

APPLICATION NO.	P22/V1380/FUL
SITE	3 Stowford Cottage Faringdon Road Shippon Abingdon, OX13 6LN
PARISH	ST HELEN WITHOUT
PROPOSAL	Change of use from a small 6-person HMO (Use Class C4) to an 8-person HMO (Sui- Generis) (amended description agreed on the 5th of August).
WARD MEMBER(S)	Catherine Webber
APPLICANT	Co Living Capital Ltd
OFFICER	Nathaniel Bamsey

RECOMMENDATION

Officers recommend that planning permission is granted subject to the following conditions:

Standard

- 1. Commencement 3 years - Full Planning Permission**
- 2. Approved plans**

Prior to occupation

- 3. HY7 - Car Parking**
- 4. HY20 - Bicycle Parking**
- 5. RE29 - Refuse Storage**

Informative

- 6. HMO Licence Informative**

1.0 INTRODUCTION AND PROPOSAL

- 1.1** This application is referred to planning committee at the discretion of the head of Development Management.
- 1.2** The application site contains a detached house fronting Faringdon Road in the village of Shippon. Officers understand that the property is being used as a HMO under Use Class C4, for occupation by up to six persons. The change of use of a dwelling to a Class 4 HMO does not require planning permission. The current application is for change of use to from Class C4 to an eight-person HMO, which is a *sui generis*, or unique, use. Four parking spaces are shown to be provided within the existing parking area, together with cycle and bin storage elsewhere within the curtilage.
- 1.3** A neighbouring detached house is to the north (Struggles End) and a pair of semi-detached dwellings are to the south (Stowford Cottages nos 1 & 2). To the east is the Stowford House Care Home. The application dwelling is set back from Faringdon Road with a gravelled area to the front providing parking.

- 1.4 The application description has been amended by agreement from that given on the application form. The form refers to an eight-bedroom HMO whereas the C4 use class, for which the house is currently used, refers to six occupants rather than bedrooms. Therefore, as amended, permission is sought for an increase in the number of occupants from six to eight. The change to the description was agreed with the agent.
- 1.5 Whilst this application's description refers to an eight-person HMO, without a condition restricting the number of residents, as per the court decisions in *I'm Your Man Ltd v SSE & North Somerset DC* [1999] and *Wood v SSCLG & the Broads Authority* [2015], a breach of planning control would not occur unless the number of residents resulted in a material change of use of the building through "intensification". This is likely to mean more than eight persons before a material change of use is triggered.
- 1.6 Therefore, to limit the number of occupiers to eight, a condition would need to be imposed. In this instance, officers do not consider such a condition can be applied. This will be explained in greater detail elsewhere in this report.
- 1.7 A site location plan is provided below, and the plans are **attached** at Appendix 1.



2.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

2.1 A summary of the responses received is set out below. Comments made can be viewed in full online at www.whitehorsedc.gov.uk.

<p>St Helen Without Parish Council</p>	<p>Objects on the following grounds:</p> <ul style="list-style-type: none"> • 3 Stowford Cottages is a 4-bedroom house as approved in the planning permission granted on 17 February 2022 under reference P21/V3215/HH. It is not, and never has been, a 6-bedroom HMO • Insufficient parking for residents and visitors • Harm to highway safety and conflict with policy IN3.1 due to impacts on the junction of Faringdon Road with Barrow Road. • Development is not meeting local need. • Harm to character. • Noise pollution affecting care home residents.
<p>Countryside Officer</p>	<p>No objections</p>
<p>Highways Liaison Officer (Oxfordshire County Council)</p>	<p>No objection subject to conditions</p>
<p>Environmental Protection Team</p>	<p>No observations</p>
<p>Private Sector Housing Officer</p>	<p>Comment</p> <ul style="list-style-type: none"> • ‘If the property is to be occupied by five or more people living in more than one household, it will require an HMO licence from the council and a completed application for an HMO licence must be received before five people occupy the property. Operating a licensable HMO without a licence is an offence.’ • ‘It should be noted that there is potential for the proposed 8-bedroom HMO to be licensed for the occupation of up to 16 people, although the application states the property will be occupied by 8 people. Any bedrooms with a floor area of 10.22 square meters or more could be occupied by two adults - provided there are sufficient amenities and facilities within the property (e.g. cooking and personal washing facilities). So if the bedrooms were found to be large enough and there were sufficient amenities and facilities within the property then a HMO licence for up to 16 people

	<p>could be issued if this was requested by the applicant.'</p> <ul style="list-style-type: none"> •
Waste Management Officer	<p>Comment</p> <ul style="list-style-type: none"> • 'Property to keep existing waste arrangements as stated in application form. Additional waste and recycling capacity would be considered in line with our policy for HMO properties.' •
Neighbours	<p>Objection, from 10 households, summarised as follows:</p> <ul style="list-style-type: none"> • Lack of parking • Harm to local highway network and highway safety, particularly the junction between Barrow Road and Faringdon Road • Building has changed to a small HMO without planning permission • Up to 16 people could live here • Noise and disturbance • Harm to character of the area.

