

Planning Appeal Statement of Case

F/23/94920 - 29 TWYFORD ROAD, EASTLEIGH, SO50 4HD

Change of use from C4 HMO to Sui Generis HMO for more than 6 No unrelated persons (Resubmission F/23/94574)

- **Valid date: 22/03/2023**
- **Type of Application: Full planning**
- **Status: Decided**
- **Decision: Refuse Planning Permission For**
- **Decision Date: 26/05/2023**

Client: Mr Lewis Bowers

Date of Report: 2n August 2023

**Prepared by: BPS Design Consultants Ltd
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1.0 Introduction

This Planning Appeal Statement has been prepared in support of an application of appeal by our client Mr Lewis Bowers, in respect of the decision by Eastleigh Borough Council to refuse planning permission for **F/23/94920 - 29 TWYFORD ROAD, EASTLEIGH, SO50 4HD - Change of use from C4 HMO to Sui Generis HMO for more than 6 No unrelated persons (Resubmission F/23/94574).**

The appeal relates to application **F/23/94920** made under the Town and Country Planning Act 1990, and registered by Eastleigh Borough Council on 22nd March 2023.

The application was refused on 26th May 2023.

The planning officer was: - Alex Webb (Email: alex.webb@eastleigh.gov.uk)

During the application process there were numerous emails which we believe are important to include. The emails are included in Appendix D.

2.0 Sequence of Planning Applications

The following details the sequence of planning applications on this property: -

F/23/94920 - 29 TWYFORD ROAD, EASTLEIGH, SO50 4HD

- Valid date: **22/03/2023**

Change of use from C4 HMO to Sui Generis HMO for more than 6 No unrelated persons (Resubmission F/23/94574)

- Type of Application: Full planning
- Status: Decided
- Decision: **Refuse Planning Permission For**
- Decision Date: 26/05/2023

F/23/94574 - 29 TWYFORD ROAD, EASTLEIGH, SO50 4HD

- Valid date: **24/01/2023**

Change of use from C4 HMO to sui generis HMO for more than 6no, unrelated persons.

- Type of Application: Full planning
- Status: Decided
- Decision: **Refuse Planning Permission For**
- Decision Date: 15/03/2023

LDC/22/94252 - 29 TWYFORD ROAD, EASTLEIGH, SO50 4HD

- Valid date: **22/11/2022**

Lawful Development Certificate for change of use from Class C3 dwelling to use Class C4 HMO.

- Type of Application: Lawful Development Certificate (LDC)
- Status: Decided
- Decision: CLOPUD - Certificate Issued
- Decision Date: 11/01/2023

H/22/94102 - 29 TWYFORD ROAD, EASTLEIGH, SO50 4HD

- Valid date: **15/11/2022**

Temporary permission for retention of 2m boundary fence adjacent to a highway (Retrospective Application)

- Type of Application: Householder planning
- Status: Decided
- Decision: Temporarily Approve

- Decision Date: 20/01/2023

F/22/93842 - 29 TWYFORD ROAD, EASTLEIGH, SO50 4HD

- Valid date: **20/09/2022**

Change of use of 2no. rooms on ground floor from Class E(c)(ii) (previously A2) to C3 dwellinghouse, removal of conservatory and construction of side and rear single storey flat roof extension, construction of side porch, alterations to front ground floor and first floor bay fenestration, block-up side door, removal of rear chimney and installation of new side fenestration at first floor with obscure glazing.

- Type of Application: Full planning
- Status: Decided
- Decision: Permit
- Decision Date: 15/11/2022

Z/08071/003/00 - 29 Twyford Road, Eastleigh,

- Valid date: **06/06/2002**

ERECTION OF SIDE CONSERVATORY FOLLOWING DEMOLITION OF EXISTING

- Type of Application: Full planning
- Status: Decided
- Decision: Permit
- Decision Date: 23/07/2002

Z/08071/002/00 - 29 Twyford Road, Eastleigh,

- Valid date: **09/01/1998**

ALTERATIONS TO SHOP FRONT TO FORM NEW ENTRANCE DOORWAY

- Type of Application: Full planning
- Status: Decided
- Decision: Permit
- Decision Date: 05/03/1998

3.0 Refusal Points

1. The proposed intensification of the use of the building would result in inadequate living conditions for the number of future occupants due to the overdevelopment of the site and lack of useable communal amenity space provision contrary to policy DM1 of the Eastleigh Borough Local Plan (2016-2036), the Quality Places SPD and the National Planning Policy Framework.

2. Due to the layout and number of potential occupiers the proposed development would have a significant an impact on amenity of future occupants and neighbouring properties due to noise and disturbance contrary to policy DM8 of the Eastleigh Borough Local Plan (2016-2036) and the National Planning Policy Framework.

4.0 Rebuttal of Refusal Point 1

Extracts from Local Plan for reference.

Related local and national strategies/policies (see Appendix B)

Source	Reference/title
Eastleigh Borough Council's SPD and strategies	Supplementary Planning Documents ²⁷ : - Quality Places (2011) - Urban Character Area Appraisals (2005 & 2008) - Environmentally Sustainable Development (2009) - Planning guidance – shopfronts and signs (1996) Public Art Strategy 2015-2019 Equality and Diversity Strategy Accessible Homes Strategy 2008-2011
Eastleigh Borough Council and partners	The Community Safety Partnership Plan 2016-2017 (updated annually)
PfSH	Sustainability policy framework ²⁸ , and Quality Places initiative which includes a Quality Places Charter and a Cultural Strategy ²⁹
NPPF	Paragraphs 56-66

Policy DM1, General criteria for new development

1. **All new development should (as relevant):**
 - a. **not have an unacceptable impact on, and where possible should enhance:**
 - i. **residential amenities of both new and existing residents; the character and appearance of urban areas, the countryside and the coast;**
 - ii. **biodiversity (avoiding significant adverse impacts); and**
 - iii. **the significance of heritage assets;**
 - b. **make efficient use of the site, maximise opportunities to increase density and have regard to potential development opportunities on adjoining land;**
 - c. **take full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood, and be compatible with adjoining uses and be well integrated with these in terms of mass, scale, materials, layout, density, design and siting, both in itself and in relation to adjoining buildings, spaces and views. Where adjoining development is poor in urban design terms, new development should contribute to improving the character of the area;**

²⁷ <http://www.eastleigh.gov.uk/supplementaryplanningdocuments>

²⁸ <https://www.portsmouth.gov.uk/wp-content/uploads/2020/05/development-and-planning-developing-push-sustainability-policy-framework.pdf>

²⁹ <https://www.push.gov.uk/work/cultural-creative-industries-and-the-built-environment/outcomes/>

- d. not involve the loss of or damage to trees, woodlands, hedgerows, ponds, priority habitats or other landscape features of value to the character of the area, for appearance or biodiversity unless they can be replaced with features of equivalent or enhanced value, (recognising that some species and habitats may be irreplaceable);
 - e. include a landscape scheme covering the design and layout of external space;
 - f. protect and enhance public rights of way and National Trails and provide fully connected green infrastructure that interlaces the development and connects into the wider network;
 - g. provide satisfactory management arrangements for all landscape, green infrastructure and biodiversity enhancement;
 - h. incorporate provision for people with disabilities and create accessible communities that cater for all;
 - i. incorporate design measures to inhibit criminal and anti-social behaviour;
 - j. incorporate provision for on-site waste management; and
 - k. include provision for public art associated with new large scale development in accordance with the Council's adopted Public Art Strategy.
- 5.3 Other policies of this Local Plan address the principles of sustainable construction and layout and impacts on local communities (DM2), internal space standards for residential development (DM32), pollution (DM8), and access and parking (DM13 and DM14).
- 5.4 The Borough Council is strongly committed to promoting good design in all new developments and to improving the quality of public spaces. As well as making sure that so far as possible new developments fit in with their surroundings, good design includes meeting the needs of occupiers and users of the spaces and buildings including those with disabilities, and must make provision for adequate living space (DM30). It also includes creating places where people feel safe, opportunities for anti-social and criminal behaviour are limited and there is access to green space to encourage play and exercise. Green infrastructure and other building design measures can also help to limit the heating effects that can arise through the concentration of buildings and vehicular activities in urban areas (known as the 'heat island effect') – such measures are referred to as 'urban cooling'. The Borough Council's Supplementary Planning Documents 'Quality Places'³⁰ and 'Character Area Appraisals'³¹ provides more detailed information on the principles of design and layout.
- 5.5 New development will be assessed to consider its impact on residential amenity. This covers the amenity of existing residents living at or near the development and also the amenity of new residents. Residential amenity covers a variety of issues including overlooking, loss of daylight, loss of outlook, noise, fumes and dust and the impact of floodlighting and security lighting. It includes the design of garden space and parking arrangements in addition to building design.
- 5.6 All major development proposals should be accompanied by a Planning Statement which should explain the basis for the design of the scheme, including how it accords with this Local Plan, the supplementary planning documents and other documents as referenced in these, and with the National Planning Policy Framework.

