

COMMITTEE REPORT

Date: 17 October 2024 **Ward:** Fishergate
Team: East Area **Parish:** Fishergate Planning Panel

Reference: 24/01242/FUL
Application at: 34 Fulford Place Hospital Fields Road York YO10 4FE
For: Change of use from residential apartment (Use Class C3) to House in Multiple Occupation (Use Class C4)
By: Mrs Adams
Application Type: Full Application
Target Date: 18 October 2024
Recommendation: Approve

1.0 PROPOSAL

1.1 This application seeks permission for change of use from a residential dwelling (Use Class C3) to a House in Multiple Occupation (Use Class C4) at 34 Fulford Place, Hospital Fields Road. The host is a third floor apartment, positioned within the wider complex of Fulford Place, within the Fishergate ward of the city.

Ward Councillor Call-in

1.2 The application was called-in to Planning Committee by Councillor Whitcroft, on the grounds of local resident concern, including the change in character to the complex of apartments, increase in parking, issues of waste management, and negative impact on the permanent and long-term residents of Fulford Place.

2.0 POLICY CONTEXT

National Planning Policy Framework (NPPF)

2.1 The National Planning Policy Framework, December 2023 (NPPF) sets out the Government's overarching planning policies and at its heart is a presumption in favour of sustainable development. The NPPF forms a material consideration in planning decisions.

2.2 Paragraph 135 of the NPPF states that planning policies and decisions should ensure that developments will achieve a number of aims, including creating places that are safe, inclusive and accessible and promote health and well-being with a high standard of amenity for existing and future users.

Draft Local Plan 2018

2.3 The Draft Local Plan 2018 (DLP 2018) was submitted for examination on 25 May 2018. The examination is still ongoing. Proposed modifications in respect of Policy H5 Gypsies and Travellers have been subject to consultation. . The DLP 2018 policies can be afforded weight in accordance with paragraph 48 of the NPPF. The draft policies of relevance to the determination of this application are:

- H8 - Houses in Multiple Occupation
- T1 - Sustainable Access

2.4 Policy H8 (Houses in Multiple Occupation) of the DLP 2018 states that applications for the change of use from dwelling house (Use Class C3) to HMO (Use Class C4 and Sui Generis) will only be permitted where:

- a) it 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 or 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 permission or 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.

2.5 Policy H8 of the DLP 2018 further states 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 streetscene.

This policy is not subject to modifications but is subject to some objection and therefore carries moderate weight.

2.6 Policy T1 (Sustainable Access) of the DLP 2018 advises that development will be supported where it minimises the need to travel and provides safe, suitable and attractive access for all transport users to and within it, including those with impaired mobility, such that it maximises the use of more sustainable modes of transport, and they provide sufficient convenient, secure and covered cycle storage.

Draft Supplementary Planning Document (SPD): "Controlling the Concentration of Houses in Multiple Occupancy."

2.7 In 2012, the Council adopted a Draft Supplementary Planning Document (SPD): "Controlling the Concentration of Houses in Multiple Occupancy". This SPD was updated in 2014. This Guidance was prepared in connection with an Article 4 Direction which the Council made in respect of the defined urban area bringing the change of use of dwellings to small HMOs within planning control. The SPD is helpful in that it identifies the problems that can arise with HMOs and outlines the issues that need to be addressed to help mitigate the potential adverse impacts. The SPD at paragraph 5.15 recognises that concentrations of HMOs can impact upon residential amenity and can, in some cases, create particular issues with regard to:

- increased levels of crime and the fear of crime;
- poorer standards of property maintenance and repair;
- littering and accumulation of rubbish;
- noises between dwellings at all times and especially at night;
- decreased demand for some local services;
- increased parking pressures; and
- lack of community integration and less commitment to maintain the quality of the local environment.

3.0 CONSULTATIONS

INTERNAL

Forward Planning

3.1 Street Level: currently there are 8 HMOs out of 91 properties = 8.8% (with 34 Fulford Place included as an HMO, 9.9% of properties within 100m buffer would be HMOs). Neighbourhood level: currently 107 HMOs out of 1226 properties = 8.73% (with 34 Fulford Place included as an HMO, 8.81% of properties within the neighbourhood would be HMOs).

EXTERNAL

Fishergate Planning Panel

3.2 No response received.

4.0 REPRESENTATIONS

4.1 Neighbour Consultation - Nine representations of objection were received, in which the following concerns were raised:

- The works would alter the character of the neighbourhood, due to transiency of tenants, within an area currently exclusively of family homes.
- Increased levels of noise, waste, and parking congestion.
- Detrimental impact to property values.
- Potential for inadequate management of the HMO.
- Approval of the application would set a precedent for similar works in the future.
- An HMO would put additional pressure on local services, including waste collection, emergency services, and public amenities.
- The proposal would contravene leaseholder agreements in place which restrict uses within the complex beyond those other than a whole private residence, including boarding or lodging.

