

20212642	6 St Dunstan Road	
Proposal:	Change of use from house in multiple occupation for 6 persons (Class C4) to house in multiple occupation for 7 persons (Sui Generis)	
Applicant:	Mr Umesh Kalra	
App type:	Operational development - full application	
Status:	Change of use	
Expiry Date:	20 December 2021	
PB	TEAM: PD	WARD: Fosse



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Summary

- The application is brought to the Committee as there have been more than five objections from more than five different City addresses and the recommendation is for approval.
- Objections relate to the concentration of houses in multiple occupation in this area and associated impacts including noise, parking, waste and the balance of the local community.

- The main issues in this case are: the principle of the change of use, amenity of existing, future and neighbouring occupiers, character of the area, parking, noise, waste and drainage
- The application is recommended for approval with conditions.

The Site

This application relates to a two-storey late 19th Century end-of-terrace dwellinghouse located on the east side of St. Dunstan Road. The dwelling has been enlarged by the addition of front and rear dormers and by a single storey extension to the rear of the original two storey outrigger. A small timber-framed canopy has been added to part of the side of the rear extension.

St. Dunstan Road is a short cul-de-sac of twelve houses. The carriageway does not have any turning head. On street parking is not controlled.

The site is located within a Critical Drainage Area. It is also within a 250 metres buffer of a former landfill site in Carlisle Street and within a 250 metres local authority air pollution control buffer of a vapour recovery site in Glenfield Road.

Background

In 2021 notification of a proposal to carry out a larger single storey rear extension was submitted and the determination was that prior approval was not required (20210494) – implemented

Also in 2021 a planning application was submitted for the construction of a dormer roof extension and the installation of rooflights at the front of the house (20210779). Planning permission was granted subject to a condition requiring finish in matching materials - Implemented

There is no record relating to the rear dormer although this is indicated in outline on the proposed drawing for application 20210799 with an annotation that it was to be constructed under permitted development rights for householders – implemented.

There is no record relating to the change of use from a Class C3 dwellinghouse to a Class C4 house in multiple occupation. However, the site is not currently within a part of the city to which the Article 4 Direction, controlling otherwise permitted changes from Class C3 to C4 use, applies. However, permission is required from Class C4 that allows for small shared houses occupied by between three and six unrelated individuals, whereas a house occupied by seven unrelated individuals falls outside of Class C4 and falls within a Sui Generis use class.

The Proposal

The proposal is for a change the use of the property from a house in multiple occupation for 6 persons (Class C4) to a house in multiple occupation for 7 persons (Sui Generis).

The application existing drawing shows that there are two bedrooms on the ground floor and three bedrooms on the first floor, each with an *en-suite*, and that there is a

further bedroom within the front attic space served by a separate shower room. The bedroom sizes range from 8.8m² to 13.8m² and all are marked as single-occupancy rooms for 6 persons. The proposal shows that the seventh bedroom would be provided within the rear dormer. This would have an area of 10m² and would share the separate shower room with the front attic space room.

Policy Considerations

National Planning Policy Framework (NPPF) (2021)

Paragraph 8 establishes three, overarching and interdependent objectives for sustainable development. They are: an economic objective; a social objective; and an environmental objective.

Paragraph 11 states that decisions should apply a presumption in favour of sustainable development. For decision taking this means: approving development proposals that accord with an up-to-date development plan without delay; and where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, granting permission unless:

- i. 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
- ii. 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.

Paragraph 38 states that local planning authorities should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, and that decision makers should approve applications for sustainable development where possible.

Paragraph 56 states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development, enforceable, precise and reasonable.

Paragraph 69 states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and that local planning authorities should give great weight to the benefits of using suitable sites within existing settlements.

Paragraph 111 states that development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety or severe cumulative impacts on the road network.

Paragraph 126 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, and goes on to recognise that good design is a key aspect of sustainable development.