³⁰ <http://www.eastleigh.gov.uk/supplementaryplanningdocuments>
³¹ <http://www.eastleigh.gov.uk/supplementaryplanningdocuments>

- 5.7 The Planning Statement should also explain and justify the removal of site assets such as landscape features and propose suitable mitigation for their loss. In the case of trees, a new Trees SPD will set out the detailed requirements for trees within development sites, which should be retained wherever possible. Where this is not possible, it will provide guidance on the suitable mitigation required. Where trees may be adversely affected by the proposed development, the Council will require the applicant to submit a tree survey in accordance with the methodology set out in BS5837:2012 'Trees in relation to design, demolition and construction – recommendations' and an Arboricultural Impact Assessment and method statement. The Council may make a Tree Preservation Order covering trees on the site to prevent the loss of trees during the planning process. Trees having a high arboricultural or landscape value should not be removed unless:
- the benefits of the development clearly outweigh the value of the tree;
 - the loss of the tree is unavoidable; and
 - suitable new trees can be planted to replace any tree removed.
- 5.8 All developments that will lead to the loss of any green space or habitat should be accompanied by a Biodiversity Mitigation and Enhancement Plan (BMEP), informed by a Phase 1 Extended Habitat Survey and any other up to date species specific survey as agreed with the Local Planning Authority. The BMEP must include details of the biodiversity features affected as well as details of proposed mitigation and enhancement measures. Pre-application engagement with the Council and Natural England is encouraged.
- 5.9 Green infrastructure should be integrated into the design of new development as part of the overall design of the landscape and external environment, and the developer should submit a Green Infrastructure Checklist to demonstrate that a net overall increase will be achieved which can be attributed to the development scheme (strategic policy S9). Native planting should be used to form the structural landscape of new development schemes connecting with adjoining green infrastructure. Where public rights of way run through a development site, they should be retained within an attractive setting, and contributions sought to enhance the local public right of way network.
- 5.10 The Borough Council achieves very high rates of recycling of domestic refuse, and wishes to ensure that this success is continued. Developers should make provision for the storage of waste and recyclable materials as part of the design of external space in accordance with the Council's Quality Places SPD.
- 5.11 In addition, the Borough Council is pursuing measures relating to:
- Community safety, through working with other organisations and authorities on the Community Safety Partnership Plan³². This takes as its starting point the Crime and Disorder Act 1998, which requires local authorities to do all they can to prevent crime and disorder in their area.
 - Provision for disabled people, through its Equality and Diversity Strategy³³ and Accessible Homes Strategy³⁴. Most provisions for disabled people are dealt with under the Building Regulations, which are separate from planning legislation. However, developers should be aware of these requirements throughout the design process.

³² The Community Safety Partnership Plan is on Eastleigh Borough Council's website

³³ The Council's work on equality and diversity can be seen at: <https://www.eastleigh.gov.uk/council/general-public-information/council-strategies-and-policies/equality-and-diversity>

³⁴ <https://www.eastleigh.gov.uk/housing/our-housing-strategies-policies-and-plans>

- The provision of public art through its Public Art Strategy³⁵. This aims to support PfSH cultural initiatives by promoting the highest standards of design for new development with integrated public art which in turn provides opportunities for community engagement and creative industries to participate in the economic growth of the area.
- The Council's strategies for these matters should be taken into account when preparing development proposals.

Climate change

Relevant issues and objectives

Issues (Chapter 2): P7, G8-G10

Objectives (Chapter 3): iii, vi

Related local and national strategies/policies (see Appendix B)

Source	Reference/ title
Eastleigh Borough Council	Environmentally Sustainable Development SPD
	Climate Change Strategy
	Joint Municipal Waste Strategy (with HCC)
PfSH	Climate change strategy
	Integrated Water Management Strategy
	Strategic Flood Risk Assessment
	North Solent Shoreline Management Plan Client Steering Group
Hampshire County Council	Preliminary Flood Risk Assessment 2011-2017
	Eastleigh Borough Surface Water Management Plan 2013 (produced jointly with Eastleigh Borough Council)
	Local Flood Risk Management Strategy
	Hampshire Minerals and Waste Plan 2013
Environment Agency	South East River Basin Management Plan South East Hampshire Catchment Flood Management Plan
	Test and Itchen Catchment Flood
	Management Plan
NPPF	Paragraphs 17, 93-108

³⁵ The Public Art Strategy can be viewed at: <https://www.eastleigh.gov.uk/parks-leisure-and-culture/arts-and-culture/public-art/eastleighs-public-art-policies>

- 5.12 Climate change is likely to affect the Borough in a number of ways. This section looks at means of managing development in order to help to address some of the causes of climate change such as carbon-dioxide emissions, and its effects including both flooding and water shortage. It also looks at how development might adapt to the unavoidable effects of climate change. Eastleigh Borough Council Climate Change Strategy provides more information about the implications of climate change for the Borough.
- 5.13 Since the publication of the 2011-2029 Local Plan, the Code for Sustainable Homes was withdrawn and policy DM2 sets out the Council's approach to securing environmentally sustainable residential development in the Borough. As Eastleigh borough is in an area of serious water stress as justified in the background paper³⁶, this includes a requirement to apply higher water standards. Reduced water consumption can contribute to achieving nutrient neutrality or similar.

Policy DM2, Environmentally sustainable development

1. The Borough Council requires that:
 - a. all new build residential development (C3 Use Class only) must achieve at the time a Reserved Matters or Full Planning Application is submitted:
 - i. a 19% improvement in predicted carbon emissions, compared with the building regulations standard current at the time, through increased energy efficiency of the building fabric, unless this is superseded by an updated building regulations requirement equivalent to 'zero carbon homes'; and
 - ii. a predicted mains water consumption of no more than 110 litres/person/day.
 - b. all other development that is above 500 sq.m of floorspace measured externally (including extensions and conversions to existing buildings) must achieve BREEAM 'excellent' (or equivalent) or BREEAM 'very good' plus 'passivhaus' certification including a 15% improvement in predicted carbon emissions, compared with the building regulations current at the time, through low or zero carbon energy generation on site or in a Borough location agreed by the Council.
 - c. all other larger developments above 10,000 sq.m of floorspace should also seek to fund post occupancy evaluation (POE) in addition to the above.
2. In addition to the above, all development above 500 sq.m of floorspace measured externally (including extensions and conversions to existing buildings) and external spaces within the curtilage serving developments of this size should where practical and viable:
 - a. incorporate energy-efficient passive design principles, the best use of natural daylight and natural ventilation systems wherever possible;
 - b. connect to any existing near or adjacent low carbon local energy network unless this is proved unviable;
 - c. use recycled, low embodied carbon, low environmental impact and locally sourced materials in construction where possible;

36 Water Efficiency Background Paper 2018

Policy DM1. General criteria for new development All new development should (as relevant):

- i. *not have an unacceptable impact on, and where possible should enhance:*
 - a. *residential amenities of both new and existing residents; the character and appearance of urban areas, the countryside and the coast;*
 - b. *biodiversity; and*
 - c. *heritage assets;*
- ii. *make efficient use of the site, maximise opportunities to increase density and have regard to potential development opportunities on adjoining land;*
- iii. *take full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood, and be compatible with adjoining uses and be well integrated with these in terms of mass, scale, materials, layout, density, design and siting, both in itself and in relation to adjoining buildings, spaces and views. Where adjoining development is poor in urban design terms, new development should contribute to improving the character of the area;*
- iv. *not involve the loss of or damage to trees, woodlands, hedgerows, ponds, priority habitats or other landscape features of value to the character of the area, for appearance or biodiversity unless they can be replaced with features of equivalent or enhanced value;*
- v. *include a landscape scheme covering the design and layout of external space;*
- vi. *provide fully connected green infrastructure that interlaces the development and connects into the wider network;*
- vii. *provide satisfactory management arrangements for all landscape, green infrastructure and biodiversity enhancement;*
- viii. *incorporate provision for disabled people;*
- ix. *incorporate design measures to inhibit criminal and anti-social behaviour;*
- x. *incorporate provision for on-site waste management; and*

- xi. *include provision for public art associated with new large scale development in accordance with the Council's adopted Public Art Strategy*

The proposals deal with Policy DM1 as follows: -

- 1a,1b,1c** The external design of the building and its extensions require no changes to allow the conversion. All of the changes are on the inside. The building form is acceptable as already approved. The internal changes will not affect any neighboring amenities or residential amenities. The development will have no effect on countryside, coast, biodiversity of the area or local heritage assets.
- ii. The proposal makes efficient use of the site, maximises opportunities to increase density and has no impact of development opportunities on adjoining land.
- iii. It is acknowledged that the proposal would result in a more intensive use of the building however as no external changes are proposed and the area is mainly residential in character, the development would have no adverse impact upon the general character of the area.
- iv. The very modest nature of that proposed and lack of any external physical alterations to the building is not considered to result in any issues for nature conservation or ecology. There will be no adverse impact upon trees or other natural features worthy of retention. There are no likely significant impacts on the Solent Maritime Special Area of Conservation (SAC) or New Forest Special Protection Area (SPA), SAC and Ramsar sites as has been confirmed by Natural England.
- v. There are no specific requirements for HMO's in relation to amenity space or landscaping provisions. The proposed scheme allows for amenity space to be used by occupants.
- vi. Not applicable for a redevelopment site of this size.
- vii. Amenity space is provided, although not required for HMO developments.

