

COMMITTEE REPORT

Date: 8 February 2023 **Ward:** Clifton
Team: West Area **Parish:** Clifton Planning Panel
Reference: 22/02451/FUL
Application at: 71 Cromer Street York YO30 6DL
For: Change of use from dwellinghouse (C3 use) to a 4-bedroom House in Multiple Occupation (C4 use)
By: Miss Emma Cook
Application Type: Full Application
Target Date: 25 January 2023
Recommendation: Approve

1.0 PROPOSAL

1.1 This application seeks permission for the change of use of 71 Cromer Street from a private dwellinghouse (use class C3) to a 4 bedroom house in multiple occupation (use class C4).

1.2 The property is a traditional two storey mid-terraced dwelling which currently has 3no. bedrooms on the first floor and 1no. bedroom on the second floor. Dormers have previously been added to the property, and access to the rear of the property is via a shared snicket between the host and no. 69.

PLANNING HISTORY

1.3 The following applications for change of use to HMO's in Cromer Street have recently been determined:

- 9 Cromer Street – Certificate of Lawfulness for HMO (22/02324/CLU) Granted
- 52 Cromer Street – Change of use from dwelling to HMO (retrospective) (21/00933/FUL) refused, approved at appeal
- 38 Cromer Street – Change of use from dwelling to HMO (21/00586/FUL) refused
- 66 Cromer Street – Change of use from dwelling to HMO (21/00566/FUL) approved

CALL-IN REQUEST

1.4 Cllr Myers has called this application to committee due to the prevalence of HMOs in Cromer Street and the impact further change would have on the neighbourhood.

2.0 POLICY CONTEXT

Publication Draft Local Plan 2018

CYH8 - Houses in Multiple Occupation

3.0 CONSULTATIONS

INTERNAL

Forward Planning

3.1 The current Street level calculation is 8 properties out of 86 which is equivalent to 9.3%. This would increase to 10.47% if no. 71 is approved. At the neighbourhood level, 62 out of 1107 properties are currently operating as HMOs which is equivalent to 5.6%.

Housing Standards

3.2 No objections to the accommodation provided, although there is currently no escape route between the bathroom and kitchen. Either requires an escape window fitting or an additional stand alone smoke detector. HMO Licence which will be required from April 2023.

3.3 The applicant has confirmed that a HMO licence has already been obtained and the adaptations suggested have been implemented.

EXTERNAL

Clifton Planning Panel

3.4 The Panel raised concern regarding the existing number of HMOs in Cromer Street and the impact further change would have on existing family housing in the area. It was also questioned whether the existing bathrooms would be adequate for the number of people in the property.

4.0 REPRESENTATIONS

Neighbour notification and publicity

4.1 Objections from 2 neighbouring properties have been received. The following issues were raised:

- high prevalence of HMOs in Cromer Street
- street level threshold for HMOs has been breached
- starter and family homes need to be protected

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- increasing no. of HMOs has resulted in a diminished sense of community
- parking issues which are exacerbated by HMO properties
- no. 38 was rejected, residents were reassured that by local councillors that no more would be granted.
- there are HMO properties not on the HMO register, therefore the register is not a true reflection of real HMO percentages in this particular area.

Councillor Danny Myers

4.2 Objects. Cromer St is believed to be above the Article 4 directive that sets out to restrict the number of HMOs from changing the character of the neighbourhood. We want to protect the character of the neighbourhood and keep a mixed community, with options for people to rent and buy starter homes and family homes. This will only happen if we stick with the Article 4 directive to regulate the amount of HMOs in the area.

5.0 APPRAISAL

KEY ISSUES:-

5.1 The key issues in the assessment of this proposal are the impact upon the amenity of neighbours and whether the car and cycle parking and refuse storage arrangements are acceptable.

POLICY CONTEXT

National Planning Policy Framework

5.2 The National Planning Policy Framework, July 2021 (NPPF) 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:

- function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development
- establish a strong sense of place
- optimise the potential of sites

Draft 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. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019 with a further three hearings (Phases 2-4) taking place between February and September 2022. Proposed modifications to the Plan will be considered by the Executive in January 2023. 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 The policy explanation 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 street scene.