Paragraph 130 sets out decisions criteria for achieving well designed places. It states that decisions should ensure that developments (a) will function well and add to the overall quality of the area; (b) are visually attractive as a result of good architecture; (c) are sympathetic to local character and history, including the surrounding built environment; and (f) create places with a high standard of amenity for existing and future users.

Paragraph 134 states that development that is not well designed should be refused, taking into account any local design guidance and supplementary planning documents.

Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

Leicester Core Strategy (2014) and City of Leicester Local Plan (2006)

Development plan policies relevant to this application are listed at the end of this report.

Supplementary Planning Documents

Residential Amenity SPD (2008) – Appendix G

Others

The proposed new Article 4 Direction for Conversion of Dwelling-houses (Class C3) to small Houses in Multiple Occupation (Class C4) – the 8-week consultation period closed on the 13th January 2022. As a Non-Immediate Direction is proposed, this will not come into force until November 2022, if confirmed.

Consultations

The local Highway Authority has advised that the application should be considered using Standing Advice.

The Private Sector Housing Team has advised that it has no comments on the application (but remarks that the property is already licensed as a HMO for 8 people in 7 households).

Representations

Representations have been received from 7 members of the public, raising the following issues:

- add to parking pressure/roadside disharmony
- small cul-de-sac not equipped for this level of occupation
- observed cars generally one per room
- increased traffic
- increased bins/overflowing bins
- strain on services, drains and infrastructure
- area saturated with HMOs

- house already finished and advertised/occupied as 7 bedrooms
- each room small and depressing – not good for tenants
- noise from intensive occupation impacts wellbeing of neighbours
- proposal is for profit
- noise (breaching regulations) and heritage destruction from works to property during lockdown affected mental health
- HMO concentration adversely affecting character and sustainability of neighbourhood
- studentification of area unbalancing the community
- fly tipping and vermin
- increased crime
- loss of family homes adds to housing crisis
- welcome imminent Article 4 and conservation area designation
- best left as a 6 bedroom HMO to minimise impacts
- overpopulation
- oversupply can lead to de-studentification and social, cultural and economic decline
- other local authorities impose tighter controls eg Brighton & Hove
- students not paying council tax – no financial benefit to council to cover increased costs
- answer to question 11 (assessment of flood risk) on application form should be yes
- existing arrangements for bin storage (question 14 of application form) not good enough
- this company seems intent on doing as many HMOs as possible
- disturbance and anti-social behaviour
- forcing long-term residents to move away – communities should be strengthened not destabilised

In addition, a flood map has been submitted showing the proximity of the site to land at risk of flooding, and a screenshot from a property website has been submitted purporting to show the property advertised as a 7 bedroom house on 18/10/2021.

Consideration

The main issues in this case are: the principle of the development; the amenity of neighbouring occupiers, the living conditions of future occupiers, character of the area, maintenance of mixed communities, parking, drainage, waste, noise and the representations

The principle of development

Policy CS06 of the Core Strategy (2014) states that careful consideration will be given to conversions to ensure that there is no adverse impact on the character of the area or the maintenance of mixed communities. It goes on to state that the conversion of existing large houses will be resisted where it would still be appropriate for family use and meet an identified need for this type of accommodation. Policy

Policy CS08 states that, within the inner areas of the city, it is the Council's priority to retain good quality existing housing for which there is demand, and that within neighbourhoods where there is an identified demand for larger houses appropriate for family use should be retained and conversion to other types of accommodation resisted. It also states that, within the inner areas of the city, new houses in multiple occupation requiring planning permission will not be permitted where they would result in a local over concentration.

It is the Council's position that an over-concentration of houses in multiple occupation has occurred in the wider area, and this is the basis of the proposed extension of Article 4 Direction controls (that was the subject of public consultation that closed on 13th January 2022) over future changes of use from Class C3 dwellings to Class C4 shared houses which would include St. Dunstan Road. In terms of the immediate locality, Council records show that there are other houses in multiple occupation/student properties on Glenfield Road (15 houses), Wentworth Road (7 houses) and Bramley Road (3 houses). Overall, I consider that this evidence is indicative that there is a local over-concentration.