- viii. No specific requirements are defined for HMO developments.
- ix. No specific requirements are defined for HMO developments.
- x. Waste collection and bin storage is provided.
- xi. Small scale development, therefore passes test.

The Quality Places SPD

The following are extracts from the SPD relating to amenity space. They have been shown to clearly show there are no specific HMO or Sui Generis HMO amenity space requirements.

Residential Amenity		Residential Amenity 29
Residential Amenity Private Residential Amenity External private amenity spaces need to be sunny and well connected to interior spaces to encourage use and to allow for supervision of young children. Minimum provision: - An important component of good quality residential design is the provision of useable outside private space where residents can take advantage of fresh air and direct access to the natural environment. This is different from semi-private communal space (which is shared by residents). - External private space can be provided by back or side gardens, roof terraces, or balconies. In the case of ground floor rented flats this can consist of a portion of the communal space screened off by suitable hedge planting (see communal gardens sub section below). - The private outdoor space must be easily and directly physically accessible for all physical abilities but accessible to only those residents for which it is designed to be used. - To qualify as usable private space it will need to allow for - at least 2 people to sit out in comfort	- a certain measure of privacy (e.g. not directly overlooked by neighbouring outdoor sitting areas or living rooms). - For flats, private amenity space of *3 square metres per unit or *2 square metres per bedroom (whichever is the greater) will be required. This figure may be subtracted from the minimum amount of communal space provided for these dwellings. (*at least) - For houses, the absolute minimum for private amenity space of at least 60% of the floor space will be required. This minimum may be reduced in urban areas when the dwelling is within 100m (by safe and convenient route) of a public open space. The size will need to increase where: - the local context requires it (i.e. in more suburban, 'leafy' areas) - excessive shading renders significant areas of the garden unusable due to neighbouring buildings or other structures, trees	and orientation mature trees are to be retained within the garden space. Private residential amenity space may sometimes not be appropriate where constraints exist which, even when mitigated would result in unsafe or uncomfortable environments. For other design reasons (e.g. privacy requirements or the need to take account of the local context) minimum back garden sizes may need to be significantly larger.
Fig.41: The benefits of front gardens	Fig.42 Defensible space where front garden not provided.	
BfL Q18 will assess whether back gardens are large enough to allow the possibility of ground floor extensions. The provision of well-designed front gardens with attractive and robust boundary structures will contribute to a positive assessment in several Building for Life questions including BfL Q6 (design specific to the scheme), Q8 (place with distinctive character) and Q17 (includes good detail where building meets ground).		

As you can see the above, does not make specific reference to HMO developments or Sui Generis HMO developments. There is reference to flats so it would be reasonable to provide amenity space in accordance with this. Therefore, $10\text{m} \times 3\text{m} = 30\text{sqm}$ would be acceptable, the proposals provide more than this.

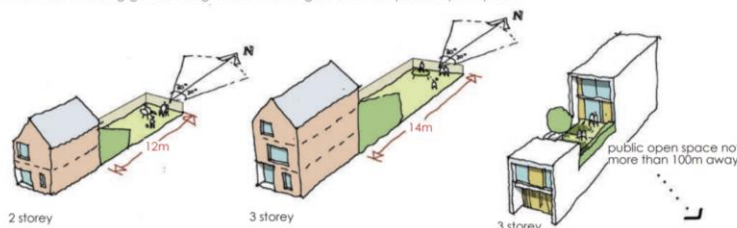
In the officers report the side and front garden areas are discounted as amenity space, however the front garden is important and does provide an area for social interaction.

The amenity space to the rear would provide adequate space for normal activities associated with Sui Generis HMO's, such as social interaction and drying of clothes etc.

The orientation for the site and proximity to the highway cannot be changed, and it is proposed to erect a higher fence 1.8m to screen the garden from the public highway and neighbouring properties, subject to a separate application.

30 Residential Amenity

Fig.43: Minimum north-facing garden length and interior gardens near public open space



Residential Front Gardens:

Front gardens are an important contributor to the landscape design of the street as well as providing opportunities for social interaction. (See fig.40)

In some situations front gardens are not provided (where there is a local tradition of houses fronting directly onto the pavement or in a 'homezone' or mews street) and 'defensible space' must be provided through other means. (See fig 41)

Residential Rear (or Side) Gardens:

- Back gardens facing within 30 degrees of north should be a minimum length when measured from the house of 12m for 2 storey house and 14m for 3 storey houses to compensate for excessive shade from the house.
- Where there is easy access to local public recreation space

(within 100 m), useable gardens integrated within the fabric of individual houses may be an acceptable alternative to the provision of conventional private rear gardens.

Balconies:

The provision of balconies on new buildings can make a positive contribution, in providing outdoor sitting space, where views out will not adversely impact on the privacy of existing buildings and private space.

- New balconies would be inappropriate for most existing dwellings in the borough due to an unacceptable loss of privacy to adjoining properties.
- Where flats front onto open space, balconies will be encouraged.

Balconies should be integrated within the design of the building and therefore should be considered early in the design process.

Fig.44: Appropriate balcony dimensions



A Design & Access Statement should show on a layout plan, street scene elevations, or in 3 dimensional street scenes and in building floor plans:

- the area of private amenity space for each residential unit ensuring that at least minimum standards are met
- where the proposed front gardens or other defensible space will be located and what the typical design approach will be for them.
- the location of all proposed roof terraces, interior patios and balconies
- the general design approach, including the provision of privacy;
- access arrangements.

Residential Communal Garden Space

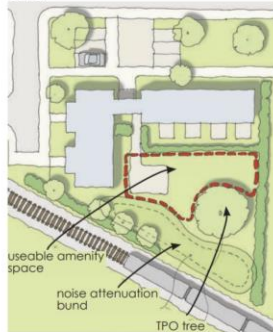
For flats and accommodation for older people, the provision of individual private gardens may not be possible, so private communal space will be required to provide an appropriate area of semi-private space. This can also provide an attractive setting for the building within the local context.

- The amount of communal space provided with flats and accommodation for older people should be determined by the local context,

Balconies and roof terraces will be assessed as part of BfL Qs 10 & 15 (providing good passive surveillance of routes and public spaces) and in BfL Q17 (architectural quality). Residential Communal Garden Space

but as a guide, a minimum of 25 sqm of amenity space per dwelling should be provided. If the flat development is directly adjacent to a useable recreation space or within an area of very good local facilities, such as a town centre, in which case this requirement may be waived. The minimum amount of communal external space for older people's accommodation cannot be waived due to the different needs and lower mobility of these residents. The area separately provided for private amenity space (balconies, roof terraces, ground floor flat gardens etc.) can be counted as part of this provision.

Fig.45: Useable amenity space excludes narrow strips of land, areas subject to excessive shade and noise attenuation bunds



- Communal space for flats should be provided with enclosure and some privacy, while including some overlooking by residents, and should have robust boundary design.
- Communal open space should be allocated in proportion to the building, to make this space comfortable and not over-dominated by the mass of the building (see fig.12)
- The amenity space provided should be suitable for normal domestic activities, including sitting out and drying clothes and should not merely act as a grassed setting for the building.

Public/Private Distinction

Private space for houses should be located at the rear, where possible,

A Design & Access Statement should show on a layout plan and in the text:

- the location of all proposed new areas of communal garden space;
- the means of access to this space for the intended users;
- the broad landscape design approach including any privacy protection for ground floor residents;
- future management arrangements.

and ideally should back on to similar private garden space with no public access. This arrangement is best for property security and allows for relatively tranquil and sheltered spaces.

- The street elevation should have windows to habitable rooms and doors, allowing for natural surveillance.

Apartment blocks and non-residential buildings also need to clearly identify their fronts and backs. These buildings need to concentrate the main entrance or entrances on the street frontage and sides. The more private or service areas should be hidden

Fig.46: Public/private distinction



The quality of architecture and the spaces around them is assessed (among other things) in BfL Q8.

Whether streets are defined by a coherent and well structured layout (which includes the need for good private/public distinction) is assessed in BfL Q 10.

The above refers to flats, which must have 25sqm, this is not applicable to HMO developments or Sui Generis HMO developments and cannot be applied. If it was then 250sqm would be required, which is totally not achievable.

Residential Privacy

Front Privacy:

The 'public' front of residential properties should achieve a balance between natural surveillance of the street from inside the property and reasonable privacy from passers by.

- Developers of ground floor flats are encouraged to provide private outdoor sitting space wherever possible. Where direct access to communal space is provided from ground floor flats, some defensible space should be provided which may include

planting, to safeguard the privacy of residents from other users of the communal space (see fig 49).

Rear Privacy:

On the non-public side, (normally the rear of the building), a high standard of privacy is required for the windows of living rooms and outdoor private garden space (particularly near the house). Some overlooking of gardens from the upper storeys of adjoining dwellings will be unavoidable in most urban and suburban housing layouts. Rear privacy can best be assured by arranging garden boundaries back to back, and not adjoining a public space.

