

## **Committee Report Item No: 8.5**

**Application No: 22/01168/FUL**

**Type: Full**

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### **1. Application Details**

**1.1. Address:** 26 Highfield Road, Derby DE22 1GZ

**1.2. Ward:** Darley

**1.3. Proposal:**

Change of use from dwelling house (Use Class C3) to an eight bedroom (eight occupant) house in multiple occupation (Sui Generis) together with a single storey rear extension.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/PLAN/22/01168/FUL>

**Brief description**

26 Highfield Road is a residential plot on the west side of the street and flanked by residential plots to the north and south. A three-storey semi-detached house stands towards the site's eastern boundary with the remainder of the site in use as garden space.

The locally listed Provost House stands approximately 30 metres to the south-east on the opposite side of the street, and the grade II listed 48 & 50 Kedleston Road stands at the junction of Highfield Road and Kedleston Road approximately 120 metres to the south. The boundaries of the Strutts Park Conservation Area and the Derwent Valley Mills World Heritage Site Buffer Zone (WHSBZ) lie to the immediate south of 6 Highfield Road approximately 70 metres to the south of the site and the extents of the two areas are roughly aligned at this point.

Permission is sought for a change of use of the site to a house in multiple occupation (HMO) for eight occupants and for a single storey extension to the rear of the house. The application has been amended to reduce the depth of the proposed extension and to reduce the number of bedrooms from nine to eight. See application documents for details.

### **Relevant Planning History:**

None.

### **2. Publicity:**

- Neighbour Notification Letter
- Site Notice

*This publicity is in accordance with statutory requirements and the requirements of the Council's adopted Statement of Community Involvement.*

**3. Representations:**

*In line with the Data Protection Act and associated legislation this appraisal should not include details, or seek to identify through repeating specific comments, the individuals who have objected, supported or made general comments about the application. Therefore, to maintain anonymity, the relevant planning grounds of objection, support or comment have only been included in broad terms. It is important to note that all comments received have been fully considered as part of the application process and included in the overall 'planning balance' exercise.*

57 objections, including one each from Councillors Martin, Repton and Swan, have been received and raise the following concerns:

- Increased demand for on-street parking, increased congestion and debate around the Highway Authority's interpretation of the relevant guidance;
- Harm to the character of the building and surrounding area, including the nearby Strutts Park Conservation Area, World Heritage Site Buffer Zone, statutorily listed 48 & 50 Kedleston Road and the locally listed Provost House opposite;
- Increased activity and disturbance;
- The loss of a relatively large single-household dwelling and the proliferation of similar developments nearby;
- The behaviour of potential residents;
- Overdevelopment of the site & the setting of precedent;
- The quality of accommodation to be provided with regard to available space and overcrowding;
- The potential for ad-hoc bin storage;
- Conflict with local covenants;
- Property devaluation;
- Conflict with local plan policy;
- Massing and overshadowing effects from the proposed extension, which would also harm the character of the host building;
- Error within the application documents;
- In-principle opposition to the use of the building by multiple households.

**4. Consultations:**

**4.1. Highways Development Control:**

The Highway Authority has No Objections to the proposals.

Observations:

These observations are primarily based upon the following submitted information.

Drawing BR/22/004/A

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Revised details have been provided which show a reduction in the number of bedrooms from 9 to 8.

As the Highway Authority had no objection to a nine-bedroom development; equally there is no significant change from that to mean that there is any change in view.

By reference to Table A2.4 from “Residential Car Parking Research”, (Queen’s Crown Copyright, 2007), research carried out by the former Department for Communities and Local Government, on car residential ownership and parking demand – which was based on analysis of Census information not generally published in the public domain.

This shows that for a 1 room non-owner occupied flat (which is the best equivalent to a room in a House in Multiple Occupation) that the average car ownership is 0.3 vehicles. As such, for an 8 bedroom HMO this would equate to 2-3 vehicles, a figure not dissimilar to that which could be anticipated for a 7 bedroom dwelling in full occupation by a family.

The site does not contain off-street parking provision with residents needing to park any vehicles within the unrestricted on-street parking. Highfield Road, like many urban residential streets suffers from on-street parking congestion on both sides which impedes two-way flows. The result being that drivers have to rely upon “give and take” to allow each other to pass.

It is acknowledged that on-street parking is at a premium in this area; however, there is also unrestricted on-street parking in the vicinity and the site is in a sustainable location, within walking distance to the City Centre shops and amenities; and is therefore in close proximity to local transport links.

