

COMMITTEE REPORT

Date: 8 December 2021 **Ward:** Osbaldwick and Derwent
Team: East Area **Parish:** Osbaldwick Parish Council

Reference: 21/01991/FUL
Application at: 27 Bedale Avenue Osbaldwick York YO10 3NG
For: Change of use from dwellinghouse (use class C3) to House in Multiple Occupation (use class C4)
By: Mr A Sullivan
Application Type: Full Application
Target Date: 3 November 2021
Recommendation: Approve

1.0 PROPOSAL

1.1 This application seeks planning permission to change the use of No.27 Bedale Avenue, Osbaldwick from a residential dwelling within Use Class C3 to a 5.no bedroom house in multiple occupation (HMO), within Use Class C4.

1.2 The application property is a traditional, semi-detached dwelling, located on a corner plot. To the side, an off-shoot of Bedale Avenue connects to Wydale Road, which runs parallel. A 5.no bedroom HMO is proposed, one of these being an ensuite in the loft space. Other than that, there are 4.no bedrooms, a bathroom, a lounge, a lounge/diner a kitchen and a utility room. Given that one of the lounges could be used as an additional bedroom then any consent could result in a 6.no bedroom HMO under class C4. There is a detached garage in the rear garden (and a shed) and this can be accessed externally from Bedale Avenue.

1.3 The application has been called in by Councillor Warters, on the following grounds:

- No confidence in the veracity of the CYC data base
- Adverse effect of 2.no resulting HMO's being next to each other
- Inadequate off-road car parking provision for proposed 5.no households
- Resulting late night noise and disturbance
- Garage to rear could be converted to a tattoo studio

1.4 Planning history:

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- Two-storey, pitched-roof, side and single-storey rear extension – 07/00136/FUL Approved 06.03.2007
- Extension to front of existing garage – 10/00543/FUL Approved 14.06.2010
- Change of Use from domestic garage (Class C3) to tattoo studio – 11/02264/FUL Approved 14.10.2011
- Continued use of garage as tattoo studio – 12/02936/FUL Approved 22.10.2012

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.27 Bedale Avenue, there are currently 4.no HMO's out of 45.no dwellings = 8.9% At Neighbourhood Level there are currently 70.no HMO's out of 736.no dwellings (9.5%)

Highway Network Management

3.2 No objections, questioned the alignment of the existing dropped kerb with that of the access. Also questioned the provision for cycle and pedestrian access.

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3.3 Object on the following grounds:

- Loss of family homes
- Two HMO's side by side will amplify adverse effects

- Accuracy of the CYC Database questioned
- Poor refuse management
- Increased noise levels
- Car parking problems
- Traffic safety concerns through increased cars

4.0 REPRESENTATIONS

Neighbour Notification and Publicity

4.1 Five letters of objection were received on the following grounds:

- Accuracy of the CYC Database questioned
- Poor refuse management
- Increased noise levels
- Car parking problems
- Value of surrounding homes will be reduced
- Traffic safety concerns through increased cars
- There could be up to 20.no occupants in the combined adjoining properties
- The university should provide to additional accommodation

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 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 Paragraph 5.53 of Policy H8 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

5.7 The Development Control Local Plan (DCLP) 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 that adequate car and cycle parking is provided; 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

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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. Paragraph 5.15 of 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 Council data indicates that within 100m (Street level) of the site that there are currently 4 HMOs on the database out of 45 properties – 8.9%. The proposal would increase this to 11.1%. At the neighbourhood level there are currently 70 known HMOs out of 736 properties – 9.5%. 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 impact of two adjoining HMOs. Neither the policy nor the SPD seek to impose controls on concentrations of HMOs beyond the street level and neighbourhood level outlined above, and it is not considered that there would be significant harm to amenity from two adjoining HMOs.

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 Directive, it helps to balance York's housing market and through the application of the threshold policy manage the change of use of family dwellings. 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 5 bed HMO would be 2 or 3 car spaces, for a 6 bed HMO, 3 spaces. The site is in a sustainable location. Objections have been raised by neighbouring residents in regard to potential car parking issues and the impact on highway safety. The frontage of the application property is laid to hard-standing. Whilst three vehicles could be accommodated, independent manoeuvring would require careful positioning. However, as no properties front onto either side of the road connecting Bedale Avenue with Wydale Road it is considered that any potential overspill parking from the proposed HMO would not result in an unacceptable impact on available parking locally or highway safety.

5.15 Pedestrian and cycle access to the rear garden exist via the gate at the side of the property.

5.16 The existing detached garage to the rear, was previously granted permission for the continued use as a tattoo studio. This is a personal permission that will cease to have effect when the current owner vacates the property. In any event, it is recommended that a condition is attached to any consent requiring the garage to be retained for the storage of cycles.

Impact on the Amenity of the Occupants of Neighbouring Properties

5.17 Objections have been received in relation to the impact of the use of this property as a HMO. 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.

5.18 Bin storage is shown as being accommodated within the existing garage to the rear. While this would not be subject to planning control for the vast majority of residential properties, storage of bins at the front of HMO properties it can be a source of concern with multiple occupied properties if poorly managed. It is considered that a condition should be imposed to require that the bins stored at the rear of the property.

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, 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. 639.001 - Dated 23 August 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 The existing detached garage shall be retained for the parking of a minimum of 6 cycles.

Reason: In the interests of promoting sustainable modes of transport

5 All waste and recycling bins shall be stored in the rear garden of the house in multiple occupation.

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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