Fig.47: Privacy for street elevations

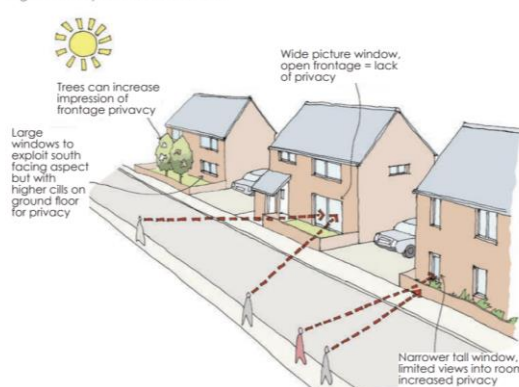
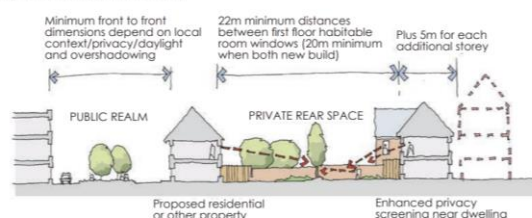


Fig.48: Rear residential privacy



Where private gardens must adjoin a public space they should be enclosed with brick walls of an appropriate height (rather than timber fences).

- Proposals for housing significantly higher than existing dwellings are unlikely to be approved where habitable rooms directly overlook the back of existing properties.
- Apartments looking onto other apartments, separated exclusively by public or communal space, should be a minimum distance apart between windows of habitable rooms to ensure satisfactory standards of privacy and day light considerations and to prevent unacceptable levels of overshadowing (see fig 44).
- Beyond a distance of about 35m, reasonable privacy is achieved by remoteness.
- For conventional houses with private rear gardens, the front of one house should not face the rear windows of another, for reasons of privacy and informal surveillance. Exceptions to this rule will require a combination of increased separation distance (above the accepted back to back minimum) and privacy screening.
- These principles should also be applied to rear extensions, where consideration should be given to the potential impact of side windows above ground floor level on adjoining properties.
- Overlooking can also be a particular problem on sloping sites. Changes in orientation, the arrangement of rooms and the presence of established vegetation may be used to help mitigate rear overlooking problems.

Fig.49: Defensible space is required for ground floor flats adjacent to communal areas



A Design & Access Statement should demonstrate on a layout plan or in 3D:

that the design of the development has considered and protected the residential privacy of new and existing properties

Daylight and Sunlight

Daylighting:

- The relative heights and separation of buildings should be adjusted to ensure that the windows of neighbouring properties enjoy reasonable day lighting.
- Where this is likely to be an issue, the applicant should provide drawings to demonstrate that anticipated problems can be overcome.
- It is recommended that new dwellings should meet the daylighting standards set out in BS8206 part II (which also accords with the Code for Sustainable Homes Standard).
- For houses and flats, the impact of adjoining structures on the level of daylight available is particularly important in living rooms, dining rooms and kitchens
- Daylighting in bedrooms may also be considered, but is generally considered less important except where this is the main private accommodation such as in residential homes.
- Detailed proposals should also take account of local circumstances like level difference between properties and orientation.

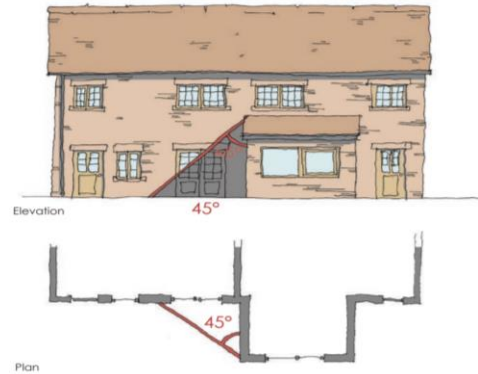
Guidance and tables are provided in the BRE report *Site Layout Planning*

for *Daylight and Sunlight – a Guide to Good Practice* published in 2002. This guidance should be used if there is doubt about the acceptability of proposals with regard to daylighting and sunlight after the tests described have been carried out.

Day light checking for extensions:

- On the window wall elevation an angle is drawn diagonally down at 45 degrees from the near top corner of the proposed extension.

Fig.50: Daylight checking for rear extensions



Back to back garden arrangements help provide streets with a coherent and well structured layout which is assessed in BfL Q10.

The sunlight 45 degree rule as shown above does not apply to the HMO development as the application requires no external changes, the scale of development has already been approved under a separate application No [F/22/93842](#)

34 Residential Amenity

Daylight checking on a proposed or existing building:

- Reference points are drawn 2m above ground level (taking into account any slope corresponding to the top part of ground floor windows);
- A section in a plane is drawn perpendicular to the face of the building;
- If none of the obstructing building subtends an angle to the horizontal > 25 degrees, then there will be potential for good daylighting in the building.

- If an obstructing building exceeds this relative height, then further analysis can be carried out to quantify the amount of skylight falling on a vertical window known as the 'vertical sky component'. This is described in detail in the BRE report referred to above.

Sunlighting:

The extensive obstruction of sunlight to an existing property or its garden by the construction of a new building or extension is likely to be resented by existing occupiers.

Designs for new buildings or extensions

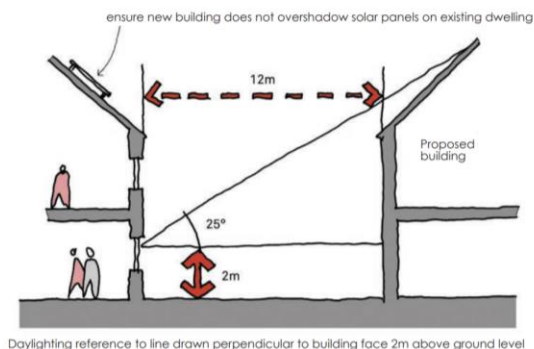
must take account of the effect of shading on existing solar panels.

Further information and tables for calculating sunlight availability at different times of the year are available in the BRE guide.

Key Design Principle 11

(Residential Amenity): New development should be designed to respect the residential amenity of existing and new occupiers and all dwellings should have adequate private amenity space.

Fig.51: Daylight checking for new buildings adjacent to existing homes



Whether a development respond to existing buildings landscape and topography well is assessed in BfL Q.7

National Planning Policy Framework.

We have reviewed this document in detail and the planning officer has made no specific reference to any clause contained within it, just referred to it and that made comment that the proposal is contrary to policies contained within it (*contrary to policy DM1 of the Eastleigh Borough Local Plan (2016-2036), the Quality Places SPD and the National Planning Policy Framework*).

In fact the NPPF supports developments such as this and its repurposing and useful development to provide additional accommodation on Brown Field Sites. (*11.Making effective use of land*).

NPPF makes reference to (*Ground conditions and pollution*) specifically noise and pollution. The proposed development has double glazed windows through out and all background ventilation to habitable rooms fronting the highway will have filtered background vents, as shown on the proposed drawings.

On this basis, it is respectfully requested that this appeal against the LPA's refusal to allow the Sui Generis HMO usage is allowed.

5.0 Rebuttal of Refusal Point 2

Extracts from Local Plan for reference.

Management Plan identifies the areas likely to be affected by both erosion and flooding over the years 2005-2105. The policy seeks to prevent development that would worsen these conditions, or give rise to a need for new flood defence or coast protection measures. This is due to the need to preserve the rare invertebrate communities that colonise the Netley cliffs.

Notes:

- i. Applications for dredging will be determined by the Marine Management Organisation and lie outside of the planning jurisdiction of the Borough Council.
- ii. Water supply and waste water infrastructure are addressed in a general policy relating to public utilities – see policy DM9.

Pollution

Relevant issues and objectives

Issues (Chapter 2): G9

Objectives (Chapter 3): i, v, vi, viii

Related local and national strategies/policies (see Appendix B)

Source	Reference/title
Eastleigh Borough Council	Eastleigh Air Quality Management Area M3 Air Quality Management Area
	Hamble Lane Air Quality Management Area
	Botley Air Quality Management Area
Environment Agency	South East River Basin Management Plan
NPPF	Paragraphs 120-125

- 5.42 The Borough is subject to various types of pollution, in particular air pollution from traffic, noise from major roads and the airport, and land contamination from industrial activity and the tipping of waste.

Policy DM8, Pollution

1. Development will not be permitted if it is likely to cause loss of amenity or impact on public health or other unacceptable environmental impacts through:
 - a. air pollution (including odours or particulate emissions);
 - b. pollution of surface, underground, coastal waters or other watercourses;
 - c. noise or vibration;
 - d. light intrusion, both generally and with respect to the South Downs National Park's status as an International Dark Night Skies reserve; or
 - e. land contamination.

2. Development susceptible to particular forms of pollution will not be permitted:
 - a. where it will be adversely affected by such pollution, unless measures can be taken that adequately mitigate the polluting effects; or
 - b. where it would inhibit existing economic or other activities giving rise to acceptable polluting effects.
3. Where a development site is known or suspected to be contaminated, before the site is developed the Borough Council will require the contamination to be remediated to a standard where as a minimum it cannot be defined as 'contaminated land' under Part IIA of the Environmental Protection Act 1990.