In this instance a change of use to a six persons house in multiple occupation has already occurred, as permitted development. Consequently, the proposal does not involve the loss of an existing larger family house nor does not constitute a 'new' house in multiple occupation. I conclude that no conflict with Policy CS08 can therefore be demonstrated.

The subject property is the only house in St. Dunstan Road that appears on the Council records as being in multiple occupation and representations received from members of the public provide some indication of local perception about its impact on the character of the area and the local community. I am sympathetic to the concerns raised, particularly in view of the nature of St. Dunstan Road as a small, relatively quiet cul-de-sac. Enlarging the existing house in multiple occupation does have the potential to exacerbate its impacts and I will consider these in detail below. However, in broad terms, I conclude that the addition of one single-person bedroom would be unlikely to so significantly increase the impact of this house's occupation upon the character of the area or the population balance of the local community as to materially conflict with Policy CS06 in this regard.

Amenity of neighbouring occupiers

Core Strategy (2014) Policy CS03 calls for developments to contribute positively to the character and appearance of the built environment. Saved Policy PS10 of the Local Plan (2006) sets out amenity considerations for new development including (a) noise, (b) the visual quality of the area including potential littering problems, (d) privacy, (e) safety and security and (f) the ability of the area to assimilate development. I will address each of these in turn.

The extensions and alterations to the dwelling have already occurred – the front dormer & rooflight with planning permission, the rear dormer and single storey extension as permitted development. Their impact upon the character and appearance of the built environment therefore falls beyond the scope of this application.

The change of use to seven persons house in multiple occupation would be likely to increase comings and goings to the property and the intensity of residential activity within the house. I am mindful that this is a small, relatively quiet cul-de-sac which as a result may be more sensitive to additional disturbance than, for example, a main road. Nonetheless, I do not consider that it could be demonstrated that the marginal increase in comings and goings associated with one additional single person at the property would give rise to levels of external noise that would significantly harm residential amenity of nearby occupiers above the existing lawful use. In terms of internally generated noise, the applicant's Planning, Access & Design Statement ("the Statement") states that the refurbishment of the property included soundproofing (in excess of Building Regulations requirements) and a note on the application proposed drawing repeats this claim. Irrespective, I do not consider that it could be demonstrated that the marginal increase in internally generated noise associated with one additional person would so significantly affect the amenity of the occupiers of the adjoining terraced house at 8 St. Dunstan Road as to justify withholding planning permission.

The principal visual impact of the proposal is likely to be upon increased waste and recycling arising at the property. The applicant has provided a 'Guide to Living' document that, amongst other things, draws tenants' attention to considerate practice as regards bin collection and storage. In common with other terraced properties in this area, there is a passageway (shared with the adjoining house) from the front to the rear of the property, and the submitted block plan denotes a location for four wheelie bins (2 x waste, 2 x recycling) within the rear amenity space. However, at the time of my site visit, I observed one wheelie bin left indiscriminately on the forecourt and no other bins were visible at the rear. I consider that one wheelie bin for seven persons shared house would be inadequate and that four bins (if provided) left indiscriminately on the forecourt would be harmful to the visual quality of St. Dunstan's Road. I therefore recommend that the number and storage arrangements for the bins be made the subject of a condition of any planning permission for the proposal.

The rear dormer is shown as a storeroom. The proposal would bring this room into occupation as habitable space, however overlooking relationships between the rear window serving this room and surrounding neighbouring properties would be within normal parameters for a residential locality within the inner area of the city. I am satisfied overall that the proposal would minimal impact upon the privacy of any neighbouring occupiers.

Council analysis (produced as part of the current Article 4 Direction consultation) does illustrate a link between houses in multiple occupation and increased incidence of anti-social behaviour, and this appears to be reflected in the representations received from members of the public to this application. Again, however, it must be borne in mind that the subject property is already lawfully in use as a house in multiple occupation, and I do not consider that the likelihood of any material increase in crime or anti-social behaviour could be robustly attributed to one additional person at the property.

