

COMMITTEE REPORT

Date: 10 August 2017 **Ward:** Holgate
Team: Householder and **Parish:** Holgate Planning Panel
Small Scale Team

Reference: 17/01247/FUL
Application at: 31 Malvern Avenue York YO26 5SF
For: Change of use from dwelling (use class C3) to House in Multiple Occupation (use class C4), single storey side extension and dormers to side and rear
By: Mr Adrian Hill
Application Type: Full Application
Target Date: 27 July 2017
Recommendation: Approve

1.0 PROPOSAL

1.1 This application seeks permission for the change of use from a 3 bed dwelling to HMO (Class C4) including the erection of a single storey side extension and dormers to side and rear. This traditional style two-storey semi-detached dwelling is sited within a residential area, made up largely of similar style dwellings.

1.2 The application has been called-in for determination by Councillor Crisp on grounds of loss of a family home, the fact that the scheme will do nothing for community cohesion and adverse impact on on-street parking.

2.0 POLICY CONTEXT

2.1 Policies:

CYGP1 Design
CYH8 Conversion to flats/HMO/student accom

3.0 CONSULTATIONS

INTERNAL

Planning & Environmental Management

3.1 Within 100m (street level) of 31 Malvern Avenue there are currently 0 known HMO out of 44 properties, 0%. At the neighbourhood level there are currently 4 known HMOs out of 769 properties, 0.52%. In accordance with the provisions of the SPD neither the street or neighbourhood level thresholds have been breached.

EXTERNAL

Neighbour Notification and Publicity

3.2 Twelve letters of objection and a petition with 48 signatures have been received (eleven of the signatures were from properties that had submitted individual letters of objection).

3.3 The objections can be outlined as follows:

- Malvern Avenue is a narrow street where it is already difficult to park cars - this will mean more cars which will worsen the situation especially the safety of children
- Student occupants will cause noise
- This is the wrong area for such type of accommodation
- There is already a drainage problem in the street - 6 bathrooms/showers will worsen it
- The applicant owns multiple properties in the street - this would be an unwelcome precedent that would lead to fire risk, loss of privacy (bike rack users will look into front windows of no.29), rubbish and overcrowding and could lead applicant into turning his other properties into HMOs
- The bike rack at the front would be unsightly and will attract thieves, it is also a ruse as university/business occupants will have cars
- Loss of a family home
- A hard surface parking area will generate additional run-off and exacerbate existing flood risk - the drains are already blocked
- The approval of a dwelling in the back garden of no.22 has already changed the character of the street
- The plans are incorrect - they show a 2.5m wide extension but there is only 2.45m available at the front of the property (Case Officer Note: the plans actually show a 2.4m wide extension)
- There is no fire door between bedroom 6 (in the attic) and the staircase (Case Officer Note: this is an issue for Building Regulations)
- It appears that guttering on side extension will overhang boundary with no.33

Holgate Planning Panel

3.4 Objections as follows:

- Over-development.
- There is already a side extension next door - so concerns on buildability.
- The creeping 'Terrace-isation' of suburban streetscape, each semi detached house joining up.

- Ensure extension meets part b - Fire Regulations for escape and spread of flame.
- Object to HMO
- Top bedroom does not have bathroom
- Dormer to front /side is detrimental to appearance from street
- Dormer to rear is excessive
- Insufficient parking - we have to assume that each occupant could be living independently and own a car - this is not a family home with say 1 or 2 cars. We don't believe a bike store is an adequate substitute for lack of parking provision.
- Access to rear garden is blocked off - how/where will refuse be stored and collected.

4.0 APPRAISAL

KEY ISSUES

4.1 The key issues in assessing the proposal are:

- whether the change would lead to an unacceptable concentration of HMO's in a single location.
- whether the accommodation is of an appropriate standard and whether the use would impact adversely on local residents.

LEGISLATIVE BACKGROUND

4.2 Section 38(6) of the 1990 Act requires local planning authorities to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. There is no development plan in York other than the saved policies of the Regional Spatial Strategy relating to the general extent of the Green Belt. In the absence of a formally adopted local plan the most up to date representation of key relevant policy issues is the National Planning Policy Framework, March 2012 (NPPF).

POLICY CONTEXT

National Planning Policy Framework

4.3 The NPPF sets out the Government's overarching planning policies and at its heart is a presumption in favour of sustainable development. In Paragraph 17 it sets out 12 core planning principles that should underpin both plan-making and decision-taking. Of particular relevance here is the fourth principle, which advises that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

City of York Council Development Control Local Plan

4.4 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF. Policy CYH7 states that residential extensions will be permitted where (i) the design and materials are sympathetic to the main dwelling and the locality (ii) the design and scale are appropriate to the main building (iii) there is no adverse effect upon the amenities of neighbours.