- 5.43 Government advice in the NPPF makes it clear that the prevention of pollution is a planning concern. The Borough Council will give considerable weight to ensuring that new development does not give rise to new pollution, suffer from existing sources of pollution, or inhibit legitimate economic activities giving rise to otherwise acceptable polluting effects (e.g. noise). Development proposals that may adversely impact upon European designated sites must comply with Habitats Regulations. The Council will prepare a Supplementary Planning Document providing guidance on assessing pollution, criteria that will be used in assessing the likely pollution impacts of development proposals, and preferred measures to prevent, minimise or mitigate impacts.
- 5.44 Developers will be required to undertake the necessary surveys and provide information about how pollution impacts will be managed with their proposals. This includes providing a Construction Environmental Management Plan (CEMP) to address any impacts during construction phases. For development that is likely to give rise to pollution, or be susceptible to existing pollution, and sites that are known or suspected to be polluted, developers are advised to undertake early consultation with the Environment Agency and the Council's Environmental Health Service. Pollution includes effects likely to arise from demolition or construction activities on the site. Where permission is only given on the basis that polluting effects will be mitigated or remediated, the Council may remove permitted development rights from the site.
- 5.45 Where development sensitive to or likely to generate pollution is proposed, adequate information in the form of site reports and assessments carried out by a competent person must be supplied with the planning application to allow the potential or actual impacts to be assessed. Details of any mitigation required should be supplied to the Council for approval prior to commencement of the scheme. Further assessments and reports will also be required to show that the polluting effects have been controlled to the agreed standard, and that the mitigation or remediation measures taken will remain effective for the lifetime of the pollution risk identified. Where the risk of pollution is severe, the Council may restrict occupation of the development until satisfied that the pollution has been addressed.
- 5.46 The standard of investigations, assessments, including risk assessments, remedial schemes, and verification reporting must be that of current UK good practice. The intended SPD will provide further guidance and advice on the investigation and assessment of pollution effects.
- 5.47 **Air quality:** The Council has an on-going duty to review and assess air quality, and has declared a number of air quality management areas (AQMAs) associated with traffic. Air quality will be a material consideration:
- within and adjacent to such areas, or
 - where the development could give rise to the need for such an area to be designated, or
 - where the development would prevent an air quality action plan being implemented.

Standards for Maximum Ambient Noise Levels (in spaces when they are unoccupied) for Dwellings Subject to Transport-Related Noise			
Living Area	Night-Time (2300-0700) LAeq, 8hr	Daytime (0700-2300) LAeq, 16hr	Additional Requirements
Bedrooms	30	35	1. Individual noise events must not normally exceed 45 dB LAmax (measured with fast time-weighting) during the night time. 2. Provision of suitable means of sound attenuating ventilation to allow for the fact that opening windows will render noise insulation ineffective.
Living Rooms	-	35	Provision of suitable means of sound attenuating ventilation to allow for the fact that opening windows will render noise insulation ineffective.
Gardens ^a	-	55	Balconies will need to meet the same standard unless it is clear that they are not intended to be an outdoor living area, for example due to their small size.

Note – Levels based on Table 4 of BS8233:2014 Guidance on sound insulation and noise reduction for buildings. Where development site affected by non-steady noise source, commercial or industrial noise, or noise that does not follow a typical diurnal pattern, the acceptability of noise levels will be determined on a case by case basis.

a – This standard applies to main gardens (usually rear gardens) only, but not communal gardens.

- 5.50 **Light:** Lighting can have a significant impact on people's perception of their environment and the South Downs to the north east of the Borough is specifically designated as a Dark Sky reserve due to its low levels of light pollution (the areas of the National Park closest to the Borough are designated as Dark Sky Zone E1 (b) Transition Zone in the South Downs Local Plan dark night skies policy). At night, the main distinction between urban and rural areas is that the former are lit and the latter are not. Light spillage is a material consideration because it can cause discomfort and loss of privacy and obscure the night sky. However, well designed lighting can improve people's perception of public safety and the environment. Lighting to the sky, onto hedgerows and directly into waterways can cause impacts on bats, nocturnal species and migratory fish. The Council will seek to ensure that lighting from development does not cause unacceptable environmental or amenity impacts, whilst also providing appropriate illumination (for example in respect of highway and community safety or sporting facilities).
- 5.51 **Land contamination:** Where a proposed development site is known or suspected to be contaminated, or where sensitive development is proposed, the responsibility lies with the developer to demonstrate that it can and will be made suitable for the proposed use with a satisfactory standard of residential amenity provided. This means that the developer must be able to assure the Council that there is no unacceptable short or long term risk of harm to human health, the environment, property and/or pollution of controlled and designated waters.
- 5.52 Assessments of land contamination are expected to follow the advice contained in CLR11 Model procedures for the management of contaminated land, and British Standard BS 10175:2011 +A1:2013 'Investigation of potentially contaminated sites – Code of Practice', and BS 8576:2013 Guidance on investigations for ground gas, permanent gases and Volatile Organic Compounds (VOCs) or as subsequently updated. A typical site assessment would be

carried out by a competent person and would include:

- **Site Characterisation** – desk study and/or site investigations that allow for the previous use, contaminant, pathway and receptor linkages to be identified and develop a conceptual model of the site;
- **Risk Assessment** – characterisation and assessment of the impacts of the risks posed to proposed and existing receptors from the hazards identified; and
- **Remediation Scheme** – identification of appropriate risk management measures (remedial works or protective measures) to mitigate unacceptable risks. This will include appropriate verification, validation and certification to ensure compliance with the scheme.

Public utilities and communications

Relevant issues and objectives

Issues (Chapter 2): P11, G11

Objectives (Chapter 3): v, xi, xii

Related local and national strategies/policies (see Appendix B)

Source	Reference/title
PfSH	Economic Development Strategy 2010
	Integrated Water Management Strategy
Solent Local Enterprise Partnership	Solent LEP Vision July 2011
Hampshire County Council	Hampshire Faster Broadband Initiative
Southern Water	Water Resource Management Plan
Portsmouth Water	Water Resource Management Plan
NPPF	Paragraphs 42-46

Policy DM9, Public utilities and communications

1. The development of new and improvement of existing utilities infrastructure essential to meet the needs of new and existing communities will be encouraged and permitted subject to the other policies of this plan. In the event of conflict with other policies of this plan the Borough Council will require a full justification including an assessment of alternative means of provision.
2. New development will only be permitted if the essential utilities infrastructure including communications infrastructure required to serve it is available. Where off-site utilities infrastructure is not adequate to serve a development site, developers will be required to contribute to the costs of new off-site provision in consultation with the utilities providers.

The Borough Council will require developers to address means of mitigating air pollution, in particular measures to reduce traffic congestion (including the implementation of Travel Plans by businesses and developers). While the provision of green infrastructure such as trees has been shown to have some beneficial effects on ambient air quality (and the Council will seek the replacement of at least two trees for each one lost in Eastleigh), this cannot be regarded as a measure that will be effective on its own in addressing air pollution in the designated AQMAs. Planning Practice Guidance states that measures should be specific to the location and development and proportionate to the likely impact. It provides a list of examples of mitigation that could be used to address air pollution.

- 5.48 **Water:** the legal requirements of the Water Framework Directive require full consideration to the quality and quantity of ground and surface water bodies in order to meet at least 'good' status or 'good ecological potential' in all water bodies by 2027. The Council has a role in supporting the delivery of these objectives. It is essential that development does not cause deterioration in the status of water bodies. Where possible, schemes to enhance the status of the water bodies should be undertaken.
- 5.49 **Noise:** The adverse effects of exposure to excessive noise and vibration on health and quality of life are well documented and recognised as a material planning consideration. The Council supports the approach of the Noise Policy Statement for England in relation to the effective control of noise within the context of sustainable development. Any proposals likely to generate noise (including demolition and construction noise) will be expected to take account of the impact of this on any noise sensitive population, including those using recreational areas. Similarly, in assessing proposals for noise sensitive development, the Council will expect the developer to take into account existing noise levels and foreseeable changes to these. In doing so, developers must avoid significant adverse noise impacts to residential amenities. Development proposals should ensure that they mitigate and minimise adverse noise impacts and, where possible, contribute to the improvement of health and quality of life. Where necessary, the Council will require a noise assessment which will be expected to:
- identify all significant sources of noise;
 - assess the likely short and long term impacts of noise generated or exposure to noise; and
 - propose noise protection measures.

Wherever possible, developments should use site and building layout and design to manage levels of noise on development sites. Where acceptable internal noise levels cannot be met with open windows, alternative ventilation will be required. Where the development site is affected by air pollution in addition to noise, early consideration of the location of air ventilation inlets is recommended. The following standards will be used to assess the acceptability of development proposals affected by steady external noise sources:

In respect of the Solent and Southampton Water SPA and Ramsar sites and supporting habitat, construction noise should be kept below 69dBA max either alone or in combination with other developments (measured at the sensitive receptor which is the nearest point of the SPA/Ramsar or supporting habitat) during the bird overwintering period, or works timed so that they do not coincide with the wintering bird season. Natural England will provide advice on a case by case basis where construction noise exceeds 69dBA max.

