

APPLICATION REFERENCE: PL/2020/02789/PPFL**Site Address:** 31 Piccadilly Close Chelmsley Wood Solihull B37 7LE

Proposal:	Change of use from C3 dwelling to house in multiple occupation (HMO) for up to x 8 residents & erection of a single storey side extension.
Web link to Plans:	Full details of the proposal and statutory consultee responses can be found by using the above planning application reference number at: https://publicaccess.solihull.gov.uk/online-applications/

Reason for Referral to Planning Committee:	A significant amount of public opposition has been received.
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Recommendation:	APPROVAL SUBJECT TO CONDITIONS
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EXECUTIVE SUMMARY

This application seeks planning permission for a single storey extension, external alterations and a change of use from an existing C3 Dwelling to a larger House of Multiple Occupation with a capacity of up to 8 residents.

Without the need for planning permission (subject to a maximum of 6 residents), the use of the property can change into a C4 (HMO) use.

The extended property will include 5 bedrooms (x2 single bedrooms, x3 double bedrooms) all with en suites, shared communal facilities comprising a lounge/diner, kitchen, utility and garden. Parking provision would include 5 off street parking spaces which would comprise x2 new spaces to the front of the dwelling and x3 spaces to the rear of the site.

This report will demonstrate that the proposal will not be harmful to the character of the area, highway safety or the free flow of traffic, or residential amenity. The proposal is therefore in accordance with the adopted development plan and guidance in the National Planning Policy Framework (the Framework). The development therefore benefits from the presumption in favour of sustainable development and the planning balance is in favour for this proposal.

MAIN ISSUES

The main issues in this application are: -

- The effect of the development on the appearance of street scene and character and local distinctiveness of the local area;
 - The effect of the proposal on the living conditions of the occupiers of neighbouring properties; and
 - Highway issues.
 - Other Material Considerations
- Appeal decision 50 Kingslea Road (APP/Q4625/W/20/3257107);
- Public Sector Equality Duty; and
- Human Rights.

CONSULTATION RESPONSES

Statutory Consultees The following Statutory Consultee responses have been received:

Lead Local Flood Authority - No objection.

Non Statutory Consultees The following Non-Statutory Consultee responses have been received:

SMBC Highways – No objection

SMBC Public Protection - No objection

Secure by Design Officer – provided the following comments:

- Academic research suggests that living in houses of multiple occupancy has a long term detrimental effect on mental health.
- HMOs have been linked to increased antisocial behaviour. A West Midlands Police open intelligence analysis from 2016 showed that HMO properties were 3.5 times more likely to generate incidents within a 12 month period, however a detailed analysis of these incidents was not included.
- I believe it is likely that an HMO of this type may generate further demand on Police, local authority and partner agency resources. This increase in demand is also likely to be a long term drain as opposed to sporadic incidents
- I would ask that, if the application were to be approved, that the site conforms to the standards laid out in the Secured by Design 'New Homes 2014' guide.

PUBLICITY

The application was advertised in accordance with the provisions set down in the Town and Country Planning (General Development Procedure) Order 2015.

Councillor Chris Williams and Councillor James Burn have objected on the grounds that there is inadequate parking and an impact upon highway safety contrary to policy P8 of the SLP. They have also objected to over-intensive use of the site in a family-orientated and quiet community environment. The proposal would result in noise and disturbance contrary to policy P14 of the SLP.

Responses to this application were submitted from 18 addresses. All correspondence has been reviewed and the main issues raised are summarised below (Planning Committee Members have access to all third party correspondence received):

Character of the Area

- The street is a family road, introducing a different demographic and putting young children and the elderly in the area at risk or uncomfortable in their surroundings;
- The proposal will introduce transient, changing and high volume of residents and will adversely affect the community;
- Who will the residents be? They could be undesirable increasing crime in the area;
- Will set an unwelcome precedent;
- Will detrimentally change the character of the area;
- Family homes needed, not bedsits; and
- Over intensive use of the site.

Amenity

- Over intensification of the use of the site causing noise and disruption to neighbours; and
- Loss of privacy to neighbours.

Highways

- Insufficient parking; and
- Obstruction for emergency vehicles due to more demand for on street parking.

Other matters raised

- Flooding.

PLANNING ASSESSMENT

Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that: -

‘Where in making any determination under the planning acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise’.

The National Planning Policy Framework at paragraph 2 states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

This report considers the proposal against the Development Plan (Solihull Local Plan), the relevant policies of the National Planning Policy Framework (“NPPF”) 2019, the National Planning Practice Guidance.

