

# COMMITTEE REPORT

**Date:** 17 April 2024                      **Ward:** Osbaldwick And Derwent

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

**Reference:** 23/02374/FUL

**Application at:** Hull Road Surgery 289 Hull Road Osbaldwick York YO10 3LB

**For:** Change of use of chiropodist/podiatrist (use class E) to small House in Multiple Occupation (use class C4) including alterations to fenestration and removal of the porch.

**By:** Moore's Property Solutions Ltd

**Application Type:** Full Application

**Target Date:** 22 April 2024

**Recommendation:** Approve

## 1.0 PROPOSAL

1.1. The application site is 289 Hull Road which is a detached building currently operating as a private chiropodist/podiatrist. The site which was previously in use as a doctor's surgery lies within a predominately residential cul-de-sac in Osbaldwick, with both neighbours being in residential use. The existing building is single storey with 4no. treatment rooms, a reception area with W.C facilities.

1.2. Planning permission is sought for the change of use of the existing chiropodist/podiatrist (use class E) to a small House in Multiple Occupation (use class C4) for 4no. people. The proposal also includes alterations to fenestration and the removal of the front porch, alongside new cycle and bin stores.

1.3. The following recent planning history is relevant for this site:

21/00877/FUL - Construction of dropped kerb to front of property and new dropped kerb to verge opposite. Application refused: 08.10.2021.

1.4. The application has been called in to be determined at Planning Committee by Councillor Warters on the following grounds;

- Loss of a potential residential family home to the student let HMO market.
- Close proximity to other student let HMOs.

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- Short cul-de-sac meaning the increased comings and goings associated with a student let HMO will be amplified for the council tax paying residents.
- Concerns over car parking arrangements, whilst four parking spaces are available they can only be used with a degree of co-operation and common sense between independent occupiers, such Co-operation is usually lacking at other HMOs, any approval needs to have a condition attached compelling use of the parking spaces within the curtilage of the property.
- Location of bin store and cycle stands to the front of the property is detrimental to the street scene especially when space exists to the rear of the property.

## **2.0 POLICY CONTEXT**

### **NATIONAL PLANNING POLICY FRAMEWORK**

2.1. The revised National Planning Policy Framework (NPPF) was published in December 2023 and sets out the government's planning policies for England and how these are expected to be applied.

2.2. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004).

2.3. The Statutory Development Plan for the City of York comprises the saved policies and key diagram of the otherwise revoked Yorkshire and Humber Plan Regional Spatial Strategy (2008) and any made Neighbourhood Plan.

2.4. Key chapters and sections of the NPPF are as following:

Decision-making (chapter 4)

Delivering a sufficient supply of homes (chapter 5)

Building a strong, competitive economy (chapter 6)

Promoting sustainable transport (chapter 9)

Making effective use of land (chapter 11)

Achieving well-designed places (chapter 12)

### **PUBLICATION DRAFT LOCAL PLAN (DLP 2018)**

2.5. The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. The Draft Local Plan 2018 was submitted for examination on 25 May 2018. The final examination hearing session has taken place. The Draft Plan policies can be afforded weight in accordance with paragraph 48 of the NPPF. Draft policies relevant to the determination of this application are:

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EC2 – Loss of Employment Land  
D1 – Placemaking  
CC2 – Sustainable Design and Construction of New Development  
ENV2 – Managing Environmental Quality  
WM1 – Sustainable Waste Management  
T1 – Sustainable Access  
T7 – Minimising and Accommodating Generated Trips

### **3.0 CONSULTATIONS**

#### INTERNAL

##### Housing Standards

3.1. No application has been made to date for a HMO Licence.

##### Strategic Planning Policy

3.2 Street: currently there are 3 HMOs out of 19 properties = 15.79% (Please note that 289 Hull Road has been removed from this calculation as it is a commercial property. However, if it was to be included (i.e. 4 HMOs out of 20 properties) 20.00% of properties within 100m buffer would be HMOs)

3.3 Neighbourhood: currently 133 HMOs out of 1236 properties = 10.76% (Please note that 289 Hull Road has been removed from this calculation as it is a commercial property. However, if it was to be included (i.e. 134 HMOs out of 1237 properties), 10.83% of properties within the neighbourhood would be HMOs)

3.4 Policy H8 of the Draft Local Plan (2018) may not apply if the application proposes a change of use from a use which is not a C3 dwellinghouse, in which case calculations of HMO concentrations are provided to aid the general assessment of impact rather than compliance with policy H8.

##### Public Protection

3.5 The proposed development is approximately 30 metres from a main arterial road in the City of York which generates a lot of traffic and traffic noise. There are concerns regarding bedroom 4 and the lounge space that it would not meet the internal noise levels prescribed in BS8233: 2014 “Guidance on sound insulation and noise reduction for buildings”. Recommend a pre-commencement planning condition for noise insulation measures.