Policy DM8, Pollution

Development will not be permitted if it is likely to cause loss of amenity or impact on public health or other unacceptable environmental impacts through:

- i. air pollution (including odours or particulate emissions);*
- ii. pollution of surface, underground, coastal waters or other watercourses;*
- iii. noise or vibration;*
- iv. light intrusion; or*
- v. land contamination.*

Development susceptible to particular forms of pollution will not be permitted:

- a. where it will be affected by such pollution, unless measures can be taken that adequately mitigate the polluting effects; or*
- b. where it would inhibit existing economic or other activities giving rise to acceptable polluting effects.*

Where a development site is known or suspected to be contaminated, before the site is developed the Borough Council will require the contamination to be remediated to a standard where as a minimum it cannot be defined as 'contaminated land' under Part IIA of the Environmental Protection Act 1990.

The proposals deal with Policy DM8 as follows: -

- i. The background air entering the habitable rooms fronting the highway will be fitted with clean air filter as shown on the drawings. This approach and solution has been agreed and implemented on other HMO developments in the area. The development will emit no particulate emissions any more than a C3 dwelling.**
- ii. The development will not affect surface, underground, coastal waters or other watercourses.**
- iii. The proposal will create no more noise than the previous usage A2 or C3 dwelling and it will be within the decibel levels as the previous C3 usage. Increased occupancy is not all adjacent to neighbouring boundaries. Noise between floors within the development has been dealt with by installing additional sound proofing, although there is no specific sound requirements for HMO developments. All entrances are to the side or rear, so will not affect the neighbouring properties. Parking and amenity will be at the rear which it has always been.**

- iv. There are no light intrusions.
- v. There are no contaminations issues.
- a. The only pollution affecting the development is dealt with by background filters, to filter background air into the building.
- b. The proposed Sui Generis HMO will not inhibit existing economic or other activities giving rise to acceptable polluting effects.

On this basis, it is respectfully requested that this appeal against the LPA's refusal to allow the Sui Generis HMO usage is allowed.

6.0 Conclusion

From all of the correspondence and emails with the planning officer it is clear that a reduction in the bedroom numbers to 8 No total would gain officer support. It is not clear how 2 No additional rooms taking the development to 10 No as proposed would result in this development being against current policy as defined above and sited in the decision notice. How would 2 No extra rooms create reasons for refusal, if 8 No rooms are acceptable?

The amenity space is adequate for conducting normal domestic activities. The front garden should be included as it offers opportunities for social interaction as defined within the councils SPD.

Parking is not required due to close proximity to local transport hubs for ongoing journeys, however 3 No spaces are proposed as the neighbours raised parking as a concern.

Background filtered ventilation is proposed to all habitable rooms fronting the highway to alleviate concerns over dirty air from entering the internal rooms. It is interesting that no conditions were imposed on the previous applications to convert back to C3 dwelling or the conversion from C3 to HMO. Sound proofing to all rooms, floors and walls is provided to alleviate concerns over nuisance, although not a mandatory requirement.

The development meets the local needs and has full support from the Housing Officer.

The development is much needed in the area and should be supported by the local authority.

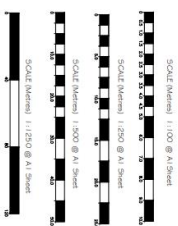
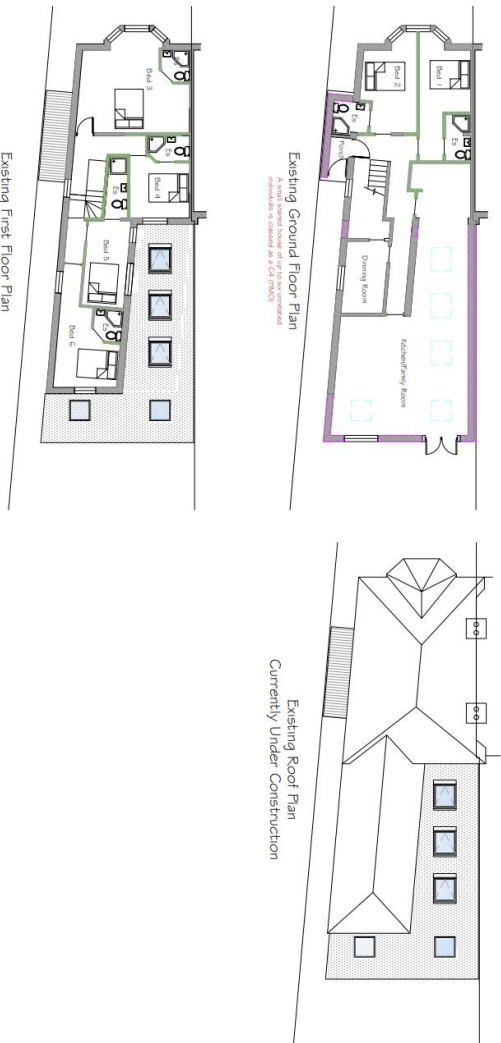
On this basis, it is respectfully requested that this appeal against the LPA's refusal to allow the Sui Generis HMO usage is allowed.

Appendix A – Planning Drawings

1:100

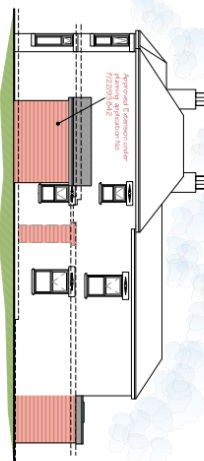


Drawing Notes:

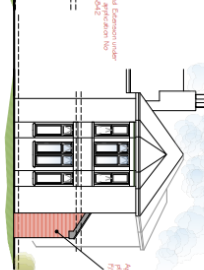
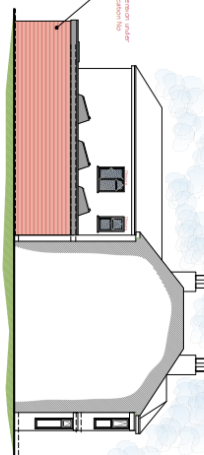


BPS Design Consulting Ltd 	
Details: Destination: Bureau, Suburb: S001 (0)	
Tel: 023 860 4017	
e-mail: info@bpsdesign.co.uk Mobile: 07915 661 232 www.bpsdesign.co.uk	
29 Twford Road Eastleigh SO50 4HD	
(Client) Mr. T. Bowkers	
(Job title) Building 6 Person HMO	
(Job type) Plot 07	(Area) -
(Date) Jan 2023	(By) As Shown
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Proposed Elevations and Plans
C4 Dwelling to Sui Generis HMO 10 Bed
(Single Occupancy Per Room)
1:100



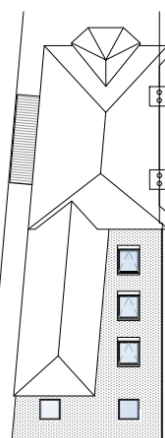
Proposed Side Elevation
Currently Under Construction

Proposed Rear Elevation
Currently Under ConstructionProposed Front Elevation
Currently Under Construction

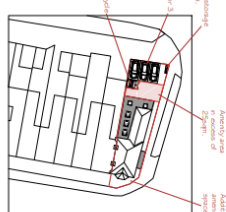
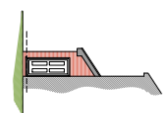
Proposed Side Elevation
Currently Under Construction



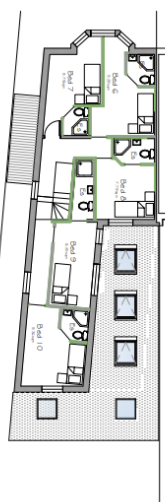
Proposed Ground Floor Plan



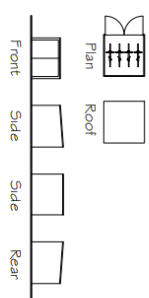
Proposed Roof Plan
Currently Under Construction



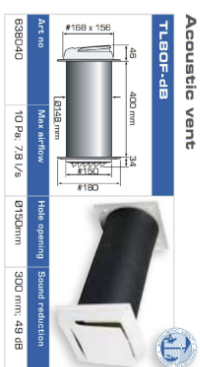
Block Plan 1:500



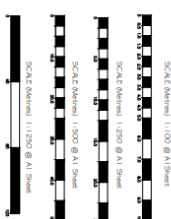
Proposed First Floor Plan



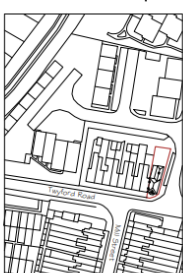
Proposed Metal Bike Store 369
www.summergardenbuildings.co.uk



Fresh Flimmer Filter Acoustic Vent - to be installed in bedrooms 1,2,6,7 and 10 to provide fresh air and reduced noise and pollution levels.



Rev B - Room Sizes amended to show single occupancy.
Rev A - Filters Added.



Location Plan 1: 1250
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Landscape Architecture: 100045-2022

[illegible]

Drawing Notes:

The copyright of the drawings belongs solely with the drawing drafter. The drawing drafter is not responsible for the copying or reproduction without their written consent.

Written dimensions to take precedence over scaling the drawing. Dimensions shall be rounded and written on the drawing in the units of the drawing. Connecting words, The Contractor shall take all responsibility for the accuracy of the drawing. Dimensions should be checked prior to proceeding with work.