The ability of the area to assimilate the proposal is already addressed in the preceding 'principle of development' section of this report.

Living conditions of future occupiers

Policy CS03 of the Core Strategy (2014) states that new development should create buildings and spaces that are fit for purpose, and that consideration should be given to future management and maintenance. Saved Policy PS10 of the Local Plan (2006) applies to the amenity of future as well as existing neighbouring residents

The Nationally Described Space Standards (NDSS) are not yet adopted in Leicester. Nevertheless, the adequacy of internal space is part of the creation of a satisfactory living environment for future occupiers and as such remains a material consideration.

The enlarged house, as a whole, has a gross internal area (when scaled from the application drawings) of approximately 150m². This compares favourably with the NDSS which, requires 129m² for a seven persons three-storey dwelling.

The NDSS also requires that a bedroom providing one bedspace has an area of at least 7.5m² and a width of at least 2.15m. The proposed additional bedroom would have an area of 10m² and its width would be 2.3m. The other bedrooms in the property also meet and slightly exceed this NDSS in this regard.

The NDSS also requires a minimum floor to ceiling height of 2.3m for at least 75% of the gross internal area. The Statement submitted with the application states that the proposed additional bedroom has 2.3m floor to ceiling height. As the space was created by the recent dormer extension (the subject of Building Regulations checks) I have no reason to doubt this.

I am satisfied that the east-facing dormer window serving the proposed additional bedroom would provide acceptable levels of daylight and sunlight for future occupiers. The outlook provided would be over the rear amenity space of the property and more generally of neighbouring properties and sky and would, I consider, be acceptable in the context of this inner area part of the city.

In common with other occupiers of the house, future occupier of the proposed additional bedroom would have access to the communal kitchen and living space provided within the outrigger and extension on the ground floor. This provides 28.5m² space (gross) and, whilst clearly not generous, is nevertheless not unreasonable for seven occupiers to share and benefit from windows and a door onto the rear amenity space.

Approximately 25m² amenity space is provided at the rear. Appendix E of the Residential Amenity SPD is silent on amenity space expectations for houses in multiple occupation, but as a proxy it is worth noting that the SPD recommends 75m² for 2-3 bedroom terraced dwellings and 100m² for larger family homes. In this respect the application property falls short, and in practice the area available for the enjoyment of the occupiers is diminished further by the need to accommodate bin storage and cycle parking within it. However, small (substandard) rear gardens are a

common attribute of the turn-of-the-century houses in this area and, in this existing context, I do not find that the space is so small as to give rise to unacceptable living conditions for the future occupiers. It is notable that Fosse Road Recreation Ground is nearby.

I consider that adequate and convenient arrangements for the storage and collection of waste and recycling is an important attribute of a good quality living environment. In this regard I find that the condition already proposed with regards to bin storage and collection arrangements would also serve the interests of the future occupiers.

Parking

Policy CS15 of the Core Strategy (2014) states that parking for residential development should be appropriate for the type of dwelling and its location and take account of the available off-street and on-street parking and public transport. Parking standards for cars and bicycles are set out at Appendix 01 of the Local Plan (2006) and are given effect by saved Policies AM02 and AM12.

The local Highway Authority has referred to the standing Highways Advice for Planning Officers (Rev4 May 2021). In respect of houses in multiple occupation, this states that proposals should be assessed for car and cycle parking using Local Plan Parking guidance.

There is no standard specified at Appendix 01 for car parking for housing in multiple occupation. The standard for Class C3 dwellinghouses calls for two car parking spaces for 3+ bedroom properties.

In common with most other properties in this area there is no off-street car parking for the site. As a Class C3 dwellinghouse the application property would have generated a standard requirement for two spaces which could not be met off-street, and this shortfall is maintained when the standard is applied by proxy to the property as house in multiple occupation. The particular circumstances St. Dunstan Road (relatively short and lacking a turning area) which create constrained on-street car parking conditions are acknowledged. On the other hand, houses in multiple occupation typically appeal to individuals (such as students and those making their first move out of the parental home) at the lower end of the income scale, for whom car ownership may be a lower economic priority. On balance, I consider that the proposed additional bedroom for an additional person would be unlikely to have a materially exacerbating impact upon on-street car parking conditions in St. Dunstan Road or the surrounding streets.