## Highways

- 3.6 Highway DC does not support this application for the following reasons:
- Proposed car parking arrangements are inadequate and would lead to cars being parked on the street. This is a street where we have previously received complaints about parking, as evidence by the presence of white bar markings across most of the driveways and the comments received for this application.
  - Cycle parking proposals are also totally inadequate in size, security, and accessibility terms. Adequate cycle parking needs to be provided in line with LTN 1.20 requirements.
  - The bins will not be accessible unless the parked cars are moved.

## EXTERNAL

### Osboldwick Parish Council

- 3.7 No objections, subject to neighbours.

## **4.0 REPRESENTATIONS**

- 4.1. A general comment received on the following grounds;

- Excellent local business and should support it by providing sensible local parking opportunities for clients.

- 4.2. Two objections received on the following grounds;

- Object to the HMO use.
- Parking concerns regarding existing use, proposed use and neighbours.
- Parking difficult for bin collections, emergency services, maintenance vehicles and visitors to residential properties.
- Management plan fails to address any potential parking issues
- Cycle parking and bin store unsightly at the front of the property.
- Overcrowding.
- Concerns regarding cleanliness, additional noise, increase in crime and anti-social behaviour
- Levels of HMO are above the recommended levels.
- Lack of single level ground floor properties in the area.

## **5.0 APPRAISAL**

## Key Issues

5.1. The key issues are as follows:

- Loss of Employment Land
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Highways, Access and Parking
- Waste
- Sustainability
- Public Sector Equality Duty

## LOSS OF EMPLOYMENT LAND

### Policy

5.2 Chapter 6 of the NPPF focuses on building a strong, competitive economy. Paragraph 85 of the NPPF states planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development.

5.3 Policy EC2 of the Draft Local Plan (2018) states when considering proposals which involve the loss of land and/or buildings which are either identified, currently used or were last used for employment uses, the council will expect developers to provide a statement to the satisfaction of the Council demonstrating that:

- i. the existing land and or buildings are demonstrably not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses; and
- ii. the proposal would not lead to the loss of an employment site that is necessary to meet employment needs during the plan period.

5.4 When considering the loss of employment land and/or buildings the Council will expect the applicant to provide evidence proportionate to the size of the site of effective marketing of the site/premises for employment uses for a reasonable period of time and in most cases not less than 18 months. Where an applicant is seeking to prove a site is no longer appropriate for employment use because of business operations, and/or condition, the council will expect the applicant to provide an objective assessment of the shortcomings of the land/premises that demonstrates why it is no longer appropriate for employment use. This includes all employment generating uses, not just office or industrial uses.

## Assessment

5.5 The proposal seeks the loss of a chiropodist/podiatrist which is an employment generating use. The clinic is private, therefore following advice from the Forward Planning Team the private use would not fall under policy HW5 of the Draft Local Plan (2018) (Healthcare Services), however policy EC2 is relevant (loss of employment land). The Agent has confirmed the site currently employs one full time member of staff, with all others on a consultant basis only. The Agent states it is envisaged the commercial premises would relocate within the York Area and continue to provide treatment and care to the existing patient portfolio.

5.6 The Agent states the site currently struggles to provide sufficient parking and the applicant has on previous occasions tried to extend the parking as detailed in the planning history. Relocating to a bigger site with more parking will enable the business to be more successful.

5.7 There will be a loss of employment at the site, however this is relatively minimal and it is envisaged the business will relocate elsewhere. The intensity of use (comings and goings), parking concerns and residential character of the surrounding area would suggest that the use has potential to not be a 'good neighbour', which has been evidenced in some of the representation responses. Policy EC2 does allow for the loss of existing employment sites where they are not compatible with adjacent use and the proposal would not lead to the loss of an employment site that it is necessary to meet employment needs during the plan period. As the use appears to be relatively high intensity and the noise and comings and goings potentially impacts on neighbour amenity, it is considered that the nature of the employment use is not compatible with neighbouring residential uses. The scale of the employment loss is considered unlikely to impact on employment needs during the plan period. For these reasons the proposal complies with paragraph 85 of the NPPF and policy EC2 of the Draft Local Plan (2018).

## DESIGN AND IMPACT ON THE CHARACTER AND APPEARANCE OF THE AREA

### Policy

5.8 Paragraph 135 of the NPPF states planning decisions should ensure that developments will function well and add to the overall quality of the area. Development should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Proposals should be sympathetic to local character and history, including the surrounding built environment. Paragraph 139 of the NPPF states development that is not well designed should be refused.

