

# Planning Committee

26 April 2023



<b>Application No.</b>	23/00171/FUL
<b>Site Address</b>	2 Milton Drive Shepperton TW17 0JJ
<b>Applicant</b>	Mr Vishal Nanda
<b>Proposal</b>	Change of use from a dwelling (use Class C3) to a House of Multiple occupation (HMO) (Sui Generis) (including a manager's flat) and shared living facilities for occupants for up to 8 people.
<b>Case Officer</b>	Kelly Walker
<b>Ward</b>	Laleham and Shepperton Green
<b>Called-in</b>	This application has been called in by Councillor Howkins due to concerns over noise and disturbance from the increase in the intensity of use of the site and the associated parking pressures.

<b>Application Dates</b>	Valid: 13.02.2023	Expiry: 26.04.2023	Target: Extension of time agreed to 28.04.2023
<b>Executive Summary</b>	<p>The subject property is an extended two-storey semi-detached dwelling situated on a corner plot. The site is located on the bend of Milton Drive and is the last property on a line of semi-detached dwellings, close to the roundabout at the end of Shepperton Road, Littleton Lane and Laleham Road. There are no relevant planning constraints.</p> <p>According to Schedule 2, Part 3, Class L of the General Permitted Development Order (2015), the property could be used as a House of Multiple Occupation (HMO) for six residents without planning permission. The current proposal requires planning permission as it proposes an HMO for up to eight people, resulting in two additional residents from what could be carried out without the need for planning permission.</p> <p>Therefore, the main issue is whether the change of use from a small HMO of no more than six residents, (which does not require planning permission), to an HMO for eight residents, results in an intensity of use which is of detriment to the amenity of neighbouring properties by reason of the additional two people, over and above that for six residents.</p> <p>The existing family dwelling has been substantially extended with a two storey side and rear extension along with a single storey side and rear extension and loft conversion, providing a substantial amount of accommodation over 3 floors, with a large rear garden, outbuilding and driveway for a number of vehicles to the front of the site. The ground floor layout will provide a significant amount of communal space. As</p>		

	<p>such it is considered to provide an adequate level of amenity for future occupiers. The addition of 2 more occupants over the 6 that can be accommodated in a dwelling without the need for planning permission is not considered to amount to an intensity of use of this particular property on this site that would lead to a harmful impact on the amenity of neighbouring residential properties.</p> <p>There are no transportation issues, Surrey County Highways Authority raises no objection to the proposal and the level of parking is acceptable.</p> <p>The proposal is therefore considered to be acceptable.</p>
<b>Recommended Decision</b>	Approve the application subject to conditions

## MAIN REPORT

### 1. Development Plan

- 1.1 The following policies in the Council's Core Strategy and Policies DPD 2009 are considered relevant to this proposal:
- Policy CC3 (Parking Provision)
  - Policy HO1 (Providing for New Housing Development)
- 1.2 On 19 May 2022, Council agreed that the draft Local Plan be published for public consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). The public consultation for the Pre-Submission Publication version of the Local Plan ended on 19<sup>th</sup> September. The Local Plan was submitted for examination in November 2022 and the examination is due to commence week beginning 24 May 2023.
- 1.3 The following policy of the draft Spelthorne Local Plan 2022-2037 is of relevance:
- Policy DS1 (Place shaping)
  - Policy ID2 (Sustainable Transport for New Developments)
  - Policy H1 (Homes for All)
- 1.4 At this stage, the policies carry limited weight in the decision-making process of this current planning application.
- 1.5 National Planning Policy Framework (NPPF) 2021

### 2. Relevant Planning History

- 2.1 The site has the following planning history:

09/00081/FUL	Alterations to existing outbuilding to include lowering of eaves height, formation of pitched roof, and addition of timber cladding.	Refuse 03.04.2009  Appeal dismissed. 19.03.2010
09/00082/FUL	Erection of rear facing dormer following removal of existing.	Grant 03.04.2009
08/00049/FUL	Retrospective planning permission for garden outbuilding.	Refused 25.03.2008  Appeal dismissed. 08.01.2009
	Appeal against the serving of an Enforcement Notice for the erection of an unauthorised	

outbuilding and the erection of an unauthorised boundary wall.

