

## COMMITTEE REPORT

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

**Reference:** 17/00343/FUL  
**Application at:** 64 Newland Park Drive York YO10 3HP  
**For:** Change of use from dwelling (Use class C3) to a 6 bed House in Multiple Occupation (Use Class C4)  
**By:** Mrs Fereshteh Hurst  
**Application Type:** Full Application  
**Target Date:** 8 May 2017  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 This application seeks planning permission to change No.64 Newland Park Drive, from its existing use as a dwelling (Use Class C3) to a small house in multiple occupation (HMO) (6 bedrooms) within Use Class C4.

1.2 The application was originally submitted for the change of use to a large house in multiple occupation. However bedroom No.5 has now been omitted from the proposal because of its size and will now be used as a store room. The application property now consists of an entrance hall, lounge, kitchen, dining room/kitchen, shower room and 3.no bedrooms at ground floor and; 3.no bedrooms; a shower room; a bath room; and store room at first floor. There is a carport (accessed through gates) and a rear garden.

#### Relevant Property History

1.3 Application Ref. 13/00902/FUL - Single storey side and rear extension forming a 'Granny Annexe.' - Approved 12.06.2013. Condition 4.of this consent stated: 'The proposed additional accommodation shall only be occupied and used in conjunction with the occupancy of the existing main dwelling, and shall not be used as an independent residential unit.'

1.4 Application Ref. 16/01416/CLU - Certificate of lawfulness for use as a House in Multiple Occupation (use Class C4) - Withdrawn - 06.02.2017.

#### Call-in

1.5 The application was called in for determination by sub-committee at the request of Cllr N Barnes because of the planning history of the site and the level of public interest.

## **2.0 POLICY CONTEXT**

2.1 Policies: CYH8 Conversion to flats/HMO/student accom

## **3.0 CONSULTATIONS**

### INTERNAL

#### Planning and Environmental Management (Forward Planning)

3.1 Within the street level area 21% of houses are currently in multiple occupation. Within the wider neighbourhood area, 47 % of properties are currently in multiple occupation. Therefore both the street level threshold of 10% and the neighbourhood level of 20% have already been breached and a further change to an HMO is unlikely to be acceptable.

### EXTERNAL

#### Neighbour Notification / Publicity

3.2 Fifteen letters of objection received - summarised below.

- Owner has flaunted the rules regarding the 'granny annexe' which has been advertised for separate occupation
- Threshold limits for HMO's already breached
- Problems with rubbish, re-cycling, noise, anti-social behaviour
- Why has it been allowed to operate in multiple occupation, when no consent was ever granted
- Property has been marketed as a (5.no bedroom) HMO
- Newland Park Drive already saturated with student accommodation
- Parking problems
- Reduction in the number of bedrooms does not affect original objections
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## **4.0 APPRAISAL**

### 4.1 KEY ISSUES

- Principle of development
- Impact on the amenities of local residents
- Impact on the character and appearance of the area
- Amenity of future occupants of the property

4.2 The National Planning Policy Framework (2012) states that Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities (paragraph 50). Paragraph 17 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

4.3 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.

4.4 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.

4.5 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 Draft Supplementary Planning Document: Controlling the Concentration of Houses in Multiple Occupancy

4.6 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.

4.7 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.

4.8 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

#### Principle of development

4.9 The principal aim 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.

4.10 As noted in paragraph 3.1 above, the number of shared houses in the immediate area of the application site is significantly above the threshold set out in the SPD, with 47% of properties in the neighbourhood area being shared houses (threshold 20%), and within 100m of the property 21% are shared houses (threshold 10%). The proposal therefore breaches this aspect of the SPD.

4.11 Records indicate that the property has been subject to student exemption for Council Tax since October 2011. Tenancy agreements submitted with the withdrawn Certificate of Lawfulness application indicate that the use has 5 residents, but that when the annexe was built (2013) the property (house and annexe) operated with up to 7 occupants. Visits to the premises by planning enforcement officers confirm this use. The Article 4 Direction, removing permitted development rights for changes of use from class C3 dwellinghouses to class C4 HMOs, came into force in April 2012.

