

20220290	67 Dulverton 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:	22 April 2022	
PB	TEAM: PD	WARD: Westcotes



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Summary

- The application is brought to the Committee as there have been objections from more than five different City addresses.
- Objections relate to issues of amenity and privacy, noise and anti-social behaviour, the impact that HMOs and rentals are having on the family character of Dulverton Road, parking pressure and traffic, waste management, and the quality of accommodation provided to tenants.
- The main issues are: the principle of the change of use, amenity of existing, future and neighbouring occupiers, 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 mid-terrace dwellinghouse located on the west side of Dulverton Road. The dwelling has been enlarged by the addition of a rear dormer roof extension and a single storey extension to the rear of the original two storey outrigger, and rooflights have been installed at the front.

The property has six single-occupancy bedrooms, most with *en-suite* facilities, and a communal kitchen/living space. It is occupied as small house in multiple occupation falling within Class C4 of The Town and Country Planning (Use Classes) Order 1987, as amended.

The adjoining terraced dwellings are 65 & 69 Dulverton Road. The application dwelling's outrigger adjoins that of 69. The application dwelling shares a side passageway with 65. Adjoining the site at the rear is the rear garden of 75 Westcotes Drive.

Dulverton Road operates as a one-way street from Hinckley Road to Westcotes Drive. On street parking is not controlled.

The site is located within a Critical Drainage Area.

Background

In 2019 notification of a proposal to carry out a larger single storey rear extension was submitted and it was determined that prior approval of details was not required (20192099) – implemented

There is no record relating to the rear dormer and front rooflights. It is likely that these were constructed/installed as permitted development.

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 within a part of the city to which the Article 4 Direction, controlling otherwise permitted changes from Class C3 to C4 use, currently applies.

The Proposal

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

As existing, there are two bedrooms on the ground floor and three bedrooms on the first floor (all with *en-suites*) and there is a further bedroom within part of the rear dormer served by a separate shower room. The bedroom sizes range from 8.3m² to 10.1m² and all are marked as single-occupancy rooms. The proposal would convert the remaining part of the rear dormer currently shown as storage to a bedroom. This would have an area of 8.5m² and would share the separate shower with existing bedroom 6.

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

An 8-week consultation on the proposed new Article 4 Direction to control the conversion of dwellinghouses (Class C3) to small houses in multiple occupation (Class C4) closed on the 13th January 2022. Following the close of consultation, work is underway to progress the proposed new controls, which would include Dulverton Road, but the Article 4 Direction is not yet confirmed and as such the new controls are not yet in place.

Consultations

The Private Sector Housing Team has advised that it supports the application.

The Waste Management Team has advised that sufficient space is required for 2 x 240 litres refuse bins for general waste and 2 x 240 litres recycling bins.

Representations

Eleven representations have been received raising the following objections:

- overlooking/loss of privacy/request installation of obscure glazing
- loss of light
- anti-social behaviour/crime
- increased noise/previous noise complaints
- adjacent family bedrooms – inadequate noise protection
- overdevelopment in quiet area/overcrowding/overpopulation
- parking pressure/increased traffic/safety concerns
 - inadequate waste storage/litter problems/disregard for forecourt cleanliness
- houses not designed for this number of people
 - too many HMOs/rentals in this road/more transient population/harmful to family-occupied character of Dulverton Road
- inadequate space/excessive sharing of facilities for tenants

Two representations have been received raising the following points in support of the application:

- impressed by the standard of accommodation and good management
- reduced parking encourages cycling and good health
- friends made living in HMOs/house sharing provides company

Consideration

The main issues in this case are: the principle of the development; the amenity of neighbouring occupiers, the living conditions of existing and 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 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 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 Dulverton Road. In terms of the immediate locality, Council records currently show that there are two other licensable houses in multiple occupation in Dulverton Road.

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 one of three houses in Dulverton Road that appear on the Council records as being in multiple occupation. 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. Their impact upon the character and appearance of the built environment and upon the amenity enjoyed by occupiers of the neighbouring properties therefore falls beyond the scope of this application.

The change of use to a 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 road 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. The applicant's Planning, Access & Design Statement states that the refurbishment of the property included soundproofing (in excess of Building Regulations requirements). Irrespective of this, 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 houses at 65 & 69 Dulverton 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 – in this case 65 Dulverton Road) 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. I consider that this arrangement is acceptable subject to a condition that the bins be retained and stored at the rear (except when taken to the front on collection day).