5.9 Policy D11 of the Draft Local Plan (2018) relates to the extension and alteration of existing buildings. The design should respond positively to its immediate architectural context and local character. Development should protect the amenity of current and neighbouring occupiers and should contribute to the function of the area.

### Assessment

5.10 The proposal seeks to relocate the door on the side (west) elevation and insert a larger window. The porch is to be removed and a door inserted on the front elevation. Visually there are no design concerns with these changes as the design, style and scale of fenestration is sympathetic to the host building. It is considered the removal of the commercial signage would be a benefit in the residential street.

5.11 The bin store and cycle store have been relocated to the side of the building, rather than the front of the building, which is considered acceptable. The proposal complies with paragraphs 135 and 139 of the NPPF and policy D11 of the Draft Local Plan (2018).

## IMPACT ON RESIDENTIAL AMENITY

### Policy

5.12 Paragraph 135(f) of the NPPF seeks to create safe, inclusive and accessible developments with a high standard of amenity for existing and future users. Policy ENV2 of the Draft Local Plan (2018) states development will not be permitted where future occupiers and existing communities would be subject to significant adverse impacts such as noise, vibration, odour etc without effective mitigation measures.

5.13 The Council's Draft Supplementary Planning Document relates only to changes of use from C3 residential to an HMO and cannot be used for decision making purposes. However the assessment below uses the key headlines from the document in terms of size of the dwelling; cars parking; secure cycle parking; the condition of the property; amenity neighbouring residents.

### Assessment

5.14 In terms of the proposed occupants, the HMO is to host 4no. bedrooms which are above the minimum room sizes for HMO standards (as per the licence requirements). All bedrooms are served by a window. There are no amenity issues arising for potential occupiers.

5.15 The three windows on the side (east) elevation are recommended to be obscure glazed in the interests of protecting the neighbour's privacy (given the close proximity to neighbouring windows). These windows serve a bathroom and two secondary lounge windows, therefore are considered acceptable to be obscure glazed. The fenestration in the side (west) elevation will serve bedrooms, however these will face the blank elevation of the neighbour which is considered acceptable for both parties. Windows at the rear will face the boundary fence and at single storey level does not raise any amenity concerns.

5.16 The Public Protection Officer recommends a pre-commencement condition with regards to noise insulation measures, however the street is currently residential and the existing building is no closer to Hull Road than existing dwellings along this street. As such it is not considered that a noise insulation measures condition is necessary in this instance. Additionally a construction and demolition condition is also not necessary given the small scale nature of the works.

5.17 The SPD introduced a threshold of 20% of all properties being HMOs across a neighbourhood and 10% at street level as the point at which a community can tip from balanced to unbalanced. For this application, currently within the neighbourhood there are 133 HMOs out of 1236 properties which is 10.76%. With 289 Hull Road included, the figure is 10.83%, which is below the 20% threshold for neighbourhood level. At the street level there are 3 HMOs out of 19 properties which is 15.79%. With 289 Hull Road included, the figure is 20%, which is above the 10% threshold for street level.

5.18 Whilst it is acknowledged the HMO would increase the street level of HMO's this is a fairly minimal increase and the figures are used as a guidance only for this particular application (as policy H8 would not come into effect). Matters arising from the HMO use can be suitably controlled by way of conditions and compliance with the management plan. Parking pressures would be slightly reduced through the change from a business premises to residential use.

5.19 The proposal is considered to safeguard existing residential amenity and would provide suitable conditions for new occupants, therefore meeting paragraph 135(f) of the NPPF and policy ENV2 of the Draft Local Plan (2018).

## HIGHWAYS, ACCESS AND PARKING

### Policy

5.20 Policy T1 of the Draft Local Plan relates to sustainable access and requires safe and appropriate access to the adopted highway. Policy T8 of the Draft Local

Plan states development should comply with the Council's latest parking standards guidance, incorporate appropriate demand management measures that reduce congestion, improve public transport journeys, ease pedestrian and cycle access to, within and through the development and improve the streetscape. 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.

## Assessment

5.21 The Highways Officer does not support the proposed car parking arrangements and states these are inadequate and would lead to cars being parked on the street. The Council does not currently have adopted car parking standards. The previous maximum standards within appendix e of the Development Control Local Plan are not in accordance with the NPPF, however, used as a guideline they seek 1no. car parking space per 2no. bedrooms for a house in multiple occupation. The proposed revised site plan indicates that there will be 1no. car parking space on the front forecourt which can be used independently with manoeuvring via the existing access and dropped kerb.

