

COMMITTEE REPORT

Date: 3 September 2015 **Ward:** Dringhouses and Woodthorpe
Team: Householder and Small Scale Team **Parish:** Dringhouses/Woodthorpe Planning Panel

Reference: 15/01410/FUL
Application at: 8 Leven Road York YO24 2TJ
For: Change of use from dwelling (use class C3) to House in Multiple Occupation (use class C4)
By: Mr Htoon Aung
Application Type: Full Application
Target Date: 25 August 2015
Recommendation: Approve

1.0 PROPOSAL

1.1 The application property is a 3 bedroom semi-detached dwellinghouse. It is located in a predominantly residential area consisting primarily of semi-detached properties. It has a small front curtilage in which there is space to park a car off the road (6m long) and an 11m long by circa 9m wide back garden. There is a detached garage in the rear garden and a drive at the side of the house, however a gate and fence between the side of the house and the side boundary actually prevents vehicular access to the garage.

1.2 This application seeks permission for a change of use from a three bedroom dwellinghouse (Use Class C3) to a four bedroom House in Multiple Occupation (HMO) (Use Class C4).

1.3 The application has been called-in for determination by Sub-Committee at the request of Cllr Fenton because of possible issues of anti-social behaviour.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001
DC Area Teams GMS Constraints: West Area 0004

2.2 Policies:

CYH8 - Conversion to flats/HMO/student accom

3.0 CONSULTATIONS

INTERNAL

Planning and Environmental Management

3.1 As stated in the Draft HMO Supplementary Planning Document (SPD), thresholds of 20% of all properties being HMOs across a neighbourhood and 10% at street level have been established as the point at which the mix a community can tip from being considered as balanced to unbalanced. Within 100m of 8 Leven Road, York, YO24 2TJ, there are currently 3 known HMOs out of 36 properties, 8.33%. At the neighbourhood level there are currently 9 known HMOs out of 736 properties, equating to 1.22%.

3.2 Although the HMO SPD does not have development plan status, it can be afforded significant weight as a material planning consideration in the determination of planning applications. The SPD remains a draft until such time as there is an adopted plan in York.

EXTERNAL

Dringhouses/Woodthorpe Planning Panel

3.3 Object on following grounds - the internal layout conflicts with the guidance on room size for HMO's, specifically Room 3 (a bedroom) is less than 6.5 square metres in floor area. In addition there are concerns regarding the safety and visual impact of each of the four occupants having a motor vehicle to park on or near the property. There are concerns that such a change of use will form a pattern and have a negative impact on the character of the local area and concerns if the property was to be occupied by students in term time only there would be a loss in council tax revenue.

Publicity and Neighbour Notifications

3.4 Representations have been received from the occupants of 4 nearby properties, making the following objections:

- Sharp increase in HMO's in the street and short term tenants cause problems including noise from garden, playing football in street and door slamming. Several people already go in and out of the property at a weekend and house is used as a 'party location'.
- Concerned at the implications of 4 residents sharing one parking space. Most tenants have cars causing access problems, this proposal will worsen the situation. Landlords should pay to have grass verges removed or to have the Green at the end of Leven Road made into a car park.

- Change from house to HMO will cause extra strain on services (e.g. gas, sewage)

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 HMOs in a single location.
- Whether the accommodation is of an appropriate standard and whether the use would impact adversely on local residents.

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the overarching roles for the planning system. In Paragraph 14 it advises that there is a presumption in favour of sustainable development at the heart of the Framework, which should be seen as a golden thread running through both plan-making and decision-taking.

4.3 Paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 50 states that in order to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities the local planning authority should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

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 NPPF.

4.5 Development Control Local Plan 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

4.6 Draft Supplementary Planning Document (SPD): Controlling the Concentration of Houses in Multiple Occupancy was approved by cabinet on 15 April 2012. This Guidance has been 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 (Class C3) to small HMO's occupied by between 3 and 6 people (Class C4), 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 of the SPD 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

APPRAISAL

Background

4.9 As background to the consideration of this application it should be noted that the property is already operating as an HMO. The applicant has advised that he bought the property in 2014 and started using it as an HMO in July of that year. He did not realise that planning permission was required but states as soon as he became aware he submitted a planning application for the use.

