

Item 1

Case Officer: CW

Application No: CHE/22/00743/COU

Change of use of residential dwelling from small shared house (C4 Use Class) to a House of Multiple Occupation (Use Class Sui Generis) at 16 Albion Road, Chesterfield for Dovedale Property Lettings Ltd.

Planning Committee Date: 30/01/23

Ward: Brockwell

1.0 CONSULTATION RESPONSES

Ward Members	- No comments received.
Highways Authority	- No objection
Environmental Health	- No comments received
Chesterfield Cycle Campaign	- No comments received
Strategic Planning	- No objection, with further comments.
CBC Private Housing	- No objection
Derbyshire Constabulary	- An objection originally submitted prior to this being removed.
Neighbours	- 3 objections received. They include the potential for increased parking demand in the locality, highway safety, local community cohesion, potential for anti-social behaviour, lack of clarity from developer re their proposal and mis-leading application description.

2.0 THE SITE

2.1 This application concerns No.16 Albion Road which is a two storey terraced building with occupied space in the attic. It used to be a 3/4 bedroom dwelling (use class C3a), but it has since been converted using permitted development rights into a 6 bedroom house of multiple occupancy (use class C4). It is situated on the northern side of the street

and is a part of a red brick terraced building with a dormer window to the front elevation. The building has a single storey section to the rear that has access directly from the dwelling. On the ground floor the front door serves a lounge area, kitchen/diner and separate utility room and a bedroom with en-suite bathroom in the front room. On the first floor there are 3 bedrooms each with en-suite bathrooms and a rear storage room. In the attic space there are 2 bedrooms each with en-suite bathrooms.

- 2.2 The property is within a generally residential area and is surrounded by housing to the north, south and west. All surrounding properties are in residential use. To the north there is a car parking area related to commercial units along the Saltergate frontage.
- 2.3 The property has a small front garden area with low front boundary wall and approximately 60 sqm of back garden area. There is no off-street parking related to the dwelling however resident only on-street parking is available along the northern edge of the street. On the southern side of the street there is a footway/cycleway.
- 2.4 Three houses on the opposite side of the street have been previously converted into flats (multiple occupation) at no.23, 25 and 27) as referred to in the site history section of the report, as well no.20, which is 2 doors away from this dwelling.

3.0 SITE HISTORY

- 3.1 No relevant applications for this building.

For other properties in the locality

- 3.2 CHE/22/00203/COU - Change of use of store room to bedroom within house in multiple occupation at 20 Albion Road (description amended 12/04/22) – Conditional Permission – 30/08/22
- 3.3 CHE/19/00784/FUL - Change of use of 20 Albion Road from dwelling house (use class C3) to house in multiple occupancy (7 lettable rooms - use class C4) and provision of a new 1st floor window to front elevation (revised drawing and information received on 24/02/20) – refused by planning committee on 10/03/20 for following reasons:
 - 1. The development is contrary to the best interests of the amenity of local residents. The proposed conversion to a property in multiple occupation would increase the likelihood of the property being occupied by short term tenancies which are more likely to attract a higher proportion of residents

with social problems, chaotic lifestyles and no connection or affinity for their surroundings. The street is already suffering from serious anti-social behaviour issues which are causing significant impacts on the existing residents who fear for their safety and the proposal brings with it the prospects of a worsening situation. This is considered to be harmful to the safety of the local community and residential amenity in general and is considered to be contrary to the requirements of Policy CS2, CS15 and CS18 of the Chesterfield Borough Council Local Plan: Core Strategy 2011 - 2031 and the wider requirements of the NPPF 2019.

2. The development is contrary to the best interests of pedestrian and highway safety. The proposed development would increase the likelihood of indiscriminate vehicle parking on the pavement and cycle route. This is considered to be harmful to the safe operation of the highway on a one way road of limited width. The proposal therefore fails to accord with the requirements of Policy CS18 (g) of the Chesterfield Borough Council Local Plan: Core Strategy 2011 - 2031, which expects developments to provide adequate and safe vehicle access and parking. The development would conflict with the wider requirements of the NPPF.

3.4 23 Albion Road – CHE/1092/0602 – Conversion of the property to a House in Multiple Occupation (HIMO) was accepted as permitted development on 17th November 1992.

3.5 25 Albion Road – CHE/05/00116/COU – Change of Use of Office to Dwelling was granted on 14th April 2005

3.6 25 Albion Road – CHE/14/00453/COU - Change of Use of single residential dwelling into 3 flats with retention of current basement flat – Conditional Permission – 16th September 2014

3.7 27 Albion Road – CHE/17/00585/COU - Change of Use of house to create 3 flats and retention of lower basement flat – Conditional Permission – 10th October 2017

4.0 THE PROPOSAL

4.1 Planning approval 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 (use class Sui generis). The building would accommodate 7 bedrooms with shared facilities.