Approximately one half of the rear dormer is shown on the existing floorplans 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 this inner area of the city (and no worse than the overlooking caused by the existing bedroom within the other half of the dormer). I am satisfied

overall that the proposal would involve 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. 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 existing floorplans) of approximately 135m². This is consistent with the NDSS which requires a minimum of 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 8.5m² and its width would be 2.5m wide for most of its area. The other bedrooms in the property meet and slightly exceed this NDSS in these regards.

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 and this claim is repeated by a note on the proposed floorplans. 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 west-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 roof of the outrigger and rear amenity space of the property and more generally of neighbouring properties and sky. This 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 occupiers 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 24.2m² space (gross) and, whilst clearly not generous, is nevertheless not unreasonable for

seven occupiers to share and benefits from windows and a door onto the rear amenity space.

Approximately 17m² amenity space is provided at the rear, in a strip alongside the outrigger and single storey extension. 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.

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.

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 Dulverton Road there is no off-street car parking at 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 of Dulverton Road (one-way with no resident permit controls to limit parking by non-residents) 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 one person would be unlikely to have a materially exacerbating impact upon on-street car parking conditions in Dulverton 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 block plan denotes a covered location for four bicycles within the rear amenity space. I am satisfied that this provides at least four useable, secure and weather protected cycle parking spaces for existing and future occupiers. I recommend a condition to ensure that the cycle parking is retained.

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.

The site is within an area that has been the subject of a recent public consultation as a potential new extension to the West End Conservation Area. As the proposal is for a change of use and does not involve any new buildings or extensions that would impact upon the townscape, I am satisfied that the application does not prejudice the potential inclusion of Dulverton Road within the West End Conservation Area.

Turning finally to matters raised in the representations received and not specifically addressed in the main parts of the report above:

- *request installation of obscure glazing*: a requirement for obscure glazing would be unreasonable given my conclusion about the acceptability of overlooking relationships, and installation of obscure glazing would diminish outlook from the proposed additional bedroom to the detriment of the living conditions of future occupiers
- *loss of light*: the proposal does not involve any new operational development
- *previous noise complaints*: noted, but I have concluded that the proposal would be unlikely to materially exacerbate noise problems associated with this existing house in multiple occupation
- *inadequate noise protection*: noted, but I have concluded that the proposal would be unlikely to materially exacerbate noise problems associated with this existing house in multiple occupation
- *overdevelopment in quiet area/overcrowding/overpopulation*: I have concluded that the proposal would result in only one additional bedroom for one additional occupier and as such the impact of the proposal upon the area would not be so significant as to justify withholding planning permission
- *houses not designed for this number of people/ inadequate space/excessive sharing of facilities for tenants*: I have found that the space available within the house, as already enlarged, would provide acceptable living conditions for existing and future occupiers
- *too many HMOs/rentals in this road/more transient population/harmful to family-occupied character of Dulverton Road*: noted, but I have concluded that the proposal would be unlikely to materially exacerbate HMO concentration issues associated with this existing house in multiple occupation
- *impressed by the standard of accommodation and good management*: support noted

- *reduced parking encourages cycling and good health*: support noted
- *friends made living in HMOs/house sharing provides company*: support noted

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 a wider area that suffers from an over concentration of houses in multiple occupation. However, the applicant has 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 have found that the addition of a further one-person bedroom would not exacerbate most of the impacts upon the character of the area and the local population balance that the permitted change of use has already had to any material or unacceptable degree, and that in respect of waste management and the retention of appropriate cycle storage these are matters that can be secured 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 existing and 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 of Dulverton Road but find that, on balance of the likely low propensity of future occupiers to own a car, the proposal would not pose a significant risk of materially exacerbating local on-street car parking conditions. As noted above, the retention of the already-provided cycle storage can be secured 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 APPROVAL 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 four bins (2 x 240 litres waste bins & 4 x 240 litres recycling bins) have been provided on the site, and these shall be retained on the site in the position shown on the approved plan numbered 19032-P-001 (Site Location Plan) 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. Four covered cycle parking stands shall be retained on the site in the position shown on the approved plan numbered 19032-P-001 (Site Location Plan). (To ensure that arrangements remain 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: 19032-P-001 (Site Location Plan) and 19032-P-402 (Proposed Plans and Elevations) - rec'd 07/02/2022. (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.