All workmanship and materials shall comply with BS 8000 Parts 1-15.

As drawings and materials are prepared for the purpose of demonstrating compliance with the Approved Code of Practice, the drawings, Regulations and so on not necessarily describe the full extent of the work.

Details of all meeting points of the structure (detailed) shall be submitted to the Client for approval prior to commencement. Any variations from those supplied from the Client shall be submitted to the Client as drawings should be drawn.

Appendix B – Decision Notice



MR ROBERT NARRAMORE
BPS DESIGN CONSULTANTS LTD
SEAFIELDS
DODWELL LANE
BURSLEDON
SOUTHAMPTON
SO31 1DJ

Application	F/23/94920
Please ask for	Alex Webb
Direct dial	023 8068 8134
Working hours	Mon to Fri 8:30am to 5pm
Email	alex.webb@eastleigh.gov.uk

Friday 26 May 2023

Town and Country Planning Act 1990
The Town and Country Planning (Development Management Procedure) (England)
Order 2015

Application No. F/23/94920

In pursuance of their powers under the above Act and in accordance with your application received on Wednesday 22 March 2023 the Council, as Local Planning Authority hereby **Refuse Planning Permission For** the following :

Description: Change of use from C4 HMO to Sui Generis HMO for more than 6 No unrelated persons (Resubmission F/23/94574)
Site: 29 TWYFORD ROAD, EASTLEIGH, SO50 4HD

For the following reasons:

- 1 The proposed intensification of the use of the building would result in inadequate living conditions for the number of future occupants due to the overdevelopment of the site and lack of useable communal amenity space provision contrary to policy DM1 of the Eastleigh Borough Local Plan (2016-2036), the Quality Places SPD and the National Planning Policy Framework.
- 2 Due to the layout and number of potential occupiers the proposed development would have a significant an impact on amenity of future occupants and neighbouring properties due to noise and disturbance contrary to policy DM8 of the Eastleigh Borough Local Plan (2016-2036) and the National Planning Policy Framework.

Eastleigh Borough Council, Eastleigh House, Upper Market Street, Eastleigh, Hampshire SO50 9YN
T: 023 8068 8000 E: direct@eastleigh.gov.uk W: www.eastleigh.gov.uk

Yours faithfully



Andy Grandfield
Executive Head for Planning and Economy

N.B. See Attached Notes

Eastleigh Borough Council, Eastleigh House, Upper Market Street, Eastleigh, Hampshire SO50 9YN
T: 023 8068 8000 E: direct@eastleigh.gov.uk W: www.eastleigh.gov.uk



Appendix C – Officers Report

DELEGATED OFFICER REPORT

Application Ref: F/23/94920

Site Address: 29 TWYFORD ROAD, EASTLEIGH, SO50 4HD

Case Officer: Alex Webb

Description: Change of use from C4 HMO to Sui Generis HMO for more than 6 No unrelated persons (Resubmission F/23/94574)

Particular Site Constraints?	Yes ☒	No ☐
Nature Conservation - NE - SSSI Impact Risk Zones, HRA Screening Criteria (River, SAC, SPA, Ramsar Hazards/other environmental - Environment Agency Surface Water Flooding (1000-year extent) Aviation safeguarding - Airport Safeguarding Zones AQMA - Extension to Eastleigh AQMA Nutrient Neutrality Catchment - River Itchen SAC, Solent: Includes Chichester and Langstone Harbours SPA/Ramsar, Solent and Southampton Water SPA/Ramsar, Solent Maritime SAC, Portsmouth Harbour SPA/Ramsar Sewers - SW Sewers 2m Buffer		

Planning History?	Yes ☒	No ☐
Z/08071/002/00 – Alterations to shop front to form new entrance doorway - permitted 05/03/1998. Z/08071/001/00 - Change of use of 2 ground floor rooms to Office (A2) – permitted 27/07/1994. Z/08611/003/00 – Erection of side conservatory following demolition of existing - permitted 23/07/2002. F/22/93842 Change of use of 2no. rooms on ground floor from Class E(c)(ii) (previously A2) to C3 dwellinghouse, removal of conservatory and construction of side and rear single storey flat roof extension, construction of side porch, alterations to front ground floor and first floor bay fenestration, block-up side door, removal of rear chimney and installation of new side fenestration at first floor with obscure glazing – Permitted 15/11/2022 H/22/94102 - Temporary permission for retention of 2m boundary fence adjacent to a highway (Retrospective Application) – Temporarily approve 20/01/2023 LDC/22/94252 - Lawful Development Certificate for change of use from Class C3 dwelling to use Class C4 HMO – Certificate Issued 12/01/2023 F/23/94574 - Change of use from C4 HMO to sui generis HMO for more than 6no, unrelated persons – Refused 15/03/2023		

Publicity:	Letters ☒	Site Notice ☒	Newspaper ☐
Representations:	5 x objections - three parking spaces an improvement- not sufficient to address concerns - only providing allocated parking to 30% of residents - strain on parking around Twyford Road/access road- area is already busy - antisocial behaviour that often follows HMO' - increase to 10 occupant HMO inappropriate for the location of the building. - no consideration for the local residents or local area. - retrospective application.		
Parish Council:	Objection - this application was objected to at the February 2023 meeting (Minute 108/22 refers) the objection has not been addressed. There is concern that the development continues regardless of objections. Contrary to Eastleigh Borough Local Plan, the living accommodation is insufficient for the number of individuals resident in		

	the property. Policies DM1 and DM30 refer. Contrary to Eastleigh Borough Local Plan the parking and cycling provisions are inadequate. Policy DM14 refers.
HCC	No objection to the proposals from a highways perspective. In terms of vehicle parking, it is noted that only 3 spaces are proposed, and EBC will need to take an opinion on this in regard to their Parking Standards, though it is noted that the site is within a close proximity to the town centre as well as various modes of sustainable transport for longer distance journeys. The Case Officer may also wish to look to increase the cycle parking provision, given that only 4 secure cycle parking spaces are proposed for the 10 HMO rooms.
HMO licensing/housing standards	• All bedrooms are larger than 6.51m² but all are only suitable to be occupied by 1 single adult so a maximum of 10 persons in 10 households should be considered. • All bedrooms are proposed to have their own en-suite which means there would be considered sufficient bathroom facilities for the number of occupants. • The kitchen/diner as the communal space provision looks in pure space terms to be ok with the minimum 10m² of dedicated kitchen leaving a remaining dining/communal area of over 15m² • The stacking in the design of rooms/amenities is not appropriate in some places and would likely lead to significant noise nuisance as a result. It would be my recommendation for either reduction in numbers/re-design of layout to address the above points or if it is not possible to achieve like for like stacking of amenities in all parts to attach condition to require higher level of sound insulation be installed to the areas that were unable to be addressed through design. • Bedrooms 3 & 5 of proposed layout have only window/ventilation through a skylight. While this will allow some degree of natural light and (provided they are openable) ventilation, it does not allow for reasonable view of the immediate surroundings. This is specifically identified in the HHSRS operating guidance as a relevant matter affecting likelihood of harm in terms of mental wellbeing which residents of HMOs are already known to be at higher risk of suffering from. • There was insufficient detail in the documents submitted to categorically confirm the kitchen facilities intended would be sufficient for number of proposed occupants. • There was insufficient detail in the documents submitted to determine if sufficient fire detection and protection measures would be in place.
Pollution	The dwellings locate in an Air Quality Management Area and Noise Important Area. These designations are for adverse air pollution and noise due to road traffic emissions. It is not clear whether the dwelling rooms with fenestration are new. This might influence your consideration on whether air quality and noise impact are material consideration in the suitability of the use of this land / existing dwelling for HMO purpose. Given the very high façade noise levels, and levels of air pollution a scheme should be put together to show how it would mitigate noise, and ventilate the building without drawing air in from the Twyford Road facade? Given its location on the junction of Shakespeare and

	Twyford Roads the northern facade is also noisy, so no potential for a relatively quiet façade, to offset the noisy ones. In terms of layout, it should be shown how it has been designed to minimise noise impact both external and internal (including noise from the ventilation system), and thereby maximise amenity. From a noise nuisance perspective, the stacking described is problematic and the kind of arrangement that gives rise to noise complaints, so in our view not good amenity. If they can demonstrate that some stacking is unavoidable, then a condition would be recommended.
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Site Visit:	Yes ☒	No ☐
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Policy: National Planning Policy Framework Planning Practice Guidance Development Plan: The <u>Eastleigh Borough Local Plan 2016-2036</u> The most relevant policies are Strategic policies S1 and S2; and Development Management policies DM1, DM2, DM8, DM11, DM14 and DM30. Supplementary Planning Documents: Quality Places; Residential Parking Standards; Character Area Appraisals, Other guidance: Amenity & Space Standards for Houses in Multiple Occupation 2021

Assessment: The application site is located on the west side of Twyford Road, within the urban edge of Eastleigh and the Urban Renaissance Quarter Boundary, designated as a Residential, Office and Community Area. There are residential properties to the north, south and east with an employment site containing several commercial uses to the west. 29 Twyford Road is an end-of-terrace, two storey, residential property with the majority of the amenity provision to the rear. According to Council records, the neighbouring attached dwelling no. 27 is not in use as a HMO. The property is currently in the process of being refurbished. The revised application seeks to convert the property to a HMO for more than 6 unrelated persons. A certificate of lawful use LDC/22/94252 has been obtained for the change of use to a Class C4 HMO use however, the property is not yet in use as a HMO. There are currently 6 bedrooms and the proposal seeks to increase the number of bedrooms by 4 through internal re-configuration including the provision of an extra single bedroom at first floor level and two additional single bedrooms at ground floor level following the reduction of the kitchen/family room area. This would total 10 single bedrooms, limiting the property to 10 occupants. The communal kitchen/family room available to the future occupiers would measure 26.2 sq. m. No external changes or extensions are proposed. To the rear, 3 on-site parking spaces are proposed and a shared communal amenity area measuring approx. 31 sq. m. A metal bike store is proposed to provide secure cycle storage and an area for bin storage to the north of the parking spaces. There is also an area to the front of the property which has been

proposed as amenity space, however given this is surrounded by a low wall and is covered in hard standing, it is not considered to be usable.