Appeal against the serving of an enforcement notice for the erection of an unauthorised rear dormer window.

07/01130/FUL	Erection of rear dormer window and porch extension (retrospective)	Refused 11.01.2008 Appeal Split Decision 08.012009
07/01130/ENF	Erection of an unauthorised rear dormer	Issued 23.04.2008. Appeal dismissed and EN upheld. 08.01.2009
	<b>Officer note:</b> EN was complied with the dormer was reduced in size (09/00082/FUL)	
07/00345/ENF	Unauthorised outbuilding and boundary wall,	Issued 22.04.2008. Appeal dismissed and EN upheld. 08.01.2009
	<b>Officer note:</b> EN was complied with the wall was removed and the pitched roof to the outbuilding was replaced with a flat roof (pd)	
06/01211/FUL	Erection of 2 storey rear extension and single storey side and rear extension.	Grant 02.05.2007
06/01106/FUL	Erection of attached 2 storey, 3 bedroom dwelling and alteration to existing house including rear single storey extension.	Refused 17.01.2007

### 3. Description of Current Proposal

- 3.1 This application relates to 2 Milton Drive which is situation on a corner plot with an irregular shape. The site is located on the bend of Milton Drive and is the last property of a line of semi-detached dwellings, close to the roundabout at the end of Shepperton Road, Littleton Lane and Laleham Road. The site is set back from Laleham Road, which also runs to the side of the application site (north), Littleton Lane runs along the rear of the site, to the west of the plot. Shepperton Studios is located to the northwest and forms a side

boundary to the site. There are other semi detached dwellings along Milton Drive located to the south and east and other dwellings to the north, set back from Laleham Road. There are no relevant planning constraints.

- 3.2 The property is a two-storey semi-detached dwelling which has been substantially extended in the past. It has a 2 storey side and rear extension, a single storey rear and single storey side extension in addition, as well as a loft conversion, including a rear facing dormer in the roof providing second floor accommodation. As such the existing family dwelling currently has 7 bedrooms on the first and second floors, with living accommodation on the ground floor, including an office. There is a large rear garden with an outbuilding and a large drive to the front of the property.

- 3.3 This application is for the change of use from a dwelling (use Class C3) to a House of Multiple Occupation (HMO) (Sui Generis) (including a manager's flat) and shared living facilities for occupants for up to 8 people.

#### 4. Consultations

The following table shows those bodies consulted and their response.

Consultee	Comment
Environment Health (noise)	No objection
Environment Health (HMO)	No objection
County Highway Authority	No objection

#### 5. Public Consultation

- 5.1 The Council has received 9 letters of objection noting the following issues: -

- Overdevelopment
- Out of keeping with the character of the area
- Loss of family housing
- Parking provision, 6 car spaces is cramped.
- Will put more pressure on on-street parking and as the site is located on a corner will cause road safety issues.
- Road is full of family housing. This HMO will not fit in with this.
- Commercial use
- The application is misleading regarding types of occupants referring to elderly and professionals.
- Noise and disturbance
- Loss of privacy
- Could have more than 8 people as double beds in most rooms.
- If elderly residents, why do you need sound proofing?
- Antisocial behaviour
- Further strain on drainage system
- Already pollution and traffic due to Shepperton Studios extension
- Previous planning applications being retrospective and having shown little regard to planning rules. (*Officers note: This relates to the extensions from 2007 but is not relevant to this application*)
- No site notice displayed (*Officers note: This is not mandatory*)

## **6. Planning Issues**

- 6.1 The main planning considerations are the impact of the proposal on the amenity of neighbouring properties and the impact on the amenity of future occupants, as well as parking provision.