4.2 The first floor storeroom is at the rear of the property and comprises a floorspace of 8.7 square metres plus a 2.2 square metre en-suite bathroom. No other changes are proposed to the property.

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 7. Ensuring the vitality of town centres
- 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 The regulations allow for the conversion of a single dwelling (use class C3) to a House in Multiple Occupation (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 for any specific use in the adopted Local Plan being covered by the existing settlement boundary area. The site is centrally located with access to a wide range of key facilities by walking and cycling and in principle such residential uses in this location accord with the spatial strategy as expressed in policies CLP1 and CLP2 of the adopted Local Plan.

6.1.3 On the basis that a residential use accords with the principle of uses as set out in policy CLP14 and it is also appropriate to consider policies CLP1 and CLP2 which seek to direct new development to locations within walking and cycling distance of centres. In addition, policy CLP20 seeks to maximise the use of walking, cycling and public transport through the location of development and the council’s residential design SPD describes a ‘walkable’ development as one that has access to a good range of facilities within typically a 10-minute walking distance via a safe, convenient route. The application site is located in such a position within easy walking distance of Chesterfield Town Centre, within the built-up area and where easy access to services, employment, open space, cycle route and public transport facilities are available.

6.1.4 In relation to CLP4 (range of housing) it is important that there is a suitable mix of housing and this includes HMOs. If there is a high concentration of HMOs within an area this can have negative impacts on the wider area, such as 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 aren’t always taken account of when considering the impact of multiple occupancy buildings, and the impacts of the increased densification of urban areas.

- 6.1.5 On balance the proposal generally accords with policies CLP1 and CLP2, and the locational aspects of CLP20, and supports the council's overall Local Plan in terms of the location for new development within the Borough in a sustainable position. A residential use is considered to be acceptable in principle, subject to meeting the more detailed criteria within policies CLP14 and CLP20 which considers the amenity of residents.
- 6.1.6 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 and CLP20 as referred to below. With regard to policy CLP22 the highways impact of the proposal will also be assessed in the highways section 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 impact on design and appearance and is acceptable from a planning perspective. The proposal therefore accords with the provisions of policy Local Plan policy CLP20 and should be approved in this regard.

6.3 Residential Amenity/anti-social behaviour

- 6.3.1 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 that "All development will be expected to: b) 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; c) be at a density appropriate to the character of the area whilst not excluding higher densities in and close to designated local, district and town centres; g) provide adequate and safe vehicle access and parking; 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 The owner of this property is also the owner of No.20 Albion Road, which was converted using permitted development rights from a single traditional dwelling into a small house of multiple occupancy (HIMO). The previous application to convert the house into a 7 bed HIMO was refused due to its potential to impact the amenity of local residents and highway safety. It was argued that the proposed conversion would increase the likelihood of the property being occupied by short term tenancies which are more likely to attract a higher proportion of residents with social problems, chaotic lifestyles and no connection or affinity for their surroundings and that this was of particular relevance because the street was already suffering from serious anti-social behaviour issues which were causing significant impacts on the existing residents who feared for their safety. There was a particular anti social behaviour problem on the street at the time arising from occupants of other HIMO property opposite the site and the proposal brought with it the prospects of a worsening situation at odds with the safety of the local community and residential amenity in general. The proposal was the subject of serious objections from local neighbours, ward member, the police and the Community Safety Partnership. The owner subsequently converted the property to a Permitted development HIMO (up to 6 residents sharing) and then re-applied for the scheme described as converting a store room to a bedroom to increase the number of bedrooms from 6 to 7. It was appropriate therefore to consider what had changed because the resubmitted proposal was essentially the same scheme as was refused in 2020 however the committee accepted that since conversion the HIMO had been appropriately managed by the landlord and calls for service to the street had stopped with apparent change to the occupation of the building opposite the site. The application was advertised locally with adjoining residents, but no objections were received on any matter, including the potential negative impacts of increased levels of anti-social behaviour. The applicant addressed committee members and the application was approved by committee.

6.3.4 The development of this house at No 16 has been treated in the same manner as the scheme at no.20, with a 6 bedroom smaller HIMO permitted development conversion completed on site with a “storeroom”. In this application 3 objections have been received from local residents, commenting about the existing and potential parking issues, highway safety issues, social cohesion and increased anti-social behaviour.