4.5 Policy CYGP1 requires development to respect or enhance the local environment, be of a design that is compatible with the character of the area and neighbouring buildings, protect private, individual or community amenity space and ensure residents are not unduly affected by overlooking, overshadowing or dominated by overbearing structures.

4.6 Policy CYH8: Conversions sets out the criteria by which conversions of houses to HMO's should be assessed. On this basis planning permission will only be granted for the conversion of a house to a HMO where:

- the dwelling is of sufficient size (min 4 bedrooms) and the internal layout is shown to be suitable for the proposed number of households or occupants and will protect residential amenity for future residents;
- external alterations would not harm the appearance of the area;
- adequate on and off road parking and cycle parking is incorporated;
- it would not create an adverse impact on neighbouring amenity through noise disturbance or residential character by virtue of the conversion alone or cumulatively with a concentration of such uses;
- adequate provision is made for the storage and collection of refuse and recycling

City of York Council Supplementary Planning Document (SPD) for House Extensions and Alterations

4.7 The Council has a Supplementary Planning Document (SPD) for House Extensions and Alterations and was approved on December 2012 and Amended 2014. The SPD offers overarching general advice relating to such issues as privacy and general amenity as well as advice which is specific to the design and size of particular types of extensions or alterations. Paragraph 3.4 advises that balconies will only normally be acceptable where they overlook public or communal areas or areas of neighbouring gardens that are not typically used for sitting out or already have a low level of privacy. In some instances sensitively designed balcony screens can help retain adequate levels of privacy.

4.8 Paragraph 7.1 advises that a basic principle is that any extension should normally be in keeping with the appearance, scale, design and character of both the existing dwelling and the street scene generally. In particular, care should be taken to ensure that the proposal does not dominate the house or clash with its appearance.

City of York Council Draft Supplementary Planning Document: Controlling the Concentration of Houses in Multiple Occupancy

4.9 Draft Supplementary Planning Document (SPD): Controlling the Concentration of Houses in Multiple Occupancy was approved by cabinet on 15 April 2012 (Amended 2014). This Guidance was prepared in connection with an Article 4 Direction which the Council made in respect of houses within the defined urban area. It has the effect of bringing the change of use of dwellings to small HMO's, which would otherwise be permitted development, within planning control.

4.10 Paragraph 5.7 of the SPD advises that applications for change of use from dwellings to HMO's will only be permitted where:

- a) The property is in a neighbourhood area where less than 20% of properties are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent and are known to the Council to be HMOs; and
- b) Less than 10% of properties within 100 metres of street length either side of the application property are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent and are known to the Council to be HMOs; and
- c) The accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.

4.11 Paragraph 5.17 advises that in assessing planning applications for HMOs the Council will seek to ensure that the change of use will not be detrimental to the overall residential amenity of the area. In considering the impact on residential amenity attention will be given to whether the applicant has demonstrated the following:

- the dwelling is large enough to accommodate an increased number of residents;
- there is sufficient space for potential additional cars to park;
- there is sufficient space for appropriate provision for secure cycle parking;
- the condition of the property is of a high standard that contributes positively to the character of the area and that the condition of the property will be maintained following the change of use to HMO;

- the increase in number of residents will not have an adverse impact on noise levels and the level of amenity neighbouring residents can reasonably expect to enjoy
- there is sufficient space for storage provision for waste/recycling containers in a suitable enclosure area within the curtilage of the property; and
- the change of use and increase in number of residents will not result in the loss of front garden for hard standing for parking and refuse areas which would detract from the existing street scene

ASSESSMENT

Proposals

4.12 As originally submitted the application involved the creation of a 6 bed HMO and included cycle parking in the front garden. The property already has a 4m long single storey mono-pitch rear extension that stretches the full width of the house. The plans included a single storey mono-pitch roof side extension projecting 4m to the rear and set back 0.7m from the front elevation; this would have provided 2 additional bedrooms. The side and rear dormers would help provide an additional bedroom in the roofspace.

4.13 The plans have been revised and the scheme is now for a 5 bed HMO; this reduction being achieved by the front part of the proposed side extension being used to provide bin and cycle storage space. The cycle parking has been removed from the front curtilage, which is now proposed to have a permeable surface provided to enable 2 cars to be parked.

Principle of Use

4.14 Development Control Local Plan Policy H8 requires that a dwelling has a minimum of 4 bedrooms if it is to be considered acceptable for change of use to an HMO. However, had the Article 4 Directive not been made, this proposal would have constituted permitted development. Given that the purpose of the Directive was to control concentrations of houses in multiple occupation and protect family housing, the requirement of the Policy for a minimum of 4 bedrooms is not considered to be a material consideration in the appraisal of this proposal.

