

ITEM 4

Case Officer: CW

Application No: CHE/23/00247/FUL

Change of use to create a larger house in multiple occupation, Use Class C4 to Sui Generis at 32 Fairfield Road, Brockwell, Chesterfield for Mr R Cusimano

Local Plan: Unallocated

Ward: Brockwell

Committee Date: 03/07/2023

1.0 CONSULTATION RESPONSES

Ward Members	- No comments received.
Highway Authority	- No objection, given restricted on-street parking provided within the local area.
Community Safety Officer	- No comments received
Strategic Planning	- No objection, comments in regard to water efficiency and cycle parking.
CBC Private Housing	- No objection
Neighbours	- 1 objection received. Concerns regarding impacts of previous work, the potential for increased parking demand in the locality and highway safety including access for emergency vehicles.

2.0 THE SITE

2.1 This application concerns No.32 Fairfield Road, which is 2 storey Victorian terraced building. It used to be a 4/5 bedroom dwelling (use class C3a), but has since been converted using permitted development rights into a 6 bedroom house in multiple occupancy (use class C4). It is situated on the western side of the street and is a part of a red brick terraced building with bay windows to the front elevation. The building has had the basement and attic space converted into habitable space.

- 2.2 The property is within a residential area and is surrounded by housing to all sides. All surrounding properties are in residential use. There is no parking directly related to the dwelling, although there is on-street parking available in the surrounding area within parking bays that are controlled by a parking permit scheme. The property has a small front garden area with low front boundary wall and approximately 30 sqm of back garden area.

Google Image - The property is the one with the central gable:



3.0 SITE HISTORY

- 3.1 No relevant applications for this building.

4.0 THE PROPOSAL

- 4.1 Planning permission is sought to change the store room on the first floor into an additional bedroom with en-suite bathroom and which, as a result, changes the building into a larger house of multiple occupancy beyond the permitted number of rooms to a different Use Class - Sui generis. The building would as proposed accommodate 7 bedrooms with shared facilities.
- 4.2 The first floor storeroom comprises a floorspace of 8.4 square metres plus an en-suite bathroom. No other changes are proposed to the property.

4.3 The building would have a lounge/diner and kitchen in the basement, two bedrooms at ground floor, 3 bedrooms at 1st floor and 2 bedrooms in the attic space; all of which would have en-suite bathrooms.

5.0 PLANNING POLICY

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, ‘applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise’. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035.

5.2 Chesterfield Borough Local Plan 2018 – 2035

- CLP1 Spatial Strategy
- CLP2 Principles for Location of Development (Strategic Policy)
- CLP4 Range of Housing
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

5.3 National Planning Policy Framework

- Chapter 2. Achieving sustainable development
- Chapter 5. Delivering a sufficient supply of homes
- Chapter 8. Promoting healthy and safe communities
- Chapter 9 Promoting sustainable transport
- Chapter 12. Achieving well-designed places

5.4 Supplementary Planning Documents

- Successful Places Residential Design Guide

6.0 CONSIDERATION

6.1 Principle of Development

6.1.1 Permitted development rights allow for the conversion of a single dwelling (Use Class C3) to a House in Multiple Occupation (Use Class C4) “by not more than six residents” living together and sharing facilities. Under the Use

Classes Order, such conversions relate only to small shared houses occupied by between three and six unrelated individuals, as their only or main residence, and who share basic amenities such as a kitchen, living room or bathroom. The conversion of an additional room to a further bedroom (bringing the total to seven), would take the whole property out of Use Class C4 and into a Sui Generis Use Class (a class of its own). The application should therefore be considered as a change of use of the entire property and the impact of the use addressed as a whole, rather than just as the change of use of a storage room to a bedroom.

6.1.2 The application site is not allocated within the Adopted Local Plan but is within the existing settlement boundary area. Policy CLP1 requires: The overall approach to growth will be to concentrate new development within walking distance of a range of Key Services. Policy CLP2 defines this in more detail looking to; deliver the council's Spatial Strategy and maximise opportunities through their location for cycling and the use of public transport. The site is centrally located close to the town centre with access to a wide range of key facilities by walking and cycling and public transport, therefore in principle a residential use in this location accords with policies CLP1 and CLP2 of the adopted Local Plan.

6.1.3 The proposed development is considered acceptable in principle against policies of the Local Plan and the wider objectives of the revised NPPF which encourage sustainable development, however an assessment of the detailed impacts is required under policy CLP14, CLP20 and CLP22 as referred to below.

6.2 Design and Appearance of the Proposal

6.2.1 Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.

