

COMMITTEE REPORT

Date: 5 March 2020 **Ward:** Osbaldwick and Derwent

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

Reference: 19/02769/FUL
Application at: 26 Osbaldwick Village Osbaldwick York YO10 3NS
For: Change of use of dwellinghouse (use class C3) to House in Multiple Occupancy (use class C4) for up to 4no. occupants
By: Mr And Mrs Oxendale
Application Type: Full Application
Target Date: 9 March 2020
Recommendation: Approve

1.0 PROPOSAL

1.1 This application seeks planning permission to change the use of No.26 Osbaldwick Village, Osbaldwick, from a residential dwelling (use class C3) to a 4.no bedroom small House in Multiple Occupation (Use Class C4)

1.2 The application has been called in by Councillor Mark Warters. The reasons cited being:

- Concerns over the continuing loss of family houses to HMO / Student let
- Does not meet CYC parking requirements, with resulting safety concerns
- Impact on neighbour amenity resulting from noise / disturbance
- Concerns over waste storage and presentation
- Five individual 'households' would exacerbate the above
- Concerns over the accuracy of the CYC data base and calculation methods
- Inability of CYC to supervise and enforce a management plan
- Inappropriateness of such development in a Conservation Area

2.0 POLICY CONTEXT

Publication Draft Local Plan 2018

D1 – Placemaking

T1 – Sustainable Access

CYH8 - Conversion to flats/HMO/student accom

Development Control Local Plan 2005

CYGP1 – Design

CYGP4a – Sustainability

3.0 CONSULTATIONS

INTERNAL

Forward Planning

3.1 As stated in the Draft HMO SPD, a threshold of 20% of all properties being HMOs across a neighbourhood and 10% at street level have been established as the point at which a community can tip from balanced to unbalanced. Within 100m (Street level) of 26 Osbaldwick Lane, the current density level is 8.33%. At the neighbourhood level the current density level is 4.40%. In accordance with the provisions of the SPD neither the street or neighbourhood level thresholds have been breached and further change of use to HMO is likely to be acceptable. Albeit an assessment of residential amenity (bin storage, parking etc) and the ability of the area to absorb further change of use should also be undertaken.

EXTERNAL

Osbaldwick Parish Council

3.2 Letter of objection

- Off-road parking provision does not meet CYC Standards
- On –road parking dangerous and unacceptable
- Existing garage not a practicable parking space
- Resulting lack of waste management would harm the conservation area
- Management Plan ‘worthless’
- Noise and disturbance highly probable
- No confidence in Council data base
- Need for ‘family homes’
- Negative impact on schools, pubs, shops

4.0 REPRESENTATIONS

Ward Councillor

4.1 Letter of objection from Councillor Mark Waters

- Concerns over the continuing loss of family houses to HMO / Student let
- Does not meet CYC parking requirements, with resulting safety concerns
- Impact on neighbour amenity resulting from noise / disturbance
- Concerns over waste storage and presentation

- Five individual 'households' would exacerbate the above
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- Inappropriateness of such development in a Conservation Area

Neighbour Notification and Publicity

4.2 Two letters of objection received:

- Loss of a family house
- Residents of HMO's can be transient and anti-social
- Insufficient car parking spaces resulting in parking on a narrow section of the Village which is on a bus route and close to a bend in the road, potentially leading to pavement parking
- The property is in a conservation area
- Would result in an HMO at each end of the row of houses causing possible noise and disturbance.

5.0 APPRAISAL

KEY ISSUES

5.1 The key issues in the assessment of this proposal are the impact upon the amenity of neighbours, impact on the character and appearance of the conservation area, 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, February 2019 (NPPF) sets out the Government's overarching planning policies and at its heart is a presumption in favour of sustainable development.

5.3 Paragraph 127 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
- be visually attractive as a result of good architecture, layout and appropriate and effective landscaping
- are sympathetic to local character and history, including the surrounding built environment and landscape setting

- create places that are safe, inclusive and accessible and promote health and well-being with a high standard of amenity for existing and future users
- 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 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications.

5.6 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:

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

5.7 In Paragraph 5.53 it 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.

5.8 Policy D1: Placemaking seeks development proposals to improve poor existing urban and natural environments, enhance York's special qualities, better reveal the historic environment and protect the amenity of neighbouring residents.

Development proposals that fail to make a positive contribution to the city or cause damage to the character and quality of an area, or the amenity of neighbours will be refused. Policy T1: Sustainable Access 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.

Development Control Local Plan 2005

5.9 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 content of the NPPF. It is considered that the following policies/criteria are relevant:

- Policy GP1 (a) requires development proposals to respect or enhance the local environment
- Policy GP4a (i) requires that development proposals make adequate provision for the storage and collection of refuse and recycling.
- 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.

5.10 Development Control Local Plan policy H8: “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

Draft Supplementary Planning Document (SPD): Controlling the Concentration of Houses in Multiple Occupancy approved 15 April 2012 (Amended 2014)

5.11 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.