3.0 RELEVANT PLANNING HISTORY

3.1 [P21/V3215/HH](#) - Approved (17/02/2022)

Demolition of existing utilities extension and rear conservatory and the erection of a two storey side extension and a single storey rear extension

4.0 ENVIRONMENTAL IMPACT ASSESSMENT

4.1 The proposed development is not Schedule 1 or 2 development as defined by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, so an Environmental Impact Assessment is not required.

5.0 MAIN ISSUES

The main material planning considerations are the following:

- Principle of the development
- Impact on character and appearance of the area
- Residential amenity
- Access and parking
- Archaeology
- Biodiversity
- Waste and recycling
- Conditions

5.1 Principle of the development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

- 5.2 There are no policies in the Local Plan which specifically relate to the change of use to a large HMO. However, permitted development rights mean a dwelling can be used as a small HMO (Class C4) by up to six unrelated individuals without the need to gain express consent from the local planning authority. Therefore, in principle, officers consider the use of a dwelling as a large HMO (ie more than six occupants) is acceptable subject to no significant harm arising from the increased number of residents above that permitted by the C4 Use Class.
- 5.3 **Design and character**
Policy CP37 of LPP1 requires development to be of high quality, visually attractive design that responds positively to the site and its surroundings with appropriate scale, height, details and materials. Policy DG1 of the Neighbourhood Plan requires development proposals to respect local character and provide for the integration of environmental or landscape context and built form. Development is also expected to respect heritage and local distinctiveness and be in keeping with the style, design and nomenclature of surrounding buildings, streets and public spaces.
- 5.4 The proposed development will not result in external alterations to the building so the impact in terms of design and character are restricted to the impact of the use itself and the erection of bin and cycle stores.
- 5.5 The use of the building as a HMO for up to eight occupants, as opposed to up to six, will increase the comings and goings to the house. This is not considered to be harmful to local character given the location of the site on the main road through the village and adjacent to a care home. Given this existing level of activity in the vicinity, the modest increase in the use of the site would not be out of keeping with the area.
- 5.6 The increased number of occupants will likely increase the number of cars which will park within the curtilage. The property's frontage is already laid to gravel so there is no additional hardstanding proposed. The parking area is behind a hedgerow and set back from the highway which reduces the impact on the street scene such that the increased number of cars parked within the curtilage is not considered to be significantly harmful to visual amenity through urbanisation or an overly cluttered appearance.
- 5.7 The likely small scale of the proposed bin and cycle stores is likely to prevent harm to visual amenity. Conditions are recommended requiring details of the stores to ensure their design is appropriate.
- 5.8 Subject to the recommended conditions officers consider that the proposed development will not harm visual amenity and the application accords with policies CP37 and DG1.
- 5.9 **Residential amenity**
The impact of development on neighbouring properties is controlled by policy DP23 of LPP2. This policy requires development proposals to demonstrate that

they will not result in significant adverse impacts on the amenity of neighbouring uses arising through loss of privacy, daylight or sunlight, from dominance or visual intrusion, noise or vibration, dust, heat, odour, gases or other emissions, pollution, contamination or the use of / or storage of hazardous substances and external lighting.