6.2.2 The proposal does not include any external changes to the building. In this regard the proposal is considered to have no adverse impact on the design and appearance of the building or surroundings. The proposal therefore accords with the provisions of policy Local Plan policy CLP20.

6.3 Residential Amenity/Anti-Social Behaviour

- 6.3.1 Policy CLP4 encourages a range of housing and this includes HMOs. However, if there is a high concentration of HMOs within an area this can have negative impacts on the wider area, including anti-social behaviour. The Local Plan has no specific policies on the concentration of larger HMOs, smaller HMOs and houses that have been converted into flats, which are not always taken account of when considering the impact of multiple occupancy buildings, and the impacts of the increased densification of urban areas.
- 6.3.2 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours. The Council's SPD 'Successful Places' provides further guidance in respect of privacy, day light and sunlight, overshadowing and external amenity space.
- 6.3.2 Policy CLP20 also states in part that "All development will be expected to;
k) have an acceptable impact on the amenity of users and neighbours; l) be designed to be safe and secure and to create environments which reduce the potential for crime."
- 6.3.3 There are other HMO properties within the locality. It is considered that an increased density of poorly managed HMOs/shared houses in one small area can lead to an increase in anti-social behaviour in a locality and therefore these impacts have to be considered. The community safety officer has been consulted on the application but has not responded. No comments have been received from consultees noting that there is a particular problem in this area with anti-social behaviour. The comments made by the local resident appear to relate to when works were under construction and problems arising from this rather than from the occupants of the property. Therefore, there is no evidence to say that the increase in density of housing in this area is causing particular issues for which planning permission could be refused.
- 6.3.4 The Council's Private Housing Team has commented on the proposal, and have noted that that the proposal is of an adequate size with adequate facilities to accommodate an additional single occupant. They confirm that the house will have to adhere to the rules and regulations within the existing and amended HMO Licence attached to the property.
- 6.3.5 It is worth noting that the proposed bedroom size exceeds the Nationally Described Space Standard for a single bedroom however as a shared HMO the NDSS does not set a standard for overall space provision. Whilst the Council has not adopted these standards it is worthwhile considering in terms of the quality of accommodation being provided.

6.3.6 The opening and management of the existing smaller HMO within the property has allowed local residents to experience how the occupants would impact the neighbouring residents' amenity and how the property has been managed. As set out above, the lack of anti-social behaviour issues raised within the locality can be taken as positive feedback in this regard. On this basis a refusal of permission could not be sustained on the basis of a current lack of evidence in this regard.

Internal image of the HMO:



Photos of rooms

6.4 Highway Safety

- 6.4.1 Local Plan policies CLP20 and CLP22 require consideration of parking provision and highway safety. In relation to highway safety the proposal includes 7 bedrooms and no parking spaces, however the lack of off-street parking is typical within this part of the town. Parking permits are required to utilise on-street parking and it is understood that this is controlled by Derbyshire County Council who limit the number of parking passes available. The site is close to the town centre where walking, cycling and public transport is available. The Highway Authority have commented; “It is noted that the application site has no off street parking provision. However, there are extensive waiting restrictions on Fairfield Road and on the adjoining roads in the vicinity of the application site, including a residents parking scheme and on that basis it is considered that any additional roadside parking requirements associated with the application would not represent a highway safety issue. On that basis, there are no highway objections to the application.”
- 6.4.2 A local resident has commented that the occupants of the existing 6 bedroom HMO at the application property has led to a negative impact to the parking provision on the street, and that an additional bedroom and therefore additional person will exacerbate this problem. There can be a presumption that residents of HMOs are less likely to own vehicles and that residents who live close to local centres are not likely to require a vehicle for their day-to-day lives. However, this presumption may be ill-founded. The specific type of HMO developed by this particular landlord is for a higher quality product. As one of the presumptions in regard to car ownership levels is based on income levels it is considered that car ownership levels are likely to be higher in such accommodation. It is therefore likely that these types of development will lead to increased pressure on parking provision in the locality, but as the on street parking spaces are safe on street parking spaces the proposal would not lead to a harm in terms of highway safety, as set out by the Highway Authority above. Any unsafe parking would be dealt with by the Police. Therefore, the parking pressure is more of an inconvenience to residents but not a highway safety concern, therefore a refusal of planning permission on this basis would not be reasonable.
- 6.4.3 The proposed development has some space in the rear garden for safe and secure cycle parking, this can be secured via condition.
- 6.4.4 Due to the dwelling being located in a sustainable location where residents rely on on-street permit-controlled parking it is not considered that a refusal on highway safety grounds would be sustainable. On this basis the proposal

is considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan.