Paragraph 111 of the NPPF is clear that development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety or severe cumulative impacts on the road network. In view of my conclusions about on-street car parking, I am not convinced that such magnitude of impacts could be demonstrated in this case.

Appendix 01 does not specify any standard for cycle parking for housing in multiple occupation, although it does specify 1 space per 2 bedspaces for student accommodation and this would seem to be a relevant proxy. This generates an

overall requirement for the house of 4 spaces. The submitted plan denotes four cycle parking spaces within the rear amenity space. At the time of my site visit, I observed that there was a covered space within the rear amenity space however this did not accommodate any racks/stands that would provide formalised, secure cycle parking spaces. I therefore recommend that an appropriate number of cycle racks/stands be secured for the future occupiers via a condition of any planning permission for the proposal.

Other matters

As the proposal is for a change of use and does not involve any new buildings or extensions I am satisfied that there is no risk of any material increase in surface water run-off within this critical drainage area. Similarly, given the nature of the proposal, I do not consider that the proposal raises any material issues within the buffer zones of nearby former landfill and vapour recovery sites.

Turning to the issues raised in representations by members of the public and not otherwise dealt with in the preceding sections of this report:

- *strain on services, drains and infrastructure*: noted but additional impact of one single person bedroom is unlikely to be significant
- *house already finished and advertised/occupied as 7 bedrooms*: the applicant has advised that only rooms 1,3,4,5,7 are let agreed at the present time
- *noise (breaching regulations) and heritage destruction from works to property during lockdown affected mental health*: noted with regret but this is beyond the scope of consideration of the current application
- *oversupply can lead to de-studentification and social, cultural and economic decline*: this is a matter to be considered and addressed as part of the preparation of a new Local Plan for the city
- *other local authorities impose tighter controls eg Brighton & Hove*: as above, and note current consultation on extended Article 4 Direction controlled area
- *students not paying council tax – no financial benefit to council to cover increased costs*: noted but this is beyond the scope of consideration of the current application
- *answer to question 11 (assessment of flood risk) on application form should be yes*: question 11 asks ‘Will the proposal increase flood risk elsewhere?’ and I believe that the answer provided is correct
- *this company seems intent on doing as many HMOs as possible*: noted but this is beyond the scope of consideration of the current application

The Planning Balance

Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development and sets out an explanation of what that means for decision taking. Footnote 8 to the paragraph further explains that out-of-date policies includes situations where the local planning authority cannot demonstrate a five years’ supply of deliverable housing sites (with the appropriate buffer).

The City Council cannot currently demonstrate a five years' supply of deliverable housing sites and as this planning application involves the provision of housing the so-called 'tilted balance' under paragraph 11 of the NPPF is invoked. I acknowledge that houses in multiple occupation do help to meet accommodation need, within the broader private rented sector, particularly for individuals at the lower end of the income scale. This needs to be balanced against the harmful impacts that an over-concentration of housing in multiple occupation can have on the character of an area and the balance between more settled and more transient components of local communities. In this case I have found that, subject to conditions, the impacts of an additional one-person bedroom would not be so significant as to justify withholding planning permission. With the resulting positive recommendation, I consider that there is no need to consider the so-called 'tilted balance' further.

Conclusions

The application site is located within an area that suffers from an over concentration of houses in multiple occupation. However, the applicant has quite lawfully exercised permitted development rights to enlarge the property and change its use to a six persons house in multiple occupation. The subject proposal, effectively for the addition of a further one-person bedroom, would not create a 'new' house in multiple occupation within the area nor would involve the loss of an existing larger family house. In these respects, therefore, I conclude that there would be no conflict with the relevant provisions of Policies CS06 & CS08 of the Core Strategy.