Para 111 of the National Planning Policy Framework states that

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

To be clear, ‘severe’ does not relate to parking, but the consequences of congestion as a result of the traffic effects arising from the development.

Whilst the scheme would potentially increase demand for parking spaces, it would not be possible to argue that the scheme would lead to ‘unacceptable impacts’ to highway safety.

Recommendation:

The Highway Authority has No Objections to the proposals.

### **4.2. Resources and Housing (HIMO):**

This department does not have any objections to the proposals, but the following should be noted:

It is noted the property is intended to be let to multiple households so it will be classed as an HMO under Section 254 of the Housing Act 2004. As the HMO is intended to be occupied by 5 or more persons a mandatory HMO licence will be required.

**Relevant Policies:****4.3. Relevant Policies:**

The Derby City Local Plan Part 1 - Core Strategy was adopted by the Council on Wednesday 25 January 2017. The Local Plan Part 1 now forms the statutory development plan for the City, alongside the remaining 'saved' policies of the City of Derby Local Plan Review (2006). It provides both the development strategy for the City up to 2028 and the policies which will be used in determining planning applications.

**Derby City Local Plan Part 1 - Core Strategy (2017)**

Poly No.	text
CP1(a)	Presumption in Favour of Sustainable Development
CP3	Placemaking Principles
CP4	Character and Context
CP6	Housing Delivery
CP20	Historic Environment
CP23	Delivering a Sustainable Transport Network
AC9	Derwent Valley Mills World Heritage Site

**Saved CDLPR Policies**

Poly No.	text
GD5	Amenity
H13	Residential Development – General Criteria
E18	Conservation Areas
E19	Listed Buildings and Buildings of Local Importance

The above is a list of the main policies that are relevant. The policies of the Derby City Local Plan Part 1 – Core Strategy can be viewed via the following web link:

[https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/evidencebase/Core-Strategy\\_ADOPTED\\_DEC-2016\\_V3\\_WEB.pdf](https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/evidencebase/Core-Strategy_ADOPTED_DEC-2016_V3_WEB.pdf)

Members should also refer to their copy of the CDLPR for the full version or access the web-link:

[https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/part1/CDLPR\\_2017.pdf](https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/part1/CDLPR_2017.pdf)

An interactive Policies Map illustrating how the policies in the Local Plan Part 1 and the City of Derby Local Plan Review affect different parts of the City is also available at – <http://maps.derby.gov.uk/localplan>

*Over-arching central government guidance in the NPPF is a material consideration and supersedes earlier guidance outlined in various planning policy guidance notes and planning policy statements.*

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**6.2. Applications involving the provision of housing:**

The Local Plan (consisting of the policies of the DCLP1 and the saved policies of the CDLPR) covers the period 2011 to 2028 and was adopted on 25 January 2017. The policies of the local plan have been reviewed in line with Regulation 10a of the Town and Country Planning (Local Planning) (England) Regulations 2017 and paragraph 33 of the NPPF, the provisions of which require Local Plan policies to be reviewed at least every 5 years. The officer led review was endorsed by the Council's Cabinet on 8 December 2021.

The review found that, apart from the housing target elements of policy CP6 (Housing Delivery), the policies of the Local Plan remain consistent with national policies, including the latest updates to the NPPF and can be given weight in decision making.

Policy CP6 sets a housing requirement of 11,000 new homes over the 17 year Plan period (647 dwellings annually). However, in December 2020, Government amended it's 'Standard Method' for calculating Housing Need to include a 35% uplift in the top 20 largest urban areas in England which includes Derby. The standard method housing need calculation for Derby City now stands at 1,255 dwellings a year and this is significantly higher than the CP6 requirement. Therefore, the housing requirement in Policy CP6 is out of date.

A further consequence of the significant increase in housing requirement, brought about by the change to the standard method, is that the Council can no longer demonstrate a 5 year supply of housing land as required by the NPPF (NPPF paragraph 74 (footnote 39) refer). The current supply of deliverable sites is sufficient to provide 3.17 years of dwellings against the annual 1,255 requirement.

For the purposes of decision making, the lack of a demonstrable 5 year housing land supply means that the presumption in favour of development and the tilted balance set out in the NPPF is invoked (paragraph 11 footnote 8 of the NPPF).