- 5.10 When assessing applications for a change of use to a large HMO it is necessary to consider the impact on both neighbouring properties and on the intended occupiers.
- 5.11 Neighbouring properties
There are no external alterations proposed to the dwelling so the impact on neighbours in terms of overshadowing, overdominance and visual intrusion would be limited to the proposed bin and cycle stores. Their low height will ensure that they will not be harmful to neighbour amenity.
- 5.12 The greatest likely impact on neighbouring properties would be from the use of the building as a large HMO and the potential increased noise, disturbance and activity.
- 5.13 The application form states the dwelling is already in use as a Class C4, or small HMO, so up to six unrelated individuals can occupy the property. The application seeks to increase this to up to eight people, which the applicant is content with. However, without a condition to restrict the number of occupants, it is likely that the building could likely be occupied by more than eight people without breaching planning control. This is because the additional impact on neighbours arising from an increase in occupants by one or two, for example, is likely to be incremental when compared to the authorised number of eight, and insufficient to meet the relevant legal threshold of a change of use through intensification.
- 5.14 Therefore, officers have considered the use of a planning condition to restrict occupancy to no more than eight persons on the grounds of potential impacts on neighbours. Members are aware that the NPPF requires a planning condition to meet six tests, which are that the condition is:
- Necessary
 - Relevant to planning
 - Relevant to the development
 - Enforceable
 - Precise
 - Reasonable in all other respects
- 5.15 The use of a condition to restrict the number of occupants to no more than eight due to potential impacts on neighbours presents two challenges. The first is that the circumstances of the application site, being a detached dwelling in a reasonably sized plot, on the main village road, with only two immediate but physically separate neighbouring dwellings, and with a care home immediately to the rear, means the impact of the use on residential amenity is likely to be less intense than in other types of higher density residential area, where use of

a dwelling as a HMO with occupation by up to six persons is permitted development. The second relates to the issue referred to above, the incremental nature of any additional impact above eight occupants, and whether it would be expedient to take enforcement action on the grounds of an evidential, verifiable harm. Consequently, officers have concluded that, for this particular site, a condition restricting occupants to eight on the grounds of impact on neighbours would not meet the legal tests. The possibility of using a condition on the grounds of parking will be considered below.

- 5.16 The applicants do state the intention is for no more than eight occupants, and that this is to be controlled via the license. The use of the building as a large HMO will require a licence from the council under the provisions of the Housing Act 2004. This is an entirely separate legal regime to planning. In the response to the application, the council's Private Sector Housing Officer has stated that the building is capable of being licensed for up to 16 occupants. Consequently, obtaining a license for eight occupants would be a voluntary decision by the applicant and it is not guaranteed that this cap on numbers will remain in the future.
- 5.17 The increased number of occupiers will increase the comings and goings to the property. The site is on the main road running through the village and immediately adjacent to the care home so there is an existing baseline of people coming and going to the care home and traffic travelling along the road. Therefore, officers consider that the potential increase in noise, activity and disturbance caused by the increased number of residents from six to eight is unlikely to be sufficient to warrant refusal of the application.
- 5.18 The council's environmental health officer was consulted on this application, and they raise no concerns in terms of noise pollution from the increased number of residents.
- 5.19 There are no changes proposed to the first-floor windows so there will be no overlooking caused and the increased number of residents is not considered to result in a loss of privacy for neighbouring properties.
- 5.20 Intended occupiers
The licensing regime ensures that buildings provide sufficient amenity for the intended number of occupants both in terms of space and facilities. Thus, it would not be reasonable to impose standards which go beyond those required to gain a licence and in the absence of an objection from the council's Private Sector Housing Officer it is held that the intended residents would enjoy a sufficient level of amenity.
- 5.21 As the proposed development is not considered to result in significant harm to neighbour amenity and the intended occupiers will enjoy a sufficient level of amenity officers consider that the application accords with policy DP23.
- 5.22 **Traffic, parking and highway safety**
Policies CP33, CP35 and CP37 of LPP1, and policy DP16 of LPP2 require development to provide safe and convenient access, sufficient car and cycle

parking in line with Oxfordshire County Council standards and adequate provision for loading, unloading, circulation, servicing and vehicle turning. Development must also minimise the impact on the highway network and promote more sustainable modes of transport where appropriate.

- 5.23 Policy IN3.1 of the Neighbourhood Plan states that development proposals that will or are likely to result in severe impacts on the junction of Barrow Road and Faringdon Road will not be supported.
- 5.24 The proposed development will increase the number of occupiers in the property. The access and parking arrangements are as existing. The block plan submitted with the application shows four car parking spaces within the curtilage of the property. The County Highways Engineer has no objection to the proposed development as they consider that four spaces accords with standards.
- 5.25 Members will recall the recent application for change of use to an eight-person HMO in Kennington which came to Committee on 17 August (ref P22/V1129/FUL). For that application officers recommended a restriction on the number of occupants due to constrained parking space. However, the current application site has a much larger area available for parking.
- 5.26 The adopted standard for parking to serve a HMO is 1 parking space per two bedrooms, or part thereof. Therefore, for an eight-person HMO, four parking spaces are required. There is sufficient space within the existing parking area on the site to accommodate several additional cars above the four shown on the block plan, with the potential capacity to serve up to 16 occupants. Consequently, unlike the Kennington application, officers consider that a condition to limit occupancy to no more than eight cannot be justified on the grounds of constrained parking. It would, therefore, fail the tests. A condition is recommended requiring the whole parking and turning area to the front of the dwelling to be retained for such use.
- 5.27 The proposed increase in the number of occupiers is not considered to materially affect nor harm the local highway network and therefore the junction between Faringdon Road and Barrow Road will not be severely impacted. The access is as existing so adequate and safe access to the site is maintained. The site is within easy walking distance to public transport stops and the provision of secure cycle storage will ensure more sustainable modes of transport are encouraged. A condition is recommended requiring the submission of details of the cycle storage to ensure this accords with standards.
- 5.28 Subject to the recommended conditions, officers consider that the proposed development will not harm highway safety as parking which accords with standards is provided and adequate and safe access is maintained. The local highway network will be unharmed and sustainable modes of transport will be encouraged. Therefore, the application accords with relevant development plan policies.

