

DELEGATED FILE NOTE

CASE OFFICER: ...Alex Howard.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
25/01734/LDCP	Conversion of property from 6 bed / 6 person C4 HMO into a 7 bed / 7 person Sui Generis HMO and installation of cycle store to rear garden area	21 Mendip Way Great Ashby Stevenage Hertfordshire SG1 6GG

Submitted Plan Nos

22516-010 22516-100

1.0 Policies

2.0 **Site History**

2.1 None.

3.0 **Representations**

3.1 N/A.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The site is a detached dwelling located on Mendip Way, Great Ashby. The property is set back from the highway and benefits from 3 parking spaces, a sizable garage and a private rear garden.

4.2 **Proposal**

4.2.1 A certificate of lawfulness (proposed) is sought for the conversion of the property from a 6 bed / 6 person C4 HMO into a 7 bed / 7 person Sui Generis HMO and installation of cycle store to rear garden area.

4.3 **Key Issues**

4.3.1 The application for a certificate of lawfulness is supported by a Certificate of Lawfulness Statement, existing and proposed block and floor plans, and supporting appeal decisions.

4.3.2 The argument put forward with this application is that the proposed conversion of the property from a 6 bed/6 person HMO (C4) into a 7 bed/7 person HMO (Sui Generis) is not a material change of use that requires planning permission.

Key Considerations

4.3.3 The legislation for this application is set out below:

S55(1) of the Town and Country Planning Act provides the legal definition of development that is subject to planning control and states:

55 Meaning of “development” and “new development”.

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering,

mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

F1[(1A)For the purposes of this Act “building operations ” includes—

(a)demolition of buildings;

(b)rebuilding;

(c)structural alterations of or additions to buildings; and

(d)other operations normally undertaken by a person carrying on business as a builder.]

S55(2)(a) sets out the exemptions to the approach in S55(1) and states:

(2)The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

(a)the carrying out for the maintenance, improvement or other alteration of any building of works

which—

(i)affect only the interior of the building, or

(ii)do not materially affect the external appearance of the building, and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

4.3.4 The supporting statement lists the following caselaw in support of this application:

R (Lyons) v Secretary of State for Communities and Local Government (2010)

Childs v First Secretary of State and Test Valley Borough Council (2005),

Reed vs Secretary of State for Communities and Local Government (2014)

I'm Your Man case (I'm Your Man Ltd v Secretary of State for the Environment, Transport and the Regions (1998).

4.3.5 This application is also supported by appeal decisions from January 2024 and April 2021 for similar matters to the application submitted herein.

Lawfulness Appraisal

4.3.6 The application is seeking a certificate of lawfulness for the conversion of a C4 HMO to a Sui Generis HMO, utilising the relevant legislation, caselaw and appeal decisions to support the argument that the proposed conversion does not require planning permission, as the internal works to facilitate the change of use from 6 bed/person to 7 bed/person would not constitute development under S55 of the TCPA 1990. Moreover, it is put that the increase in the number of persons living at this property following the conversion, which is a single additional person, would not result in a material change of use, as pure intensification alone is not sufficient to argue material change of use and the outward appearance of the property would not change as a result of the additional person, as a matter of fact and degree.

4.3.7 Officers have considered the submission and supporting details with this application and are of the view that the proposed conversion of the existing property from a C4 HMO to a Sui Generis HMO would not result in any detectable intensification of the building, as the works are wholly internal and do not amount to development. The building will retain

its existing external character and based on the supporting caselaw and appeal decisions, it has been held in case law that a change of use can only be material by bringing about a definable change in the character of the main use of the land. In other words, there needs to be some significant difference in the character of the activities from what has gone on previously. In this case, there would be no significant differences in the character of activities as a result of this proposal.

- 4.3.8 Overall, it is considered that the proposed conversion of the property from a 6 bed/6 person HMO (C4) into a 7 bed/7 person HMO (Sui Generis) would not result in development as set out within S55(1) of the Town and Country Planning Act 1990, as the addition of a bedroom and 1 person to this building would not result in a material change of use by fact or degree.

5.0 **Recommendation**

- 5.1 That a certificate of lawfulness be **ISSUED** for the following reason:

1. The proposed conversion of the property from a 6 bed/6 person HMO (C4) into a 7 bed/7 person HMO (Sui Generis), on the balance of probability, would not result in development as set out within S55(1) of the Town and Country Planning Act 1990, as the addition of a bedroom and 1 person to this building would not result in a material change of use and definable change in character of the dwelling, by fact or degree.

Signed  Anne McDonald	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Determining Officer Date: 13 August 2025	