Principle

The development is within the urban edge where the principle of development is acceptable, as well as being within the Eastleigh Town Renaissance Quarter where more 'people intensive' development is considered appropriate provided all other relevant policies of the adopted Local Plan and supplementary planning guidance are met.

Amenity

Eastleigh Borough Council requires the use of Nationally Described Space Standards (or future equivalent for all new residential development as set out under Local Plan DM30 and also provides Amenity & Space Standards for Houses in Multiple Occupation 2021 based on the standards as set out in the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018. By reducing the occupancy to 10 single occupants the size of the proposed bedroom would meet these requirements in accordance with local plan policy DM30.

The shared kitchen size should measure at least 10sq m which would leave 16.2 sq m of additional communal space within the shared kitchen/family room. Given the number of potential occupants would be 10, this would provide an acceptable living environment.

The communal external private amenity area would be provided to the rear. There is no specific standard for communal garden space provision for HMOs. The Quality Places SPD provides guidance on the amount of communal space that should be provided for flats and states that this should be determined by the local context and as a guide, a minimum of 25 sq m/dwelling. In this instance however, no flats or individual dwellings proposed, the nearest useable recreation space is approx. 237m away and the town centre is approx. 500m away. It cannot therefore be classed as being 'directly adjacent' to a recreational space. There is not enough quality private amenity space proposed to serve up to 10 residents as it would not allow for normal domestic activities, such as drying clothes, to be carried out. The development would therefore result in inadequate living conditions for the future occupants of the proposal due to the overdevelopment of the site contrary to local plan policy DM1 and the Quality Places SPD.

Noise and Disturbance

Local plan policy DM8 (pollution) states that development will not be permitted if it is likely to cause loss of amenity or impact on public health or other unacceptable environmental impacts through noise or vibration.

The bedrooms immediately adjacent to and above the communal facilities (bedrooms 5 and 10) would be affected by the increased activity and the future occupants are likely to be affected by the noise levels generated from the communal areas. Further sound proofing of those rooms was therefore requested. Whilst mitigation measures have been considered, there are also concerns in respect of the impact of the proposed intensification of use of the building to form a 10 person HMO in close proximity to neighbouring properties. The proposal would result in noise and disturbance due to the intensification of the use and the increase in comings and goings from the property which would go beyond what is reasonably expected in an established residential area, to the detriment of the amenities of neighbouring properties.

The concerns of Environmental Health regarding the potential impact of the designated Air Quality Management Area and Noise Important Area along Twyford Road could be met through the provision of suitably spec'd glazing and mechanical ventilation, to which the applicant would be prepared to meet however, as the application is recommended for refusal, this matter was not pursued any further.

Area Character:

It is acknowledged that the proposal would result in a more intensive use of the building however as no external changes are proposed and the area is mainly residential in character, the development would have no adverse impact upon the general character of the area.

Parking & Highways:

This revised proposal would provide for 3 on-site allocated parking spaces and a secure cycle store for up to 4 bikes. There are no parking requirements relating specifically to HMOs. As such, the usual residential standards would need to be applied and as the property is a 4+ bed dwelling the proposal would meet the requirement for 3 individual/'on-plot' allocation as set out in the Residential Parking Standards SPD (2009). The property is also within an accessible location and reasonable distance to the public transport network and other facilities. The proposal would therefore provide adequate levels of parking and long-term cycle storage provision in accordance with local plan policy DM14.

Nature Conservation

The very modest nature of that proposed and lack of any external physical alterations to the building is not considered to result in any issues for nature conservation or ecology.

There will be no adverse impact upon trees or other natural features worthy of retention. There are no likely significant impacts on the Solent Maritime Special Area of Conservation (SAC) or New Forest Special Protection Area (SPA), SAC and Ramsar sites as has been confirmed by Natural England.

Climate Change:

In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other things, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020–2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.

The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF, development plan and adopted local plan policy do not set this as a specific target, but it is a material consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and local plan policy. The need to support the economy is part of the Strategic Environmental Assessment for the adopted local plan, as is an assessment of climate impacts.

The NPPF aims for the need for housing to be met, and policy S2 of the Local Plan sets a target for 14,580 dwellings to be provided by 2036. The NPPF, Policies S1, DM2 and DM3 of the Local Plan and energy and water elements of the adopted Environmentally Sustainable Development SPD require development to be sustainable in terms of resource use, climate change and energy use. When considering the impact of climate change, the proposed development is expected to be resilient to the potential effects of climate change and is expected to reduce/limit impacts on climate emissions as a result of the development or its use.

Equalities Implications:

Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:

- A public authority must, in the exercise of its functions, have due regard to the need to:
 - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. It is considered that this application does not raise any equality implications

Conclusion: The proposed development has been assessed against national and local plan policies and the application is refused for the following reasons:

1. The proposed intensification of the use of the building would result in inadequate living conditions for the number of future occupants due to the overdevelopment of the site and lack of useable communal amenity space provision contrary to policy DM1 of the Eastleigh Borough Local Plan (2016-2036), the Quality Places SPD and the National Planning Policy Framework.
2. Due to the layout and number of potential occupiers the proposed development would have a significant an impact on amenity of future occupants and neighbouring properties due to noise and disturbance contrary to policy DM8 of the Eastleigh Borough Local Plan (2016-2036) and the National Planning Policy Framework.

Recommendation:	PERMIT ☐	REFUSE ☒
Comments ...		

Appendix D – Emails



From: Webb, Alex <Alex.Webb@eastleigh.gov.uk>
Sent: 10 May 2023 17:03:05
To: Robert Narramore; Lewis Bowers (Building); Jack Drever (Building)
Subject: RE: F/23/94920 - Change of use from C4 HMO to Sui Generis HMO for more than 6 No unrelated persons (Resubmission F/23/94574) - 29 Twyford Road

Hello Robert

Given the proposed use of the kitchen/family room as a communal space for up to 10 people, the requirement for further sound proofing is considered necessary in this instance.

It was clear in the officer report for F/23/94574 that *"there is no specific standard for communal garden space provision for HMOs however the Quality Places SPD states that the amount of communal space provided with flats should be determined by the local context and as a guide, a minimum of 25 sq m/dwelling"* However this is guidance and this proposal is not a development for flats. Given the number of potential users, the amount of amenity space is not proportionate or sufficient enough to and allow for normal domestic activities, such as drying clothes, to be carried out.

Whilst the reduction in occupants is better, the number is still a concern in terms of amenity provision and resultant living environment. I am not convinced that the internal layout and resultant living conditions would meet the requirements of local plan policies DM1, DM30 and the Quality Places SPD.

A reduction to 7-8 occupants/bedrooms would be more acceptable given the site constraints. I would not be able to support the application unless the number of occupants/rooms is reduced further and additional sound insulation is proposed.

Kind Regards

Alex Webb (Mrs)
Senior Planning Officer
Mon/Tue/Wed 9-5 Thu/Fri 9-1
023 8068 8134



Eastleigh Borough Council | Eastleigh House | Upper Market Street | Eastleigh | SO50 9YN

From: Webb, Alex <Alex.Webb@eastleigh.gov.uk>
Sent: 02 August 2023 10:28:53
To: Robert Narramore; Lewis Bowers (Building); Jack Drever (Building)
Subject: RE: 29 Twyford Road - RE: F/23/94920 - Change of use from C4 HMO to Sui Generis HMO

Good Morning Robert

Thank you for the email and revised plans.

The reduction to 8 occupants is welcomed and there would be a restrictive condition imposed on any planning permission to ensure that this number is not exceeded. Whilst the reduction in parking spaces is not ideal, the site is considered to be in a sustainable location and it is preferable that additional amenity space is provided. The Council would be more supportive of a such a scheme if it were to come forward as a full planning application.

Kind Regards

Alex Webb (Mrs)
Senior Planning Officer
Mon/Tue/Wed 9-5 Thu/Fri 9-1
023 8068 8134



Eastleigh Borough Council | Eastleigh House | Upper Market Street | Eastleigh | SO50 9YN

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Eastleigh Borough Council