5.0 APPRAISAL

KEY ISSUES:

Principle of the Development;
Amenity for Future Occupants;
Vehicle Parking;
Impact on Neighbouring Amenity;
Other Matters.

ASSESSMENT:

The Application Property

5.1 No.34 Fulford Place is a two-bed third floor apartment located within a wider complex of residences, positioned adjacent to Fulford Road and Hospital Fields Road. Parking for the properties is accessed from Hospital Fields Road, with designated parking allocations for each apartment, and a number of communal bin and cycle stores across the site.

5.2 The application seeks consent for change of use from a residential dwelling (Use Class C3) to a House in Multiple Occupation (Use Class C4). The proposed internal layout would consist of an entrance hall, shared kitchen and lounge, and 3no. bedrooms, and 2no. bathrooms (one of which is an en-suite). The resulting number of bedrooms would be 3no., following formation of an additional bedroom through subdivision of the existing living space.

Principle of the Development

5.3 Whilst the Supplementary Planning Document does not contain specific room size guidance, the standard of HMO accommodation is a material consideration in the determination of this planning application, taking into account NPPF advice on design and requirement to provide a high standard of amenity.

5.4 The standard of accommodation to the property provides three bedrooms over a single storey, with shared access to 1no. bathroom, alongside an additional en-suite bathroom available to one of the bedrooms. In addition, there is an entrance hall, which provides access to a kitchen living space. The internal rooms illustrated on the submitted plans all meet the room space standards for a licensed HMO, set at 6.51m² for an HMO room used for sleeping accommodation by a single occupant. Thus, it is considered that the proposal would provide satisfactory accommodation for the occupants residing at the dwellinghouse.

5.5 Policy H8 and the SPD states that applications for the change of use from dwelling house to HMO will only be permitted where less than 20% of properties at neighbourhood level and less than 10% of properties at street level are known to be HMOs. Neither the street nor neighbourhood level thresholds are currently exceeded in respect of this application. The database figures comprise up to date details provided by housing, council tax records and planning records.

Amenity for Future Occupants

5.6 From the information provided it would appear that the dwelling would provide an acceptable level of accommodation for 3no. individuals, providing shared accommodation to comprise a suitably sized communal area including kitchen and lounge areas. In terms of external amenity space, the HMO would have access to the areas of communal grounds within Fulford Place, and is also in relatively close proximity to the River Ouse and Rowntree Park to the west. External bin storage is served by several communal blocks within the grounds. Both the internal and

external layout is subsequently viewed adequate to meet the needs of 3no. future tenants, in compliance with policy H8 of the DLP 2018.

Vehicle Parking

5.7 With respect to a dwelling's HMO use, the lifestyle, activities and work patterns of the occupants are separate and sometimes very different to those of a small family who tend to have more of a routine of times spent together/joint trips etc. It is important that sufficient parking for cars and bicycles are provided at the property. The council's car parking standards set out in Appendix E of the 2005 Development Control Local Plan are out of date and not in accordance with the NPPF. However, used as a guideline, appendix E states that HMOs should ordinarily provide a minimum of 1no. car parking spaces per 2no. bedrooms. Paragraph 115 of the NPPF states development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

5.8 This application demonstrates provision of 1no. parking space between its 3no. prospective occupants, being a designated space within the overall complex. This remains unchanged versus its existing arrangement as a two-bed dwelling. The property is located within good reach of regular public transport links and within reasonable walking or bicycling times to day-to-day amenities within York city centre. Given the proposed use it is considered that provision of 1no. parking space in this particular location is acceptable and would not lead to undue harm, particularly so given the prospective scale of this HMO for 3no. occupants, being unlikely to result in any undue strain to parking within the complex, due to the formal assigning of spaces for each unit of accommodation, which occupants should adhere to. There are streets without parking restrictions in the adjacent industrial estate, although these are noted as particular busy areas, particularly during weekday working hours, although may serve any addition intermittent need without additional strain upon adjacent occupiers. In any case, it is anticipated, by virtue of the sustainable location within the city, that prospective tenants may not own a car.

5.9 In terms of deliveries and visitors, the property may be subject to additional parking from time to time, but this is not considered to be significantly higher or any more intense than if the property were retained as a single dwelling. Provision of parking for visitor is seen to be available on-site in the same manner as existing, which would likely be used in much the same fashion as within a C3 residential use class.