5.22 The street is a cul-de-sac and there is car parking space available directly outside the building. It is therefore considered that 1no. off street parking space and a space directly outside the building on street is sufficient for the proposed use and even if there were to be some increase in car ownership arising from occupiers of the property, this would not exacerbate on-street parking to the extent that there would be an unacceptable impact on highway safety.

5.23 In some respects the parking pressures would be reduced due to the loss of the commercial premises (which currently requires parking for both staff and customers). The site is considered to be within a sustainable location close to footpaths and public transport links (a bus stop is immediately opposite the site) and occupiers would not necessarily have to rely on a car for day-to-day requirements. The car parking for a 4no. bedroom HMO is therefore deemed acceptable in this instance.

5.24 A bike store is indicated to the side of the building, however details are not provided to indicate that this would meet LTN1/20 standards (1 cycle space per bedroom). The Highways Officer also notes this in their response. As such a condition is required for further details of this and the Agent is in agreement with the imposition of this.

5.25 The proposal provides adequate car parking and cycle parking can be secured by condition. It is not considered the development would have an unacceptable impact on highway safety and the cumulative impact on the road network would not be severe. The proposal therefore accords with policy T1 and T8 of the Draft Local Plan (2018) and paragraph 115 of the NPPF.

## WASTE

### Policy

5.26 Draft Local Plan Policy WM1 requires the integration of facilities for waste prevention, re-use, recycling, composting and recovery in association with the planning, construction and occupation of new development for housing.

### Assessment

5.27 It is considered there is sufficient space within the site to store bins behind the front elevation of the dwelling. A bin store is proposed to the side. Parking has been revised to ensure bin access without having to move vehicles. A condition is recommended to secure compliance with the proposed Management Plan which covers waste management amongst other things such as; the number of occupants, property maintenance, noise and anti-social behaviour, fire checks and contact details of the Landlord. Compliance with the Management Plan and waste storage arrangements would be the responsibility of the Manager/Applicant. Non-compliance would be investigated by the relevant team within the Council.

## SUSTAINABILITY

5.28 Part C of policy CC2 states “Proposals for conversion to residential use should achieve BREEAM domestic refurbishment ‘very good’ as a minimum”. A condition has been added to secure BREEAM domestic refurbishment ‘very good’ in line with policy CC2 of the Draft Local Plan (2018).

## 6.0 CONCLUSION

6.1 The application property is considered to be appropriate for the needs of future occupants for a 4no. bedroom small HMO. Although the proposal would take the street level above the threshold for HMO’s, this figure can only be used for guidance (as policy H8 would not come into effect) and matters arising from a HMO can be suitably controlled by condition. The loss of the employment building, in this instance, is considered acceptable taking into account the surrounding area and scale of employment. Subject to condition, there are no residential amenity issues

arising for either the proposed occupants or neighbouring dwellings. Acceptable provision for off-road vehicle parking has been demonstrated and secure cycle storage will be required by condition. The management plan for the site is conditioned, alongside a BREEAM condition. The proposal is considered to comply with policies within the National Planning Policy Framework, Policies EC2, D11, ENV2, WM1, CC2, T1 and T8 of the Draft Local Plan (2018).

## **7.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in strict accordance with the following drawings:

Proposed site layout plan; drwg no. HR002, revision C, dated 21/03/2024.  
Existing and proposed floorplans; drwg no. HR003, revision A, dated 01/03/2024.  
Existing and proposed elevations; drwg no. HR004, dated 21/12/2023.

Reason: For the avoidance of doubt and in the interests of proper planning.

3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order), unless otherwise approved in writing with the Local Planning Authority, the windows in the side (east) elevation of the building; shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above and remain fixed shut.

Reason: In the interests of the amenities of occupants of adjacent residential properties.

4 The development shall be carried out in strict accordance with the Management Plan (dated December 2023) and shall throughout the duration of the use hereby permitted be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

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

5 No refuse or recycling shall be stored forward of the front elevation of the house.

Reason: In order to protect the visual amenity of the street.

6 Prior to the development commencing details of the cycle parking areas for 4no. cycles and their means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure 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.

7 The development hereby permitted shall achieve a BREEAM Domestic refurbishment rating of 'very good' or higher. A Post Construction Assessment by a licensed BREEAM assessor shall be carried out and a copy of the certificate submitted to the Local Planning Authority within 12 months of the first use (unless otherwise agreed). Should the development fail to achieve a 'Very Good' BREEAM rating a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a 'Very Good' rating. The remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority."

Reason: In the interests of achieving a sustainable development in accordance with the requirements of Policy CC2 of the Draft Local Plan.

## **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:

- Sought for employment details
- Sought for bike and bin store to be relocated
- Sought for obscure glazing.
- Use of planning conditions.

#### **Contact details:**

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