5.29 **Archaeology**

Policy DP39 of LPP2 states that development will be permitted where it can be shown that it would not be detrimental to the site or setting of Scheduled Monuments or nationally important designated or non-designated archaeological remains.

5.30 There is the potential for archaeological remains to be present within the site. Despite this, the minor nature of the works means it is unlikely that any archaeological remains will be affected and as such the application accords with policy DP39.

5.31 **Biodiversity**

Policy CP46 of LPP1 states that development that conserves, restores and enhances biodiversity will be permitted whilst net loss of biodiversity will be avoided. The highest level of protection is given to sites and species of international nature conservation importance (Special Areas of Conservation and European Protected Species). Development that harms habitats and species will not be permitted unless the need for the development outweighs the harm, it can be demonstrated that the development could not reasonably be located elsewhere or measures to prevent, mitigate or compensate for the harm are agreed.

5.32 The site is within an area identified as potentially providing habitats for protected species. However, the proposed development is a change of use with internal alterations and only minor works within the curtilage. This ensures protected species will not be harmed and there will not be a net loss in biodiversity. Thus, the application accords with policy CP46.

5.33 **Waste and Recycling**

Policy DP28 of LPP2 states that all development proposals will be expected to be consistent with the Council's Waste Planning Guidance. Development proposals for residential use must ensure sufficient space is provided for the storage of individual or communal recycling and refuse containers, and access is provided that is safe for residents and for refuse and recycling collection vehicles. Development will not be permitted if appropriate recycling and refuse provision cannot feasibly or practicably be provided.

5.34 The site plan submitted with this application shows a bin store to the front of the dwelling. No details of this store have been provided both in terms of its capacity or appearance. Therefore, a condition is recommended requiring the submission of details of this bin store to ensure the storage provided is sufficient and unharmed to visual amenity. With this condition attached and with suitable agreement of the details it is held that the application complies with policy DP28 as processing, storage and collection of waste will be provided in accordance with standards.

6.0 **CONCLUSION**

- 6.1 Subject to the recommended conditions officers consider that the proposed development would be acceptable in principle and unarmful. Therefore, the application is considered to accord with the development plan and the NPPF and permission should be granted.

The following planning policies have been taken into account:

Vale of White Horse Local Plan 2031 Part 1 (LPP1) policies:

- CP01 - Presumption in Favour of Sustainable Development
- CP33 - Promoting Sustainable Transport and Accessibility
- CP35 - Promoting Public Transport, Cycling and Walking
- CP37 - Design and Local Distinctiveness
- CP39 - The Historic Environment
- CP42 - Flood Risk
- CP46 - Conservation and Improvement of Biodiversity

Vale of White Horse Local Plan 2031 Part 2 (LPP2) policies:

- DP16 - Access
- DP23 - Impact of Development on Amenity
- DP28 - Waste Collection and Recycling
- DP36 - Heritage Assets
- DP39 - Archaeology and Scheduled Monuments

Wootton and St Helen Without Neighbourhood Plan policies:

- IN1 - Housing
- IN3 - Transport Mitigation
- DG1 - Design for the Area

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Joint Design Guide SPD (2022)

Equalities Act 2010

The proposal has been assessed against section 149 of the Equalities Act. It is considered that no identified group will suffer discrimination as a result of this proposal.

Human Rights Act, 1998

The application has been assessed against Schedule 1, Part 1, Article 8, and against Schedule 1, Part 2, Article 1 of the Human Rights Act, 1998. The harm to individuals has been balanced against the public interest and the officer recommendation is considered to be proportionate.

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