4.15 One of the principle aims of the Council's SPD is to avoid situations where existing communities become unbalanced by an overconcentration of HMO's within a particular street or the wider area. Paragraph 5.2 of the SPD states a 'threshold based policy approach' is considered most appropriate method for controlling the number of HMO's across the City, as this tackles concentrations and identifies a 'tipping point' when issues arising from concentrations of HMO's become harder to manage and a community or locality can be said to tip from balanced to unbalanced.

4.16 In this respect, Paragraph 5.2 of the SPD states a 'threshold based policy approach' is considered most appropriate method for controlling the number of HMO's across the City, as this tackles concentrations and identifies a 'tipping point' when issues arising from concentrations of HMO's become harder to manage and a community or locality can be said to tip from balanced to unbalanced.

4.17 Within 100m (street level) of 31 Malvern Avenue there are currently 0 known HMO out of 44 properties; ie. 0%. At the neighbourhood level there are currently 4 known HMOs out of 769 properties; ie. 0.52%. The current street and neighbourhood HMO levels are therefore well below the thresholds established by the SPD and, in view of the Council's own policy, it is not considered that it could be argued that approval of the application would lead to the creation of an unbalanced community.

4.18 Consideration of the scheme, however, still leaves a requirement, under Local Plan Policy and the SPD, to avoid adverse impact on neighbouring amenity through noise disturbance or residential character by virtue of the conversion alone or cumulatively with a concentration of such uses.

4.19 With regard to car parking, the Council's parking standards can require up to 3 parking spaces for a 5 bed HMO. However, this is a maximum requirement and each development proposal is to be assessed downwards from this standard, allowing for variations depending on the individual characteristics of each site. The applicants have provided a plan which shows that 2 parking spaces would be provided within the front curtilage; part of the front boundary wall would be removed to facilitate access.

4.20 In view of the fact that the Council's car parking standard is a maximum and the applicants would be providing 1 cycle space for each bedroom, in line with the Council's sustainable transport initiatives, it is not considered that there are grounds to refuse the application on car parking provision. Although the SPD advises against the loss of front garden for hard standing for parking, this work could be undertaken without planning consent and it is a provision that other properties in the street have made. In the light of this it is not considered that the application could be refused on this ground.

4.21 In terms of other requirements of Policy CYH8 and the SPD:

- it is not considered that the proposed external alterations (ie. side extension) would harm the appearance of the area
- the proposed plans have been revised to provide sufficient bin and secure cycle storage for 5 bikes within the proposed side extension.
- the application property appears to be well maintained and internal layout and room size are considered to be acceptable

4.22 In view of the above it is not considered that the proposal would have an adverse impact on neighbouring amenity.

Extensions

4.23 The single storey side extension is 2.3m to eaves and 3.3m high where the mono-pitch roof adjoins the house. It is set back 0.7m from the front elevation and it is not considered that it will have a significant impact on the townscape. The latest plans show that the guttering will not overhang no.33.

4.24 The adjacent property, no.33, sits on land circa 0.5m higher than no.31 and it has a two storey side extension that abuts the boundary with the application property. At the rear of this is a covered side passage (open on this side with no.31) that leads out to the rear garden. The proposed side extension would overlap this side passageway by circa 1.5m and although it would reduce light to this area it would not affect any windows to habitable rooms within no.33. The proposed side extension would not be visible from no.29 due to the existing rear extension to no.31.

4.25 The proposed rear dormer is lower than the ridge and set back more than 200mm from the eaves so, although it is quite large, it could be erected under permitted development rights. Similarly the side dormer, which has an obscure glazed side window, could also be erected under permitted development rights.

5.0 CONCLUSION

5.1 It is considered that the proposal complies with national guidance in the NPPF, Development Control Local Plan Policies and the City of York Council's Supplementary Planning Document (Controlling the Concentration of Houses in Multiple Occupancy).

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plan and other submitted details

CAL010217/04F, 05F and 06F

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority

3 HMO1 HMO condition 1

Application Reference Number: 17/01247/FUL

Item No: 4e

4 Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), the side extension store room hereby approved shall be retained for cycle and bins storage use only, for as long as the property is used as an HMO.

Reason: To ensure that the site retains adequate facilities for storage and parking

5 VISQ1 Matching materials

6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), unless otherwise agreed in writing with the Local Planning Authority the side dormer windows in the roof slope facing no.33 Malvern Avenue shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above.

Reason: In the interests of the amenities of occupants of the adjacent residential property.

7.0 INFORMATIVES: Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Revised cycle/car parking and bins storage details were secured.

Account has been taken of all relevant national guidance and local policies and with the attachment of conditions the proposal is considered to be satisfactory

Contact details:

Author: David Johnson, Development Management Assistant

Tel No: (01904) 551665