5.12 In Paragraph 5.17 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.

5.13 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

5.14 Under 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.

5.15 Within 100m (at street level) of 26 Osbaldwick Village, there is currently 1 known HMO out of 12 properties, or 8.33%. At the neighbourhood level there are currently 74 known HMOs out of 1681 properties, 4.40%. The current street and neighbourhood HMO levels are therefore below the thresholds established by the SPD and it is not considered that approval of the application would lead to the creation of an unbalanced community. However, there is a need to consider whether other aspects of the proposal are acceptable and whether they would have an adverse impact on the amenities of local residents or conflict with other aspects of planning policy.

Car Parking

5.16 Paragraph 11.1 of the City of York Council Highway Design Guide states that:

"It is imperative that proper and adequate provision is made for the parking of vehicles..... If adequate provision is not made, then this results in indiscriminate parking on the highway with the resulting problems of obstruction, danger to other road users, particularly children, and damage i.e. footways, landscaping and boundary treatment".

5.17 The Council's Highway Design Guide (Appendix 23) advises that a standard parking space is 2.4m wide by 4.8m long. However, it states that this must only be used as general minimum as although a standard parking space may be appropriate for situations where there is room to reverse out (e.g. such as in a supermarket car park), for practical purposes on places such as a household plot, a car parking space needs to be increased to allow ease of access, ease of movement for loading/unloading items in and out of the boot (without having to impinge on a public footpath), maintenance and working areas for car washing etc. and the guide outlines that an appropriate space for this purpose can be up to 6m long by 3.6m wide.

5.18 In this respect, it is considered that when assessing development proposals it is essential to secure the provision of car parking spaces of an appropriate size together with a car parking layout that allows the greatest potential for maintenance etc. to be undertaken on site and for cars to manoeuvre in and out of spaces independently, thereby ensuring that the spaces are used and on-street parking is avoided. This is considered particularly important in respect of HMO uses because the lifestyle, activities and work/study patterns of the occupants can be very different to those of a small family who live as one unit and therefore tend to have more of a routine of times spent together and can move/share cars etc. more easily. In particular it means that it can be more difficult in an HMO to ensure that a person needed to move a car to allow another one to access/egress will always be available and/or on site.

5.19 With regards to car parking provision; following the officer site visit, concern was expressed to the applicant that off-road provision in line with design guidance was not possible. A revised proposal reduced the number of letting rooms from 5.no to 4.no within the property. This would now meet the Council's parking standards, which would require the provision of 2 off-street parking spaces. Two.no vehicles can access and leave the site independently of each other and the garage door can be opened, whilst 2.no vehicles are parked clear of the highway. In addition, there is still room to move the refuse bins in and out of the garage. There are no parking restrictions on this section of Osbaldwick Village; the road is a bus route.

Cycle Storage

5.20 The attached garage is approx. 6.25m x 2.3m and connects to a utility room. This in turn allows access to the rear garden (via the kitchen) Cycle Standards

require provision for 4.no independent, covered and secure spaces, for a 4.no bedroom HMO. The garage is of sufficient size to achieve this.

Amenity of Future Occupants

5.21 The property is currently well-maintained, both internally and externally. There is 1.no bathroom and bedroom No.4 is en-suite. In terms of storage, the garage is very large and the rear garden is also very spacious. Bin storage will be provided in the rear garden. The property will meet the needs of 4.no future tenants.

Impact on the Amenity of the Occupants of Neighbouring Properties

5.24 There is nothing inherent in the proposal which will result in significant harm to the amenity of neighbouring residents. The applicant has supplied a 'management plan' aimed at addressing issues which can arise in terms of properties in multiple occupation. It should be noted that issues relating to anti-social behaviour, noise, disturbance etc can occur anywhere in the city and there are agencies and legislation to deal with this, should it happen.

Impact on the Conservation Area

5.25 The main elements of the character and appearance of the Osbaldwick Conservation Area are set out in the 2005 Draft Local Plan. They are referred to as 'The elements surviving from the medieval form of layout' and 'The open rural character of the green, that has withstood considerable change in the village and the relationship between building groups and the natural features of the green.' Reference is also made to historic and listed buildings within the village. The application property falls within a row of relatively modern residential dwellings and is currently well maintained externally. It is not considered that the proposed use of the property as a house in multiple occupation would harm the character and appearance of the conservation area.

6.0 CONCLUSION

6.1 Subject to conditions, it is considered that the use of the property as a small HMO (use Class C4) is acceptable in terms of the balance of the community, impact on the conservation area, 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 Policies GP1 and H8 of the Development Control Local Plan 2005.

COMMITTEE TO VISIT

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 - Proposed floor plans - Received 24th January 2020 - Proposed Site Plan - Received 27th January - Management Plan - Received 7th January 2020.

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 hereby approved use shall be restricted to that of being a maximum 4.no bedroom small house in multiple occupation (Within Use Class C4) unless otherwise agreed in writing by this local authority.

Reason: Any intensification of the approved use would result in car parking being displaced on to the highway which is narrow in parts and used a bus route.

4 The garage shown on drawing Ground Floor Plan received 24 January 2020 shall be retained for cycle parking and shall not be converted into habitable accommodation or used for any other purpose without the planning permission of the local planning authority.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the environmental quality of the area.

5 The Management Plan dated 7 January 2020 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.

6 Refuse and recycling storage shall be retained as shown on drawing "Site Plan: Proposed Refuse Bins Location" unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of the environmental quality of the area.

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) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Negotiated a revision in order to make off-road parking provision comply with policy.

Contact details:

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