6.5 Biodiversity/landscaping

- 6.5.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the borough’s ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.
- 6.5.2 The proposed development is considered to be a minor development and a change of use only which does not result in the loss of an existing species rich habitat area. However, there is space to the rear of the property where additional planting could be provided as a net gain and therefore a condition is recommended to secure this. On this basis the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

7.0 REPRESENTATIONS

- 7.1 1 objection received.
The project took place last year and was a nightmare they were throwing objects from the scaffolding which damaged items in the garden. I had a skip outside the property for months.
I cannot park near my house and need close by disabled parking.
The same will happen again to another property making it worse. Another 7 cars on the street. Emergency vehicles may not be able to access causing a danger to life.
- 7.2 Officer comment – These issues are considered in the above report. Whilst the issues experienced during earlier building work are noted, such behaviours cannot be controlled through the planning process.

8.0 HUMAN RIGHTS ACT 1998

- 8.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an Authority must be in a position to show:
- Its action is in accordance with clearly established law
 - The objective is sufficiently important to justify the action taken
 - The decisions taken are objective and not irrational or arbitrary

- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

8.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

9.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015 and the 2021 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF and with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

10.0 CONCLUSION

10.1 Overall, the proposal to add a seventh lettable room to the property is considered to be acceptable in accordance with the policies of the Local Plan as set out above subject to the recommended conditions. There are not considered to be amenity concerns which would lead to a refusal of planning permission. As the proposal will not result in harm to highway safety the proposal is not considered to be refusable on highway grounds whilst it is acknowledged that there is limited parking in the area it is a sustainable location where alternative means of transport are available.

11.0 RECOMMENDATION

11.1 It is therefore recommended that the application be **GRANTED** subject to the following conditions:

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - The condition is imposed in accordance with section 51 of the Planning and Compulsory Purchase Act 2004

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non-material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below):
- Site location plan
 - Existing Floor plans
 - Proposed Floor plans

Reason - In order to clarify the extent of the planning permission.

3. Prior to occupation of the development hereby approved, on site facilities shall be provided within the curtilage of the site for the secure and weatherproof storage for 7 bicycles, in accordance with details to be submitted to and approved by the Local Planning Authority beforehand. Such facilities shall be maintained for use throughout the life of the development.

Reason - To encourage sustainable travel in accordance with policies CLP1, 2 and 22 of the Adopted Local Plan.

4. Within 2 months of the occupation of the development hereby approved, biodiversity and ecological enhancement measures shall be installed/integrated into the development and / or planted on site in line with the advice at informative 2. The ecological enhancement measures shall thereafter be retained and maintained throughout the life of the development.

Reason - In the interests of achieving a net measurable gain in biodiversity in accordance with policy CLP16 of the adopted Chesterfield Borough Local Plan and to accord with paragraph 175 of the National Planning Policy Framework

Informative Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.

2. In accordance with condition 4 above appropriate ecological/biodiversity enhancement measures shall include but shall not be limited to:

Bird/owl/bat boxes

(Locating your nestbox:

Whether fixed to a tree or a wall, the height above ground is not critical to most species of bird as long as the box is clear of inquisitive humans and prowling cats. If there is no natural shelter, it is best to mount a box facing somewhere between south-east and north to avoid strong direct sunlight and the heaviest rain. The box should be tilted slightly forwards so that the roof may deflect the rain from the entrance.

You can use nails to attach the box directly to a tree trunk or branch; or you can use rope or wire wrapped right around the box and trunk (remembering to protect the trunk from the wire cutting into it by using a piece of rubber underneath it). Both methods are satisfactory, but annual maintenance is easier if the box is wired and can be taken down easily for cleaning.

The number of nestboxes which can be placed in a garden depends on the species you wish to attract. Many species are fiercely territorial, such as blue tits, and will not tolerate another pair close by; about 2 to 3 pairs per acre is the normal density for blue tits. Other species, such as the tree sparrow, which is a colonial nester, will happily nest side-by-side.

Do not place your nestbox close to a birdtable or feeding area, as the regular comings and goings of other birds are likely to prevent breeding in the box.)

(Locating your bat box: Bat boxes should be positioned at least 3 metres above the ground (5 metres for noctules) in a position that receives some direct sun for part of the day, with a clear flight path to the box, but preferably also with some tree cover nearby as protection from the wind. In the roof eaves, on a wall or fixed to a tree are all suitable sites.)

Biodiversity enhancing planting and landscaping including trees, hedges and native species, wildflower planting and nectar rich planting for bees and night scented flowers for bats.

Measures to enhance opportunities for invertebrates including bug hotels/log piles, stone walls including a programme of implementation and maintenance.

Holes in fences and boundary treatment to allow species such as hedgehog to move across the site.

Bee bricks.