4.10 The property currently has 3 bedrooms and a bathroom on the first floor and a lounge, dining room, kitchen/breakfast room and entrance hall on the ground floor. The proposed plan shows the first floor layout would remain as existing. On the ground floor the lounge would be used as a bedroom and the dining room would become a lounge/dining area.

Evaluation

4.11 The main aim of the Council's SPD is to avoid situations where existing communities become unbalanced by an overconcentration of HMOs 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.

4.12 Within 100m of 8 Leven Road, there are currently 3 known HMOs out of 36 properties (i.e. 8.33%). At the neighbourhood level there are currently 9 known HMOs out of 736 properties (i.e. 1.22%). In this respect, although local residents concerns about the number of HMO's in the street, the current street and neighbourhood levels are below the thresholds established by the SPD and, in respect of the latter, considerably below. Therefore in view of the Council's own policy, it is not considered that there are grounds to refuse the application on the basis that it would create an unbalanced community.

4.13 If this application was approved the percentage of HMOs at street level would be 11.11%. However, the SPD guidance for assessing thresholds relates to the percentages appertaining at the time a planning application is submitted, rather than what would result from implementation of an HMO approval.

It should also be noted that recent appeal decisions have advised that the numerical thresholds in the SPD should be applied with a degree of flexibility. In view of this, even if the SPD used the HMO percentage following implementation to assess compliance with the guidance, it is considered that the grounds for refusal in the case of 8 Leven Road would not be strong due to the low level of breach in the street percentage that would occur (i.e. only 1.11% above the threshold) and the fact that the neighbourhood percentage following implementation (i.e. total of 1.35%) would be considerably below the prescribed threshold.

4.14 There remains, however, a need to assess what impact the proposal would have on residential character and amenity in the light of the parameters outlined in the SPD and Local Plan. In this respect, no external alterations are proposed, and there is adequate provision in the rear garden and garage for cycle parking and refuse storage. Residents have complained about on street parking problems but there is the potential to park a car off street at the application property and the level of parking on the street has not reached a level whereby the Council has sought to introduce a Respark scheme. It is not therefore considered that the proposed change of use could be resisted on car parking grounds.

4.15 Objections made by local residents include the adverse impact of weekend comings and goings at the property, being woken up in the early hours, the playing of football in the street and the slamming of doors. The SPD does state that a change of use to an HMO should not create an adverse impact on neighbouring amenity through noise disturbance. However, this issue relates to impact on residential amenity that would be created via comings and goings to the property; it does not relate to the activities of the occupants within the property or its curtilage.

4.16 In this respect, although a resident refers to 'weekend activity' that has already occurred at the property it is not considered that there are grounds to refuse the application on the basis of the impacts of comings and goings associated with a 4 bedroom HMO. However, it is considered that if the application is approved, a condition should be attached to the consent requiring the approval and implementation of a management plan, relating to minimising noise disturbance, the maintenance of external areas and refuse and re-cycling collections, to help mitigate the impact of activities at the property upon the amenities of local residents.

4.17 In respect of other requirements within the Local Plan, the building appears to be well maintained, the internal layout and room size are considered to be acceptable and the property is considered to be large enough for a 4 bedroom HMO operation. There are no Council guidelines on room sizes for HMOs, furthermore the room referred to by the Planning Panel is already used as a bedroom and was originally proposed for this purpose as part of the original design of the dwelling.

4.18 In respect of the Local Plan policy requirement that a property has a minimum of 4 bedrooms if conversion of a house to an HMO is to be granted, it is considered that this aspect of the policy is no longer appropriate as the policy was written at a time when the small HMO use class (3-6 residents) did not exist. At that time an HMO was defined as a property containing 7 or more unrelated people living together and it was generally thought that a property needed to be fairly large to accommodate the amount of people that could occupy it.

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). It is therefore considered that planning permission should be granted.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 Within one month of the date of this decision notice a management plan shall be submitted to the Local Planning Authority for written approval. The management plan shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority. The Management plan shall relate to the following areas:

- Information and advice to occupants, including minimising noise and disturbance for neighbours
- Refuse and recycling facilities
- Property maintenance
- Secure cycle storage

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

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) and having taken account of all relevant national guidance and local policies, considers the proposal to be satisfactory.

For this reason, no amendments were sought during the processing of the application, and it was not necessary to work with the applicant/agent in order to achieve a positive outcome

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