Paragraph 11d of the NPPF requires that where there is no 5 year supply this means granting planning 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

As this proposal involves the provision of housing, the application is being considered in terms of its accordance with NPPF paragraph 11d and other material considerations. This does not mean that the policies of the Local Plan are ignored but that their requirements can be considered, and given weight, where they accord with the policies of the NPPF.

Other material considerations to weigh in the planning balance are that the Council's housing needs have increased significantly and as such the benefits of delivering housing carry greater weight. Also, the degree to which the Council is unable to demonstrate a 5 year supply is material. A housing land supply of 3.17 years is a

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significant shortfall and therefore very significant weight should also be applied in favour of applications that can contribute to increasing this supply.

The implications of the tilted balance on the officer recommendations are discussed further in the officer appraisal section of this report below.

## **5. Officer Opinion:**

### **Key Issues:**

In this case the following issues are considered to be the main material considerations which are dealt with in detail in this section.

#### **7.1. Principle of development**

#### **7.2. Amenity**

#### **7.3. Highways**

#### **7.4. Other matters**

#### **7.5. Planning balance & conclusions**

### **7.1. Principle of development**

The site of the proposal is not allocated for any particular use in the DCLP1. The site is located in an established residential area, reasonably close to local amenities and public transport and so could be argued to represent a sustainable location for residential development, the provision of which is to be given significant weight. It is also relevant that permitted development rights would allow for the conversion of the house into a HMO with a maximum of six occupants. The proposal is therefore acceptable in principle in my opinion, provided that the requirements of relevant local and national planning policy and other material considerations can be met. A discussion of these follows.

### **7.2. Amenity**

Saved policy H13 Residential Development – General Criteria requires development to create a satisfactory form of development and relationship to nearby properties [and] a high-quality living environment". This policy is reinforced by the paragraph 130 of the NPPF, which states that "planning policies and decisions should ensure that developments [create] a high standard of amenity for existing and future users". Saved policy GD5 Amenity prohibits "unacceptable harm to the amenity of nearby areas" from the effects of loss of privacy or light, massing, emissions, pollution, parking and traffic generation. Saved policy H16 Housing Extensions states that permission will be granted for extensions to residential properties provided that "there is no significant adverse effect on the character and appearance of the dwelling or the streetscene" taking into account design, massing, visual prominence and materials. The principle of good design is reinforced by adopted policies CP3 Placemaking Principles and CP4 Character and Context which seek to ensure high quality design and a good relationship between proposed development and existing buildings and the local area, and by section 12 of the NPPF.

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The proposed extension would be situated at rear of the house with no significant visual presence in the streetscene and minimal implications for the setting of nearby listed buildings and the Strutts Park Conservation Area and World Heritage Site Buffer Zone.

The amended design proposed is reasonably proportionate to the host building, appropriate to a residential context and my opinion is that the proposed building form and use of materials are sufficiently sympathetic to the building and its context to be unlikely to result in a significant adverse effect on the dwelling or the streetscene. It would also not result in unacceptable harm to residential amenity by way of massing, overlooking or overshadowing. Again, I am also mindful that an extension of comparable dimensions is achievable under permitted development rights. No other external alterations to the building are proposed and changes to the building's interior are outside the statutory definition of development and therefore outside of the control of the Local Planning Authority.

Concerns have been expressed around the proposed use of the site in terms of the concentration of people it represents and the consequent implications for the living environment that would be created and the potential for overdevelopment of the site. There is also concern over harm to the character of the street through changes to its social composition and increased activity associated with the proposed development. It is also suggested that the last of these would negatively affect the setting of the nearby heritage assets.

The house is relatively large one and the individual rooms are also sizable. Main habitable rooms would have adequate levels of light, outlook and ventilation, and residents would have access to outdoor shared amenity space which is again reasonably large. No objections have been raised to the proposed development by the Council's Housing Standards Team and it is considered that the development has the capacity to provide a high-quality living environment for the future occupiers as required by local and national policy.

The proposed development would intensify the existing residential use of the site and it is likely that activity levels, vehicle movements, noise and parking demand would all increase. To determine whether this increase would accord with policy the test is whether the intensification of the proposed use could justifiably be described as constituting "unacceptable harm" and whether the increase in activity would result in a significant reduction in standards of amenity for occupants of the house itself, and occupants of the surrounding neighbourhood. My opinion is that it would not, for the reason that the area is relatively densely populated and that, although a material change would occur to the site itself, within the context of the area the amount of additional accommodation would be proportionally low.

