

## COMMITTEE REPORT

**Date:** 8 December 2021      **Ward:** Osbaldwick and Derwent

**Team:** East Area      **Parish:** Osbaldwick Parish Council

**Reference:** 21/01599/FUL

**Application at:** 19 Hambleton Avenue Osbaldwick York YO10 3PP

**For:** Change of use from single dwelling (C3 use) to House in Multiple Occupation (C4 use)

**By:** Mr Asim Poptani

**Application Type:** Full Application

**Target Date:** 15 December 2021

**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 This application seeks planning permission to change the use of No.19 Hambleton Avenue, Osbaldwick from a residential dwelling within use class C3 to a 3.no bedroom house in multiple occupation (HMO), within use class C4.

1.2 The property is a traditional semi-detached house. The proposed layout will be an entrance lobby, kitchen/dining room and bedroom at ground-floor; and 2.no bedrooms and a study at first-floor. The proposed study is currently a bedroom, but this does not meet housing standards in terms of size. External access to the rear is via a side gate and a timber shed could house the required number of 3.no bicycles.

1.3 The application has been called into committee by Cllr Mark Warters. The reasons given are as follows:

- Existing high density of HMO's in Hambleton Avenue and The Leyes
- Impact on neighbour amenity regarding highway safety
- Impact on neighbour amenity regarding waste disposal

### 2.0 POLICY CONTEXT

Publication Draft Local Plan 2018

CYH8 - Conversion to flats/HMO/student accommodation

Development Control Local Plan 2005

CYH8 Conversion to Flats

### **3.0 CONSULTATIONS**

Forward Planning

3.1 Within 100m (Street Level) of No.19 Hambleton Avenue, there are currently 5.no HMO's out of 58.no dwellings = 8.6% At Neighbourhood Level there are currently 99.no HMO's out of 1597.no dwellings (6.2%).

Note: No.19 Hambleton Avenue is already on the HMO database, but not included in the above figures.

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3.2 Letter of objection on the following grounds:

- CYC street levels likely to be breached
- Noise, disturbance
- Additional cars
- Rubbish

### **4.0 REPRESENTATIONS**

Neighbour Notification and Publicity

3.3 Four letters of objection and a 13 name petition were received. Objections raised were:

- Accuracy of the CYC Database questioned
- Poor refuse management
- Increased noise levels
- Car parking problems

### **5.0 APPRAISAL**

## KEY ISSUES

5.1 The key issues in assessing the proposal are:

- Whether the change would lead to an unacceptable concentration of HMO's in a single location and thereby impact adversely on neighbours.
- Parking provision

## POLICY CONTEXT

### National Planning Policy Framework

5.2 The National Planning Policy Framework sets out the Government's overarching planning policies and at its heart is a presumption in favour of sustainable development.

5.3 Paragraph 130 states that planning policies and decisions should ensure that developments will achieve a number of aims including that they create places that are safe and with a high standard of amenity for existing and future users.

### Local Plan Policies

#### Publication Draft Local Plan 2018

5.4 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF the Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

5.5 Policy H8 states that applications for the change of use from a dwelling house (Use Class C3) to HMO (Use Class C4 and Sui Generis) will only be permitted where:

- 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
- 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
- the accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.

5.6 The policy explanation 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.

Development Control Local Plan 2005 (DCLP)

5.7 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 very limited. It is considered that the following policies/criteria are relevant:

- Appendix E to the DCLP outlines cycle parking and maximum car standards for development and specifies that HMO's should provide 1 car parking space per 2 bedrooms and 1 cycle parking space per bedroom.
- Policy H8 sets out the criteria by which conversions of houses to HMO's should be assessed including the requirement for adequate car and cycle parking provision; there would be no adverse impact on neighbouring amenity by virtue of the conversion alone or cumulatively with a concentration of such uses.

Draft Supplementary Planning Document (SPD): Controlling the Concentration of Houses in Multiple Occupancy (2014)

5.8 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 (Class C3) to small HMO's occupied by between 3 and 6 people (Class C4), which would otherwise be permitted development, within planning control. In Paragraph 5.15 the SPD 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.