MAIN ISSUES

The effect of the development on the appearance of street scene and character and local distinctiveness of the area

Policy P15 of the Solihull Local Plan requires all development to achieve good quality, inclusive and sustainable design, which conserves and enhances local character, distinctiveness and streetscape quality and ensures the scale, massing, density, layout, materials and landscape of the development respects the surrounding natural, built and historic environment. Developments will be expected to create a sense of place. Policy P15 of the Local Plan is consistent with policies set out in the Framework and full weight can be attributed to this Local Plan Policy.

The proposed development includes the addition of a small pitched roof above the existing front porch and front windows and the erection of a single storey side extension with a lean too roof. The proposal also includes the internal reconfiguration of the layout to provide three bedrooms with en-suite (one double bedroom and two single bedrooms) at first floor and two double bedrooms with en-suite at ground floor. The ground floor also includes communal areas including living/dining room, kitchen and utility room. A dropped kerb is proposed to the front of the site to provide two off street parking spaces and the existing garage and hardstanding to the rear of the site would provide three more off street parking spaces.

The external alterations to the existing dwelling the proposed single storey side extension and pitched roof to the front porch are appropriate in terms of scale and design and the materials are proposed to match the existing dwelling. The additions would not be at odds with their surroundings and would not harm the visual amenity in the locality.

As a result there would be no harm to the external existing character or appearance of the property, nor to the wider streetscene.

Therefore the proposal would accord with Policy P15 of the Solihull Local Plan, which carries neutral weight in the planning balance.

The effect of the proposal on the living conditions of the occupiers of neighbouring properties.

Policy P14 of the SLP seeks to protect the amenity of existing and potential occupiers of houses when considering new developments. Careful consideration must be made to amenity of both existing neighbours. The policy is consistent with the NPPF and thus carries significant weight.

The proposed single storey side extension and other alterations to the property would not breach a line of 45 degrees taken from any principal room windows of neighbouring properties on Piccadilly Close inducing the adjoining property no. and would not result in a loss of daylight/sunlight or an overbearing impact due to the proposed single storey height and separation distances involved.

With regards to privacy, there are is one additional first floor side facing window to serve an en-suite and one additional first floor window to the front elevation also serving an en-suite. Both additional windows will be required by condition to be obscurely glazed and high opening only. The proposal does not therefore result in any further potential to overlook the neighbouring properties or private gardens when compared to the existing dwelling.

When considering the change of use from C3 dwelling to larger HMO for up to 8 residents (sui generis) and any impact, it must be noted that the applicant has a fallback position, which is a material consideration, whereby they could, through permitted development convert the dwelling into a C4 HMO for up to 6 residents, subject to appropriate licencing. It is essentially therefore the 7th and 8th residents which planning permission is sought.

With regards to neighbour concerns regarding the number of occupants and noise and disturbance and the potential for criminal activity no objection has been received from the Council's Public Protection Officers on this matter. It is considered that there would be little difference in terms of noise and disturbance from the proposed 8 occupants when compared to potential 6 occupants that could occupy the property through permitted development. A condition is recommend which requires the applicant to submit a Tenancy Management Scheme to show how tenants would commit to approved standards and practices when living in the HMO and actions the Landlord would take to deal with tenants breaching this. The proposed management regime condition would need to minimise the opportunity for anti-social behaviour which and address the matter raised by the West Midlands Police Secure by Design Officer

It is therefore considered that the proposal is compliant with Policy P14 of the Solihull Local Plan and the NPPF 2019 subject to the imposition of conditions. The matter carries neutral weight in the assessment and determination of this application.

Highway issues

Paragraph 109 of the Framework indicates 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.

Policy P8 of the Solihull Local Plan states that development which results in a reduction in safety for any users of the highway will not be permitted. Policy P8 of the Local Plan is consistent with policies set out in the Framework and full weight can be attributed to this Local Plan Policy.

The Council's Highway Engineers have no objection to the proposal commenting that the development proposals include the change of use of the existing three-bed dwelling into a five-bed House in Multiple Occupation (HMO) which can accommodate up to eight residents. The proposal also includes the creation of a new vehicular access and driveway to the frontage of the property, to serve two additional off-street car parking spaces. A total of five off-street car parking spaces will therefore be available for use by occupants of the proposed HMO. The level of parking available would equate to one space per bedroom. The Council's Highway Engineer considers the level of parking proposed to serve the development to be acceptable.

Having regard to the above, it is unlikely that the development proposals will generate a significant increase in vehicle trips to have a severe impact on public highway safety, or on the operation of the local highway network.

On this basis the proposals accord with Policy P8 of the Solihull Local Plan 2013 and guidance in the NPPF. This carries neutral weight in the balancing exercise.

Other Material Considerations

- [Appeal decision 50 Kingslea Road \(APP/Q4625/W/20/3257107\)](#)

Planning permission was refused by the planning committee in June 2020 for 'The change of use from C4 to Sui Generis, to include a 7th bedroom' planning application ref. PL/2020/00465/COU at no. 50 Kingslea Road, Solihull.