- 6.3.5 Derbyshire Constabulary has been consulted on the scheme and they provide these revised comments:
“On reflection after information provided via the Private Sector Housing Team in regards to the above planning application, I have been advised that 25 and 27 Albion were not HIMOs and it is PSHT advice that these are all self-contained units and do not meet the definition of an HIMO. My comments refer to a time, some time ago when NACRO were the leaseholders of the properties and it is my understanding that NACRO ceased being involved at those properties and they are now units that are let privately. Currently I am not aware of any ongoing issues. Generally I understand that all HIMO licences come with conditions requiring the licence holder to take all reasonable and practical steps to prevent or reduce anti-social behaviour by the occupants and all persons visiting the house. We work in partnership with PSHT if there are any issues they are highlighted from the onset. This includes installing noise monitor kit, late night visits to complainants etc”
- 6.3.6 In general it is considered that an increase of poorly managed HIMOs/shared houses can lead to an increase in anti-social behaviour in a locality. Prior to previous applications being submitted there had been an increase in such activities in the local area with significant calls for service from the police, and it was considered at the time that previous schemes could have added to the situation. It is understood however that there have been changes to the management to other HIMOs in the locality. No objections have been received on the matter of anti-social behaviour or poor management from the landlord, but the issue has been raised that these kind of developments could potentially lead to a negative impacts in the future.
- 6.3.7 The Council’s Private Housing Team has commented on the proposal, and they considered that the property and storeroom are of an adequate size and have 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 HIMO Licence attached to the property.
- 6.3.8 It is the case that the proposed bedroom size exceeds the Nationally Described Space standard for a single bedroom however as a shared HIMO the NDSS does not set a standard for overall space provision and it is the case that the Council has not adopted these standards in any case.
- 6.3.9 The opening and management of the smaller HIMO and the conversion of it has allowed local residents to experience how the house’s residents

would impact the neighbouring residents' amenity and how the property has been managed. The lack of anti-social behaviour issues can be taken as positive feedback in this regard, and a refusal of permission could not be sustained on the basis of a current lack of evidence in this regard.

6.4 Highways 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, which is common in this part of the town. Parking permits are required to utilise on-street parking. The Highway Authority has also confirmed that they have no objections to the proposal.
- 6.4.2 There is no opportunity to provide any off-street parking provision. The site has to be considered on the basis of its central location close to public car parks but also the services and facilities close at hand in the town centre and the availability of public transport opportunities. A cycle route also passes immediately in front of the property.
- 6.4.3 Local residents have commented that the residents of no.16 (6 bedrooms) and No.20 (7 bedrooms) have up to 4 vehicles per house and that this puts severe strain on the parking facilities on the street, which is approximately 11-12 spaces on this section of Albion Road. Some of the comments from local residents for the previous scheme at no.20 commented that these types of schemes would lead to an increase in demand for parking permits and the comments received from local residents backs up this assertion. It is considered that there is alternative parking in the local area in parking permit bays which is a managed scheme, but that there will also be pressure on these spaces from residents of the densely built area.
- 6.4.4 There is a presumption in planning that residents of HIMOs are less likely to own vehicles and that residents who live close to local centres are likely to require a vehicle for their day-to-day lives. Neither of these presumptions is based on any up-to-date research or evidence. Also, the specific type of HIMO developed by the landlord is for a more up-market product; as one of the presumptions in regards car ownership levels of HIMO residents is based on income levels it is considered that car ownership levels are likely to be higher in more up-market HIMOs.
- 6.4.5 One of the objections was that the proposed development would increase the likelihood of indiscriminate vehicle parking on the pavement and cycle route and that this was considered to be harmful to the safe operation of

the highway on a one-way road of limited width. This is considered to be the case at present. The further densification of this building would increase demand for parking in the area and potentially increase the risk of this occurring. Whilst this is the case, the parking of vehicles in the cycle lane/pavement is prohibited and is a matter which could be dealt with by the Police/Highways Authority/Parking Enforcement.

6.4.6 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. Furthermore, the increase in parking demand arising from 1 bedroom is considered to be insignificant. 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 does not result in the loss of an existing species rich habitat area. As the proposed changes are internal only there will be no anticipated impact on biodiversity and no specific condition related to Net Gain would be required. On this basis the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

7.0 REPRESENTATIONS

7.1 3 objections received. The reasons for objections include the potential for increased parking demand in the locality from an increased concentration in HIMO's, highway safety – as the lack of parking spaces mean more vehicles park illegally and block pavements/cycleways, local community cohesion – as tenants less likely to be longer term residents, potential for anti-social behaviour, lack of clarity from developer re their proposal and mis-leading application description and previous planning history on the street from developer.

7.2 Officer comment – These issues are considered in the above report.

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 2012 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 A comparison with the circumstances associated with application at no.20 Albion Road have demonstrated that the impacts on local amenity are not significant and the scheme is not refusable on highways grounds. 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.

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
- Block Plan
- Existing Floor plans
- Proposed Floor plans

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

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.