Although additional activity and likely increased parking pressure and traffic may result, the effect of two additional people beyond the fallback position (a six-occupant HMO) living in the building would be minor with regard to these issues. I see no reason to assume that the social cohesion of the street would be adversely affected or that community safety would be harmed by the proposed use of the building. To argue that the setting of the nearby listed buildings, conservation area or the WHSBZ



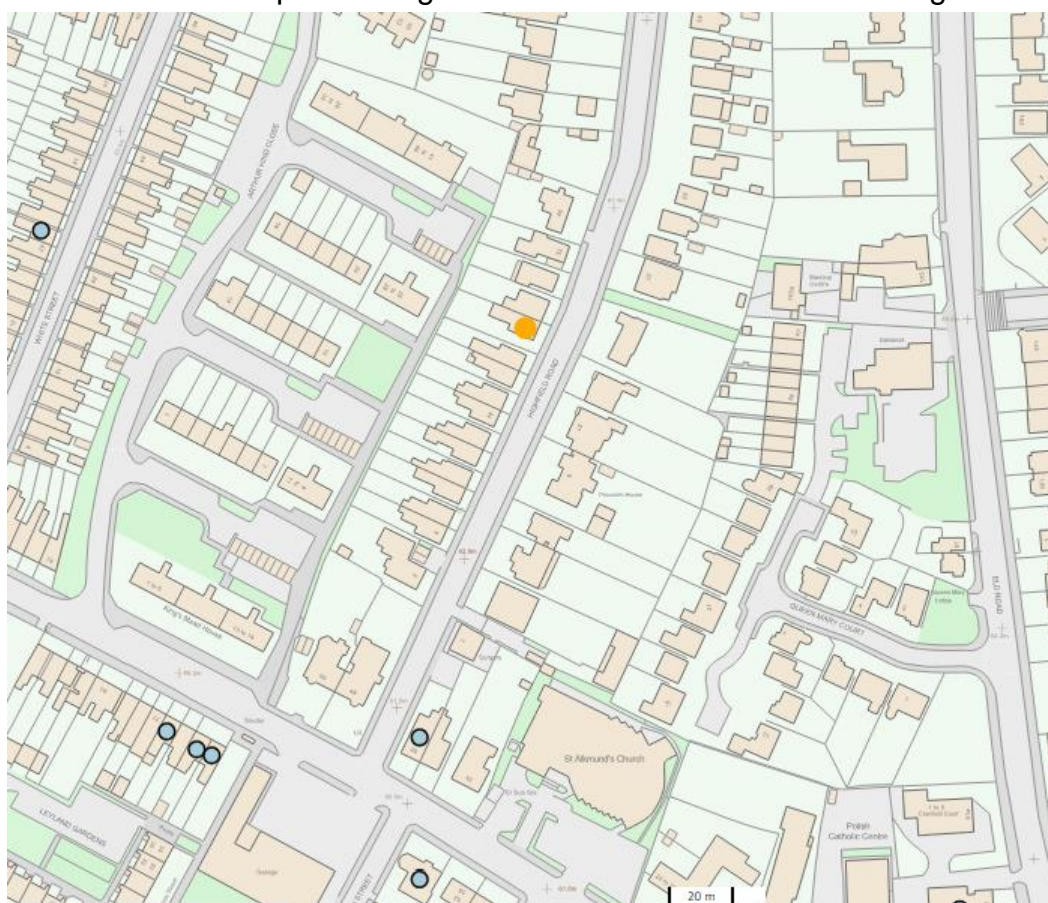
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would be significantly affected by intensified residential use of a dwelling would not be a sustainable position to argue in my opinion.

Also on the subject of the area's character, according to the Council's register of licensed HMOs which records licences issued for HMOs of five occupants or more, there are a small number of licensed HMOs in the immediate area (see map below). It would therefore be difficult to reasonably argue that there is currently a proliferation of large HMOs locally, that this particular conversion would significantly alter the area's character, or that the loss of a relatively large single-household dwelling would adversely affect the housing mix of the area or of the city. Regarding the question of precedent, each individual planning application is judged on its merits and any future proposals for similar development would be subject to the question of the cumulative impact of such developments. In this particular case the evidence for harm arising from cumulative impact of large HMOs in this location is not strong.