5.10 Policy H8 of the DLP 2018 states that Planning Permission will only be granted where adequate cycle parking is incorporated. In the instance of this proposal, this would be accommodated for within several secure communal facilities within the site's grounds, in the same manner as the existing apartment. Clarification from the

agent sets out that the stores do not allocate specific spaces for each apartment, with space available subject to overall demand.

5.11 On this basis, on-street provision is considered an acceptable arrangement within this particular context and proposal and would not result in an unacceptable impact on highway safety or severe cumulative impact on the road network, therefore in compliance with paragraph 115 of the NPPF.

Impact on Neighbouring Amenity

5.12 Policy H8 of the DLP 2018 seeks to ensure that in assessing planning applications for HMOs, the change of use will not be detrimental to the overall residential amenity of the area, in particular through ensuring the accommodation provided is of a high standard which does not detrimentally impact upon residential amenity and ensuring 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.

5.13 Given that the proposal is compliant with all the relevant national and local policies, notably in relation to the existing density of HMOs at street and neighbourhood level, there is nothing inherent in the scheme with respect to the change of use that is considered to result in significant harm to the amenity of neighbours beyond its existing use as a singular residence. Acknowledged is the circumstance of the proposal's position within a complex of apartments, and thus the HMO would be in generally close proximity to a larger number of neighbours, with some shared amenity areas, services and functions. However, the scale in this instance, with 3no. bedrooms, is not considered to amount to any significant intensification of use likely to result in a significant change in the apartment's use beyond the general character of the wider complex, which already is likely to experience frequent and variable comings and goings. An HMO use, in light of its adherence with existing street and neighbourhood densities, is therefore not viewed to be inherently incompatible with the wider C3 uses of the other apartments.

5.14 The management plan submitted with this application will be conditioned to this consent in seeking to address issues which can arise as a result of multiple occupancy. This sets out landlord expectations of prospective tenants particularly in relation to noise and the management of refuse and recycling.

Other Matters

5.15 Concerns raised in association to the prospective use's contravention of leaseholder agreements and property values are not material planning considerations.

6.0 CONCLUSION

6.1 The application property is considered to be appropriate for the needs of future occupants as a 3no. bedroom HMO, with provision for parking and secure cycle storage acceptable within this context. The existing density levels of current HMOs is below the policy threshold (at both Street Level and Neighbourhood Level). The works will respect the general character of the building and area and the impact on the amenity of neighbouring residents would be acceptable. It is considered that the proposal complies with national planning guidance, as contained in the National Planning Policy Framework, City of York Council Draft Local Plan 2018, and the requirements of the City of York Council's Supplementary Planning Document: Controlling the Concentration of Houses in Multiple Occupancy.

7.0 RECOMMENDATION: Approve

1 The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following plans:-

Site & Floor Plans - Dwg. No: 786.001, dated 08.07.2024.

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

3 The submitted management plan titled '34 FULFORD PLACE - MANAGEMENT PLAN', received by the Local Planning Authority on 08.07.2024, shall be implemented as approved unless otherwise approved in writing by the Local Planning Authority.

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

4 Notwithstanding the provisions of the Town and Country Planning (Use Classes Order) 1987 (as amended), there shall be no more than 3no. tenants of the proposed House in Multiple Occupation at any one time.

Reason: In the interests of the amenities of future tenants and those of the occupants of neighbouring properties, the Local Planning Authority considers that it should be able to assess the impact of any proposed intensification of the multiple

occupancy use which, without this condition, could be undertaken without any further consent being required.

8.0 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 (paragraph 38) 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.

2. Any house in multiple occupation within the City of York Council administrative area which has 5 or more tenants who make up more than one household, regardless of the number of storeys it has, must be licensed by City of York Council.

From 1st April 2023 any house in multiple occupation which has 3 or 4 tenants, who make up more than one household, must be licensed by City of York Council where the property is in one of the following eight wards.

1. Clifton
2. Fishergate
3. Fulford and Heslington
4. Guildhall
5. Heworth
6. Hull Road
7. Micklegate
8. Osbaldwick and Derwent

It is an offence not to license a house in multiple occupation which should be licensed. Landlords face prosecution or a Civil Penalty Notice of up to £30,000 for failing to license.

HMO licencing introduces controls over properties to ensure that they are suitable for occupation and regulates the size and use of rooms as sleeping accommodation, as well as requiring the licence holder to comply with the local authority scheme for providing facilities for the disposal and storage of domestic refuse. Please note that there are national minimum bedroom sizes for an HMO, these being 6.51m² for a single person and 10.22m² for a double room.

For more information on HMO's or to determine whether your property is in one of

the additional licensing areas please visit <https://www.york.gov.uk/HMOLicensing>

Contact details:

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