 The development hereby approved shall be retained in accordance with the approved plans: 841-100, 841-101 Rev 01 (6 Bed), 841-101 Rev 01 (8 Bed), 841-104 Rev 01.**

**Reason: To ensure the development is carried out in accordance with the development plan.**

- 02 Notwithstanding the provisions of the Town and Country Planning Act 1990 (as amended) the development approved under the provisions of this permission shall not at any time be adapted to enable formation of more than eight (8) bedrooms and the property shall not be occupied by more than eight (8) residents at any one time.**

**Reason: To ensure the use hereby approved would offer acceptable living conditions for its occupiers in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1, DM3 and DM8.**

- 03 Notwithstanding the information submitted and otherwise hereby approved, within three months from the date of this permission, the development hereby approved shall be provided with at least eight (8) on site, secured and covered cycle parking spaces which shall be available for use by the occupiers of the development and their visitors in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority pursuant to this condition. If such details are not submitted to the Local Planning Authority and approved in writing within 3 months of the date of this permission the use as an 8 bedroom HMO shall cease and revert to a six bed HMO (Use Class C4) until such time as they are. The cycle parking shall then be implemented and made available for use within two months of the date of the approval of the details and in complete accordance with the agreed details. If the secure covered cycle parking is not implemented and/ or made available for use in full accordance with**



the details approved under this condition within 2 months of the date of the approval of the details by the Local Planning Authority the use as an 8 bedroom HMO shall cease and revert to a six bed HMO (Use Class C4) until such time as they are. The approved cycle parking shall be retained for the lifetime of the development.

Reason: To ensure the provision of adequate cycle parking and in the interest of visual amenity in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policies KP2, CP3 and CP4, Development Management Document (2015) Policies DM1, DM3, DM8 and DM15, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

- 04 Within 3 months from the date of this permission details of energy efficiency and other sustainability measures to be included in the scheme, including the provision of at least 10% of the energy needs of the development hereby approved being provided from onsite renewable sources, shall be submitted to, agreed in writing by the Local Planning Authority and implemented on site in accordance with the agreed details. If such details are not submitted to the Local Planning Authority and approved in writing within 3 months of the date of this permission the use as an 8 bedroom HMO shall cease and revert to a six bed HMO (Use Class C4) until such time as they are. The energy efficiency and other sustainability measures shall then be implemented within two months of the date of the approval of the details and in complete accordance with the agreed details. If the energy efficiency and other sustainability measures are not implemented and/ or made available for use in full accordance with the details approved under this condition within 2 months of the date of the approval of the details by the Local Planning Authority the use as an 8 bedroom HMO shall cease and revert to a six bed HMO (Use Class C4) until such time as they are. The energy efficiency and other sustainability measures shall be implemented for the lifetime of the development.

Reason: To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM2, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

- 05 Within 3 months from the date of this permission, the development hereby approved shall incorporate water efficient design measures set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to 105 litres per person per day (lppd) (110 lppd when including external water consumption), including measures of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting. If such details are not incorporated within 3 months of the date of this permission the use as an 8 bedroom HMO shall cease and revert to a six bed HMO (Use Class C4) until such time as they are. The water efficient design measures shall be implemented for the lifetime of the development.

Reason: To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM2, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

### **Positive and Proactive Statement:**

**The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, 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.**

### **Informatives:**

- 1 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 the Planning Portal ([www.planningportal.co.uk/info/200136/policy\\_and\\_legislation/70/community\\_infrastructure\\_levy](http://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy)) or the Council's website ([www.southend.gov.uk/cil](http://www.southend.gov.uk/cil)) for further details about CIL.**
  
- 2 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council will 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 City.**