Licensed HMOs in the immediate area shown as . Application building shown as 

A condition is recommended below limiting the number of occupants to eight in the interests of residential amenity. My overall opinion is that the implications of the proposed works for visual and residential amenity and the historic environment are acceptable, and that the proposal would comply with saved policies GD5, H16, E18, E19 and E24 of the City of Derby Local Plan Review, adopted policies CP3, CP4, CP20 and AC9 of the Core Strategy (Part 1) and sections 12 & 16 of the NPPF.



### **7.3. Highways**

Adopted policy CP23 Delivering a Sustainable Transport Network seeks to ensure that new development provides appropriate levels of parking. Paragraph 110(b) of the NPPF encourages local planning authorities to ensure that safe and suitable access can be achieved for all users.

It is acknowledged that on-street parking is at a premium in this area. However, the site is in a sustainable location, reasonably close to the city centre, local shops and services and to public transport links. Although it is also acknowledged that the scheme could potentially increase demand for on-street parking spaces in nearby streets, it is the view of the Highway Authority that it would not be possible to argue that the presence of two additional residents beyond the fallback position, even ones owning cars which is by no means a given, would lead to “unacceptable impacts” on highway safety or in combination with surrounding land uses would result in an unacceptable residual cumulative impact upon the surrounding highway network. No cycle parking or bin storage is shown on the site plan. Given there should be available space to provide both on the site and the lack of vehicle parking capacity in the vicinity, a condition on the subject is recommended below. I conclude that the proposal would meet the requirements of adopted policy CP23 of the City of Derby Local Plan Part 1 and paragraph 110(b) of the National Planning Policy Framework.

### **7.4. Other matters**

Of the matters raised in responses to publicity not already addressed, property devaluation, legal covenants and the behaviour of future residents of the building are outside the scope of this assessment. The initial error within the application documents – an incorrect ownership certificate – has since been corrected and the correct certificate published on the Council’s website.

### **7.5. Planning balance & conclusions**

The occupation of the application site by eight people is likely to result in an increase in activity, parking demand and traffic generation both compared with the existing use as a single-household dwelling and compared with the fallback position of a six-occupant HMO. The application of the tilted balance effectively raises the bar for refusal of residential development, meaning the test for a refusal of this proposal is whether the adverse effects of granting permission would “significantly and demonstrably outweigh the benefits” of doing so. The benefit in this case is a small increase in residential accommodation in the context of a significant shortfall. The adverse effects would be those identified above insofar as they apply to an additional two people beyond the fallback position of a six-occupant HMO.

My opinion, as outlined above, is that the adverse effects attributable to the development would be minor and would not significantly or demonstrably outweigh the benefits inherent in increasing the City’s housing supply by even a small amount. Overall, the proposal is considered to be acceptable with regard to character, amenity and highway safety. It is considered that all relevant planning matters have

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been adequately addressed and the proposal reasonably satisfies the requirements of the adopted policies of the DCLP1 and the saved policies of the adopted CDLPR as included within this report, with the tilted balance being taken into consideration.

### **8. Recommended decision and summary of reasons:**

#### **8.1. Recommendation:**

**To grant** planning permission with conditions.

#### **8.2. Summary of reasons:**

The proposed intensification of residential use may result in increased activity, parking pressure and traffic in the vicinity. However, these adverse effects would not outweigh the benefits of increasing the City's residential accommodation by even a small amount especially when the fallback position of the establishment of a six-person HMO via permitted development rights is taken into account. The proposed rear extension has been reduced to a reasonable scale and would be acceptable with regard to residential amenity and the character of the host building. The proposal is therefore considered to be acceptable in principle, and with specific regard to the provision of a high-quality living environment, the local highway network and the character and appearance of the site and wider area.

#### **8.3. Conditions:**

1. Standard three-year time limit condition

**Reason:** As required by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Standard approved plan reference condition

**Reason:** For the avoidance of doubt.

3. Provision of on-site cycle and bin storage provision

**Reason:** In the interests of sustainable transport and visual and residential amenity and to ensure cycle and bin storage is retained for the life of the development.

4. Restriction of approved use to eight occupants

**Reason:** In the interests of residential amenity.

#### **8.4. Informative Notes:**

The consent granted will result in alterations to a building which may need renumbering. To ensure that any new addresses are allocated in plenty of time, it is important that the developer or owner should contact [traffic.management@derby.gov.uk](mailto:traffic.management@derby.gov.uk) with the number of the approved planning application and plans clearly showing the property layout, location in relation to existing land and property, and the placement of front doors or primary means of access.

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**8.5. Application timescale:**

The determination period has ended, an extension has been sought from the agent.

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