5.9 Paragraph 5.17 of the SPD outlines 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 that the

condition of the property is of a high standard that contributes positively to the character of the area and that 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.

5.10 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.

## ASSESSMENT

5.11 Under 2018 Local Plan Policy and the SPD, in consideration of a proposal to establish an HMO, there is a requirement 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. 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.

5.12 The proposal would result in 6 known HMOs out of 58 properties within 100m (street level) of the site - 10.3%. At the neighbourhood level there are currently 100 known HMOs out of 1597 properties – 6.3%. The marginal breach in the street level threshold is not considered to be material and as such, the proposed change of use to a HMO is unlikely to significantly affect the balance of the community or the stock of family sized dwellings. Local objections have been made regarding the concentration of HMOs. Whilst there is a grouping of HMOs close to the road

junction, neither the policy nor the SPD seek to impose controls beyond the street level and neighbourhood level outlined above, and it is not considered that there would be significant harm to amenity.

5.13 HMO properties are required to provide accommodation for non-family occupiers who also require accommodation throughout the city. By introducing the Article 4 Direction, it helps to balance York's housing market and ensure that communities are not unbalanced by large concentrations of HMO properties. The use of this particular property as a HMO is considered to be acceptable in this instance as it meets the requirements for adequate accommodation and facilities for the occupiers.

### Car Parking

5.14 The DCLP contains a car parking standard of 1 space per 2 HMO bedrooms. This is a maximum, which the DCLP states should be assessed downwards depending on the individual characteristics of each site. The maximum requirement for a 3 bed HMO would be 1 or 2 car spaces. The site is in a sustainable location. Concerns have been raised by neighbouring residents with regard to car parking provision. The site is close to the junction with Osbaldwick Lane which is a bus route and also close to the entrance to a primary school on Hambleton Avenue.

5.15 The property has a concrete driveway which is about 9m in length. The remainder of the frontage is gravelled. Two vehicles could enter, park and leave the site independently of each other.

### Impact on the Amenity of the Occupants of Neighbouring Properties

5.16 Objections have been received in relation to the impact of the use of this property as a HMO. The property has 3 bedrooms although the C4 use class would allow occupation up to 6 residents. It is not considered that the use would unbalance the community. In addition, it is not considered that the occupation of the property as an HMO would individually or cumulatively result in significant harm to the amenity of neighbouring residents. As part of all consents approving a HMO use, a 'management plan' is required to be conditioned to address issues which can arise in properties in multiple occupation. This plan is required to be provided to existing and future tenants and would relate to property maintenance, acceptable behaviours to help prevent anti-social behaviour and noise nuisance. In addition, Public Protection have a wide range of powers which could be enforced against specific potential breaches in terms of that stated above. Bins are shown to be kept within the front garden. It is acknowledged that while this would not be subject to planning control for the vast majority of residential properties, it can be a source of

complaint with multiple occupied properties if poorly managed. No store is proposed. It is considered that a condition should be imposed to require that the bins are kept behind the existing fence to the side of the house.

## 6.0 CONCLUSION

6.1 On balance and subject to conditions, it is considered that the use of the property as an HMO within the C4 use class is acceptable in terms of the balance of the community, highways impact and local amenity. The application accords with the requirements of the NPPF, Policy H8 of the Publication Draft York Local Plan 2018, and Policy H8 of the Development Control Local Plan 2005 and the guidance contained within the SPD.

## 7.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Drawing No's - 19 HA 01 - 19 HA - 02 - 19 HA 03 - Received 30th June 2021

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 Prior to the first occupation of the property as a House in Multiple Occupation details of the cycle parking shall be submitted to and approved in writing by the



Local Planning Authority. The building shall not be occupied until the cycle parking areas have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

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

5 Notwithstanding the details on drawing 19HA/03 waste and recycling bins shall be stored behind the fence shown adjoining the house.

Reason: In the interests of the visual amenities of the area.

Note: This requirement should be included in the management plan required by condition 3.

## **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.

#### **Contact details:**

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