I acknowledge the local perception, as reflected in representations from members of the public, about the impact that the conversion of this property to a house in multiple occupation has had upon the character of the area, the local community and residential amenity. However I have found that the addition of a further one-person bedroom would not exacerbate most of the impacts that the permitted change of use has already had to any material or unacceptable degree, and that in respect of waste management and the provision of appropriate cycle storage these are matters that can be resolved as conditions of planning permission. I conclude that there would be no conflict with the relevant provisions of Policies CS03 & CS06 of the Core Strategy, nor with the relevant provisions of saved Policy PS10 of the Local Plan, in these regards.

I have found that the proposal would provide an acceptable standard of accommodation for its future occupiers. In reaching this finding, I have had regard to the NDSS that is not an adopted policy of the Council, the Residential Amenity SPD and the consultation response (raising no objection) from the Council's Private Sector Housing team. I conclude that there would be no conflict with the relevant provisions of Policy CS03 of the Core Strategy, nor with the relevant provisions of saved Policy PS10 of the Local Plan, in this regard.

I acknowledge the particular circumstances St. Dunstan Road but find that, on balance of the likely low propensity of future occupiers to own a car, that the proposal would not pose a significant risk of materially exacerbating local on-street car parking conditions. As noted above, the provision of appropriate cycle storage can be resolved as a condition of planning permission. I conclude that there would be no conflict with the relevant provisions of Policy CS15 of the Core Strategy, nor

with the relevant provisions of saved Policies AM02 & AM12 of the Local Plan, in this regard.

I therefore recommend that this application be APPROVED and planning permission granted subject to the following conditions:

CONDITIONS

1. The development shall be begun within three years from the date of this permission. (To comply with Section 91 of the Town & Country Planning Act 1990.)
2. The house shall not be occupied by more than six persons until 4 x 240 litre wheelie bins have been made available on the site in the position marked as the waste and recycling storage location on the approved drawing numbered 21,022-P-001. The bins shall be retained in that position except on the day prior to collection and the day of collection. (To ensure that arrangements are in place on site for the storage of waste and recycling material arising from the occupiers of the house, in the interests of convenience and living conditions of the occupiers of the house and to ensure that the visual quality of the area is not diminished by indiscriminate storage of bins on the forecourt, in accordance with Policy CS03 of the Leicester Core Strategy (2014) and saved Policy PS10 of the City of Leicester Local Plan (2006).
3. The house shall not be occupied by more than six persons until 4 x cycle parking stands have been installed on the site in the position marked as the covered cycle storage provision on the approved drawing numbered 21,022-P-001. The cycle parking stands shall thereafter be retained in that position. (To ensure that arrangements are in place on the site for secure and weather-protected cycle parking for the occupiers of the house, in the interests of promoting sustainable transport and in accordance with Policy CS15 of the Leicester Core Strategy (2014) and saved Policy AM02 of the City of Leicester Local Plan (2006).
4. Development shall be carried out in accordance with the following approved plans: 21,022-P-402 Rev. A (Proposed Plans and Elevations) and 22,022-P-001 (Block Plan and Location Plan). (For the avoidance of doubt).

NOTES FOR APPLICANT

1. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material planning considerations, including planning policies and representations that may have been received and subsequently determining to grant planning permission with appropriate conditions taking account of those material considerations in accordance with the presumption in favour of sustainable development as set out in the NPPF 2021.

Policies relating to this recommendation

2006_AM02	Planning permission will only be granted where the needs of cyclists have been incorporated into the design and new or improved cycling routes should link directly and safely to key destinations.
2006_AM12	Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01.
2006_PS10	Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
2014_CS03	The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.
2014_CS06	The policy sets out measures to ensure that the overall housing requirements for the City can be met; and to ensure that new housing meets the needs of City residents.
2014_CS08	Neighbourhoods should be sustainable places that people choose to live and work in and where everyday facilities are available to local people. The policy sets out requirements for various neighbourhood areas in the City.
2014_CS15	To meet the key aim of reducing Leicester's contribution to climate change, the policy sets out measures to help manage congestion on the City roads.