Development Control Draft Local Plan 2005

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 except where in accordance with the content of the NPPF. It is considered that the following guidelines are relevant:

- Appendix E to the Local Plan outlines car and cycle parking standards for development and specifies that HMO's should provide 1 car parking space per 2 bedrooms and 1 cycle parking space per bedroom.

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 In Paragraph 5.17 of the SPD it 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 draft Local Plan Policy H8 and the draft 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, the policy and the SPD establish a threshold based policy approach 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 HMOs become harder to manage and a community or locality can be said to tip from balanced to unbalanced.

5.12 Both the Publication Local Plan policy H8 and the Council's HMO 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. Council data indicates that within 100m (Street level) of 71 Cromer Street, there are currently 8 known HMO's out of 86 properties which equates to 9.3%. At the neighbourhood level 62 out of 1107 properties are currently known to be HMO properties which is equivalent to 5.6%. Neither the street nor neighbourhood level thresholds are currently exceeded in respect of this application.

5.13 The database figures comprise up to date details provided by Housing, council tax records and planning consents. This figure includes all HMO properties known to the Council, and is separate from the HMO licence register which is published on the Council website.

5.14 Objections have been received from immediate neighbours with regard to the change of use, based in part, to the number of existing HMO properties at this end of Cromer Street and also the loss of family housing. Whilst there may be a small concentration of HMO properties around no. 71, this in itself is not considered to tip the community from balanced to unbalanced, as the wider street level is around the accepted 10% threshold and the neighbourhood level is also significantly below the 20% threshold. It is recognised that the nature of HMO occupation is such that comings and goings can be more extensive and at different times of day than those associated with a C3 dwellinghouse. However, given the percentage of HMO's in the immediate area, these comings and goings are not considered to be so likely or extensive as to cause material harm on the residential amenity of the area or result in harm from cumulative impact, one of the basic aims of the article 4 direction to control numbers of HMO's.

5.15 The existing property would be retained as a 4 bedroom property and it is noted that the dwelling would provide a good level of accommodation for 4 individuals, providing a bedroom, sitting/dining room, kitchen on the ground floor, with two bedrooms and a living room on the first floor and a bedroom in the loft. A bathroom is to be retained on the ground floor with a separate w.c. on the first floor. It is not considered that the use of the property as a HMO would cause significant material harm to neighbour amenity than its current use as a family dwelling.

5.16 The rear yard is accessed from Cromer Street through the snicket to the side of the property. The yard, being similar in scale to most neighbouring properties in the area, would provide adequate amenity space for the occupants, with the existing outbuilding at the end of the dwelling providing secure covered bicycle storage for up to 4no bicycles. Refuse would be stored in the yard as per the existing arrangement, with recycling boxes either kept in the rear outbuilding with the bicycles or in the yard.

5.17 With regards to existing car parking provision, all parking is on the street, and during the time of the site visit, the road was relatively full. The property is in a sustainable location, close to local facilities and in proximity to the hospital, York St John University, the city centre and railway station. Guidance within the Development Control Local Plan 2005 (DCLP) states that two car parking spaces should be provided for a four bedroom HMO. This is a maximum, which the DCLP states should be assessed downwards depending on the individual characteristics of each site. The property cannot provide on site parking spaces, a 4 bed property in C3 dwellinghouse use could have two cars associated with it. It is not considered that a refusal reason on parking grounds could be justified in this location.

6.0 CONCLUSION

6.1 The proposal complies with policy H8 of the 2018 draft Local Plan in terms of HMO thresholds at street and neighbourhood level and the change of use of this property would not have a significant negative impact on the balance of the local community. The property would provide a good standard of accommodation for 4 individuals and the use of the property as a HMO is not considered to cause significant harm to the amenity of neighbouring residents. As such the proposed change of use would comply with the National Planning Policy Framework, Publication draft Local Plan (2018) and the Supplementary Planning Document.

7.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 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.

3 The development hereby permitted shall be carried out in accordance with the following plan:

Revised Floor Plan received 25.01.23

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

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.

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