### **Planning Considerations**

#### Principle

- 6.2 The Use Classes Order defines Use Class C3 as a dwelling house (whether or not as a sole or main residence) (a) by a single person or people living together as a family, (b) by not more than six residents living together as a single household (other than a use of within Class C4). Class C4 is classified as a house in multiple occupation that is used by not more than six residents as a HMO. Under the Government's Uses Classes Order, planning permission is not required to move from Use Class C3 to C4 and vice versa. Consequently, the property could be used as an HMO for six residents without requiring planning permission. There is, therefore, no 'in principle' planning objection to the use as an HMO for six persons. Therefore, the question that needs to be addressed is whether the use change from a small HMO of no more than six residents to an HMO for eight residents (by an additional 2 people) is acceptable in planning terms.
- 6.3 The site is situated in a predominantly residential area characterised by two-storey houses, mainly semi-detached. The existing property is a 7 bedroom, two-storey semi-detached dwelling. The subject property has been substantially extended with a two storey side and rear extension, a single storey side and rear extension and loft conversion, including a rear facing dormer. As such the property provides a substantial amount of accommodation over 3 stories. There is a large rear garden with an outbuilding and large driveway for a number of vehicles to the front of the site. The proposal will provide rooms for 8 people, with a 'manager's flat' on the ground floor with 2 bedrooms, a further 5 rooms on the first floor and one in the roof space at second floor level. There is also a significant amount of communal space on the ground floor, including a large open plan kitchen, a separate dining/reading room and a lounge/games room, for use by its occupants.
- 6.4 The internal layout of the property would be almost unchanged compared to the existing, with rooms continuing to be laid out as they currently are. The existing 5 bedrooms on the first floor will continue to be used as bedrooms and likewise the bedroom on the second floor will also continue to be used as a bedroom.
- 6.5 Each bedroom would be of a sufficient size to accommodate one bedspace (8 people in total) ensuring that it has a floor area of at least 7.5m<sup>2</sup> and will be at least 2.55m<sup>2</sup> wide as per the Government's nationally described Technical Housing Standards (March 2015). Several letters of objections have referred to the bedrooms potentially accommodating double occupancy. Despite many of the bedrooms being large and double beds shown on the plans, a condition would be imposed in order to limit the number of residents to eight, as is the usual way to control occupancy numbers for HMOs. The shared kitchen lounge, study and dining area would be located on the ground floor of the property which is considered to be sufficient in size for the number of

occupants. Residents would also have access to a large, shared rear garden and have a cycle storage facilities.

- 6.6 In light of above, it is considered that the principle of the development would be acceptable as it would result in an appropriate standard of living accommodation and the permitted development 'fall-back' position of a 6 persons HMO. The Council's Environmental Health Department has been consulted and note that, *'Regarding change of use to an 8 person HMO, the property would appear to meet the standards required for a licensable HMO, but I would direct the applicant to our website <https://www.spelthorne.gov.uk/hmo>, where they can download our Landlords' Guide to Standards for HMOs. This details what the requirements are. Environmental Health have no objection to the change of use.'*
- 6.7 As noted above, the applicant will need to submit an HMO licence application, which is also the case for a HMO for 6 people.
- 6.8 There are minimal internal changes required to the existing property to convert it to the 8 person HMO. The applicant could convert the property into a 6 bed HMO without planning permission. Given the location and size of the property, which has been substantially extended, it is considered that the proposal for two additional residents, over and above what could be carried out without planning permission given it would not result in a significant intensification of the use possible under permitted development. The proposal is considered to be acceptable in principle.

#### Amenity of neighbouring properties

- 6.9 In regard to the impact on the amenity of neighbouring properties, policy EN11 sets out the Council's general approach to minimise the impact of noise refers to noise by reducing noise levels from noise generating activities and locating noise sensitive development away from sources of high noise.
- 6.10 The proposal does not include any extensions and the building will be converted for the proposed use, which continues to be residential in nature. There are generous sized bedrooms and shared communal spaces, including the garden and plenty of off street parking. Therefore, it is considered that the number of occupants would be able to be comfortably accommodated in the subject property. The property is located at the end of a line of dwellings adjacent to Laleham Road with Littleton Lane to the rear. As such the subject property adjoins only one other residential property. Considering that an HMO for 6 people can be created under permitted development, the impact of two additional residents in a substantially extended semi-detached property (in particular when the property as original, before being extended, could have been converted to a HMO for 6 people). Consequently, it is not considered to have a significant impact on neighbouring residential properties that would justify refusal on these grounds.
- 6.11 The addition of 2 more occupants over the 6 that can be accommodated in a dwelling without the need for planning permission is not considered to amount to an intensity of use of this particular property on this site that would lead to a harmful impact on the amenity of neighbouring residential properties. In addition the subject property adjoins one other dwelling, with its rear boundary adjoining Littleton Lane and the side boundary adjoining Laleham Road, given its corner location.