The applicant appealed the refusal and the appeal has now been determined by the planning inspectorate. The appeal was allowed (12th January 2021) and costs have been awarded to the appellant.

The reasons for refusal at no. 50 Kingslea Drive related to:

- i. the living conditions of the occupiers of the application property and neighbouring properties, with particular regards to noise and disturbance.
- ii. highway safety with particular regards to off street car parking.

In terms of neighbour amenity the inspector comments:

The appeal property currently accommodates 6 bedrooms with communal facilities and a large rear garden. As a result of the appeal scheme an additional single

bedroom would be permitted. Consequently, it is clear that the appeal scheme would result in a more intensive occupation of the property.

However, there is little substantive evidence before me that a single additional bedroom, i.e. a 7 bed house as opposed to a 6 bed house, would result in material harm to the living conditions of occupiers of the neighbouring properties or the existing occupiers of the appeal property, with particular regards to noise and disturbance.

With regards to Highway safety and parking the Inspector found:

The appellant states that the hardstanding to the front of the property can provide four car parking spaces and that there are no restrictions to car parking on the highway directly in front of the property. Furthermore, I note that 'Solihull Metropolitan Borough Council Highways' raised no objection to the proposals...

On the basis of the evidence before me I find that the appeal scheme would not harm highway safety with particular regards to off-street car parking. As such the appeal scheme does not conflict with Policy P8 of the LP.

The costs appeal was allowed on the basis that the Council behaved unreasonably:

In reaching its decision, the Council clearly diverged from the views of the Planning Officers and, with regards the second reason for refusal, the highways Officers. The representations from local residents raised concerns with regards car parking, highway safety and noise and disruption amongst other matters and Elected Members of the Planning Committee are entitled to reach their own conclusions based on the evidence before them.

However, with the exception of the representations from local residents no substantive evidence has been produced to support the Council's concern that the addition of a single additional bedroom would result in additional parking demand such that it would harm highway safety or that the single additional bedroom would result in harm to the living conditions of the adjoining occupiers.

I therefore find that, to have relied solely or mainly upon objections from local residents and in the absence of substantive evidence to support these concerns, amounts unreasonable behaviour on the part of the Council.

Although there are some differences between the application currently being decided and the appeal allowed at no. 50 Kingslea Drive, there are also parallels which need to be considered.

It is noted that no. 31 Piccadilly Close is not currently a C4 HMO with 6 occupants which was the case for no. 50 Kingslea Road, however, it is a realistic fallback position for the applicants. Therefore the potential impact of the additional two occupants beyond this threshold are key to the determination of this application. A key similarity is the objections raised by residents which mostly relate to highways and parking and residential amenity issues, along with a fear of crime. Furthermore, in this case, as with Kingslea Road, the Council's Highways Engineer has raised no

objection to the proposal with regards to parking or highway safety and the proposal accords with Policy P7 and P8 of the Solihull Local Plan.

- Public Sector Equality Duty

In determining this application, Members must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions).

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149 is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation to grant permission in this case will have a disproportionately adverse impact on a protected characteristic.

- Human Rights

In determining this application, Members should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority to act in a manner that is incompatible with the European Convention on Human Rights.

Members are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

This application seeks planning permission for a single storey side extension, alterations to the front elevation and a change of use from a C3 dwelling to a larger HMO (sui generis) for up to 8 residents and the associated internal reconfiguration.

This report has demonstrated that the proposal will not be harmful to the character of the area, highway safety or the free flow of traffic, or residential amenity. The proposal is therefore in accordance with the adopted development plan and guidance in the National Planning Policy Framework (the Framework). The development therefore benefits from the presumption in favour of sustainable development and the planning balance is in favour for this proposal.

RECOMMENDATION

Approval is recommended subject to the following précis of conditions a full list of standard conditions is available using the following link:

<http://www.solihull.gov.uk/Resident/Planning/searchplanningapplications>:

1. CS04 Commencement within 3 yrs
2. CS00 Compliance with all plans
3. No more than 8 persons shall reside at the premises at any given time.

4. The development shall not be occupied until a Car Parking Management Strategy has been submitted to and approved in writing by the Local Planning Authority. The car parking areas shall thereafter only be operated in accordance with that approved strategy.

5. The development shall not be occupied until an access for vehicles has been provided to the frontage of the site and been surfaced with a bound material for its whole length, as measured from the near side edge of the carriageway.

6. The access to the site for vehicles shall not be used unless a public highway footway crossing has been laid out and constructed in accordance with the standard specification of the Highway Authority.

7. Prior to the first occupation of the use hereby permitted a Tenancy Management Scheme shall be submitted for approval in writing to the Local Planning Authority. It should demonstrate how tenants would commit to approved standards and practices when living in the HMO and actions the Landlord would take to deal with tenants breaching this. The use will be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.