4.12 The evidence shows that the use of the property was changed to a house in multiple occupation prior to the Article 4 Direction and that an HMO use has existed at the property since. The proposed use is the same as the lawful use that existed in April 2012, it is considered that the impact of the application would be neutral as it would not intensify the number of properties in multiple occupation in the street or neighbourhood area.

#### Impact on the amenities of local residents and the character of the area

4.13 There is nothing inherent in the proposal that will result in any significant loss of neighbour amenity. However, it is recognised that occupation as an HMO can have a different dynamic to that of a dwellinghouse occupied under class C3. The thresholds applied in the SPD aim to limit concentrations of HMOs that could lead to harmful changes in the character of residential areas. In terms of adjacent residents (and particularly the concerns raised in the 14.no letters of objection) it is considered that the implementation of a management plan should be required by condition on any planning approval. The management plan would relate to maintenance of external areas, refuse and re-cycling collections, property maintenance and any other relevant issues.

4.14 It is recognised that the 'granny annexe' had been advertised as a separate residential unit, though it is not clear that it has been let as such. The removal of what had been 'bedroom 5' lessens the intensity of the use.

4.15 The Council's maximum car parking standards within the draft 2005 local plan are for 3 parking spaces to be provided for a 6 bed HMO. This compares with 2 spaces for a class C3 dwellinghouse. There is 1.no off-road parking space on the front

driveway. There are no parking restrictions on Newland Park Drive. The car port does not meet highway standards, in terms of its internal dimensions, although it is currently used as a bin store. As there is no external access to the rear garden it is recommended that the use of the car port area is secured for bin and cycle storage by planning condition.

### Amenity of Future Occupants

4.16 The application property now consists of an entrance hall, lounge, kitchen, dining room/kitchen, shower room and 3.no bedrooms at ground floor and; 3.no bedrooms; a shower room; a bath room; and store room at first floor. There is a carport (accessed through gates) and a rear garden. The car port can be used for bin and secure cycle storage subject to conditions. The internal layout and room size are considered to be acceptable and the property is considered to be large enough for a 6 bedroom HMO operation.

## **5.0 CONCLUSION**

5.1 The application site was in use as an HMO prior to the making of the April 2012 Article 4 Direction which brought changes of use from a C3 dwellinghouse to a C4 HMO within planning control. The HMO use has existed since October 2011 at which time it was occupied by 5 residents. The construction of the annexe in 2013 increased the number of bedrooms at the property to 7. This change to the number of residents meant that the 2016 Certificate of Lawful Use application could not be granted in its submitted form, however it is clear that an HMO use has existed at the property since before the Article 4 Direction.

5.2 The removal of a letting bedroom from the proposal means that this application seeks permission for a 6 bedroom HMO within the C4 use class. It is acknowledged that the thresholds in the SPD are significantly exceeded at both street and neighbourhood level. However, given that this use class is the same as the lawful use that existed in April 2012 it is considered that the impact of the application would be neutral as it would not intensify the number of properties in multiple occupation.

5.3 The application is considered to comply with the relevant provisions of the NPPF the guidance contained within the 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 plans:-

Revised ground floor / first floor plans - received 21st July 2017.

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

3 Prior to the development hereby approved being brought into operation, a management plan shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority. The Management plan shall relate to the following areas:

- i) Information and advice to occupants about noise and consideration to neighbours
- ii) Garden maintenance
- iii) Refuse and recycling facilities
- iv) Property maintenance

Reason: In the interests of the proper management of the property and the amenity of adjacent residents.

4. Within one month of the date of this planning permission details of secure cycle parking for 6 cycles within the car port shall be submitted to the local planning authority for written approval. The cycle parking shall be provided in accordance with the approved details within one month of their approval and the cycle parking shall not be subsequently removed or altered without the prior written planning permission of the local planning authority.

Reason: To promote the use of cycles in the interest of sustainable transport thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

5 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) the car port shall not be externally altered (with the exception of replacement gates) or converted into habitable accommodation without the prior written planning permission of the local planning authority.

Reason: Conversion of the car port would result in the loss of bin and cycle storage facilities to the detriment of the appearance of the street scene and to the detriment of the promotion of sustainable transport.

## **7.0 INFORMATIVES:**

### **Contact details:**

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