### Parking Provision

- 6.12 Policy CC3 states that the Council will require appropriate provision to make for off-street parking in development proposals in accordance with its maximum parking standards. In considering the level of provision the Council will have regard to the anticipated demand for parking arising from the use proposed, or other uses to which the development may be put without needing planning permission.
- 6.13 Third party representations have raised concerns about parking pressures. Surrey Highways Authority has been consulted on this application and has advised that the development is unlikely to generate significantly greater parking demand than the existing use of a family dwelling. In addition, there is a permitted development fall back of a 6 bed HMO, whereby parking provisions cannot be considered. SCC as the County Highway Authority raise no transportation objections.
- 6.14 The proposal has a large parking area to the front of the dwelling where in excess of 6 cars could be parked off-road. In addition, there are opportunities for future occupiers to make journeys by foot or by cycle. The application site is located within reasonable walking distance of Shepperton High Street, Shepperton Railway Station, and there are bus stops on Laleham Road. As such, Surrey Highways Authority considers that this location is sufficiently accessible to the extent that it would not be a necessity for future occupiers to own their own private cars. Cycle storage will also be provided on site to encourage a sustainable travel mode.
- 6.15 The National Planning Policy Framework states that development should only be prevented on highways grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impact on the road network would be severe. For any objection to be valid, the authority must demonstrate the harm that the development would result in. Surrey County Highway Authority does not consider the development is likely to result in material harm in respect of highway safety or capacity.
- 6.16 It is therefore considered that the proposed parking provision would not conflict with Policy CC3 of the Spelthorne Core Strategy and Policies Development Plan Document (2009) and is acceptable.

### Conclusion

- 6.17 It is considered that the proposed development would not have a significant impact on the amenities of neighbouring properties that would justify refusal. The proposed addition of two further residents in this already extended semi-detached dwelling, compared to the permitted development requirement, is not considered materially harmful to justify refusal. The bedrooms and communal space, as well as the garden provides a development which is of a sufficient size for future occupants, and it is considered that the parking provision is acceptable.

### Equality Act 2010

- 6.18 This planning application has been considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard 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.

#### Human Rights Act 1998

- 6.19 This planning application has been considered against the provisions of the Human Rights Act 1998.
- 6.20 Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.
- 6.21 Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, i.e., peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.
- 6.22 In taking account of the Council policy as set out in the Spelthorne Local Plan and the NPPF and all material planning considerations, officers have concluded on balance that the rights conferred upon the applicant/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by the approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

## **7. Recommendation**

- 7.1 To GRANT planning permission subject to the following conditions:
  - 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan received on 13.02.2023, site plan proposed and site plan existing, Proposed Ground floor plan, Existing Ground floor plan, Proposed First floor plan, Existing First floor plan and Existing and proposed Second floor plans received on 07.03.2023.

Reason: For the avoidance of doubt and to ensure the development is completed as approved.

3. The occupation of the House of Multiple Occupation (HMO) hereby permitted shall be limited to a maximum of 8 residents at any time.

Reason: To safeguard the amenity of future residents of the property and neighbouring properties.

4. Prior to the occupation of the development, details of the refuse and recycling facilities shall be submitted to and approved in writing by the Local Planning Authority and the agreed facilities shall be installed prior to the occupation of the development and retained thereafter.

Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and the appearance of the locality in accordance with policies SP6 and EN1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

5. Prior to the occupation of the development, details of the cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority and the agreed facilities shall be installed prior to the occupation of the development and retained thereafter.

Reason: To safeguard the amenity of future residents of the property and neighbouring properties.

6. That the proposed 'manager's flat' hereby approved shall only be occupied for that use ancillary to the HMO and shall not be used as an independent unit of accommodation.

Reason: In the interest of the amenity of neighbouring properties

### **Informatives**

1. In accordance with Approved Document S of the Building Regulations, you will be required to install electric vehicle charging facilities.
2. A license will be required to operate the property as a HMO. Please contact the Councils Environmental Health Department.