

COMMITTEE REPORT

Date: 5 November 2015 **Ward:** Osbaldwick and Derwent
Team: Householder and **Parish:** Osbaldwick Parish
Small Scale Team Council

Reference: 15/01625/FUL
Application at: 20 Kirkdale Road Osbaldwick York YO10 3NQ
For: Change of use from dwelling (use class C3) to House of Multiple Occupation (use class C4)
By: Mr and Mrs Ravindra Gullapalli
Application Type: Full Application
Target Date: 21 September 2015
Recommendation: Approve

1.0 PROPOSAL

1.1 The application property is 2-storey semi-detached dwellinghouse. It is located in a predominantly residential area consisting primarily of semi-detached properties. It has a medium sized rear garden (11m long x 8m wide) and a 5m long x 8m wide front garden. There is a side garage extension with drive and the front garden has been gravelled which provides an additional off-street parking place.

1.2 This application seeks permission for a change of use from a three bedroom dwellinghouse (Use Class C3) to a four bedroom House in Multiple Occupation (Use Class C4). The property currently has 3 bedrooms and a bathroom on the first floor and a lounge, dining room, kitchen and entrance hall on the ground floor. The proposed plan shows the first floor layout would remain as existing. On the ground floor the lounge would be used as a bedroom. The property has an existing single storey side extension, which provides a garage and utility room.

1.3 The application has been called to Committee by Cllr. Mark Warters on concerns over neighbouring amenities, which he feels are amplified by the application site being on a narrow, tightly packed long cul-de-sac, and the effect of an approval being to bring the street level threshold very close to the current upper limit of 10% at 9.76%.

2.0 POLICY CONTEXT

2.1 Policies:

CYH8 Conversion to flats/HMO/student accom

3.0 CONSULTATIONS

INTERNAL

Planning and Environmental Management

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 of 20 Kirkdale Road, York, there are currently 3 known HMOs out of 41 properties, 7.32%. At the neighbourhood level there are currently 72 known HMOs out of 692 properties, 10.40%.

3.2 Although the HMO SPD does not have development plan status, it can be afforded significant weight as a material planning consideration in the determination of planning applications. The SPD remains a draft until such time as there is an adopted plan in York. Although a 'draft' SPD, this document is a material consideration in the planning application process.

EXTERNAL

Osballdwick Parish Council

3.3 Object on following grounds

- increased noise at all hours but notably at unsociable times
- increased occupancy levels
- increased on street car parking
- overloading of local sewage systems
- depositing of waste in the streets and the unhygienic storage of waste in front gardens
- increased noise associated with a student let HMOs
- the loss of established family homes for York people.

3.4 The Parish Council continue to have no confidence in the accuracy and/or up to date nature of the City of York Council's HMO database as this has been proven lacking in the past.

Publicity and Neighbour Notifications

3.5 A petition objecting to the proposal signed by 22 local residents has been submitted. Comments can be outlined as follows:

- Because the street is a long narrow cul-de-sac residents already have to park on the pavement to avoid obstructing other residents – establishment of an HMO and adding 3 or 4 extra vehicles raises alarm and dismay
- Application should be refused in the interests of peace and wellbeing of the community

3.6 One letter of objection received on the following grounds:

- Street is gradually being taken over by HMOs denying families opportunity for home ownership
- Very little parking space and street is likely to be obstructed
- There may be noise and litter

4.0 APPRAISAL

KEY ISSUES

4.1 The key issues in assessing the proposal are:

- whether the change would lead to an unacceptable concentration of HMO's in a single location.
- whether the accommodation is of an appropriate standard and whether the use would impact adversely on local residents.

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the overarching roles for the planning system. In Paragraph 14 it advises that there is a presumption in favour of sustainable development at the heart of the Framework, which should be seen as a golden thread running through both plan-making and decision-taking.

4.3 Paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 50 states that in order to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities the local planning authority should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

4.4 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 NPPF.

4.5 Development Control Local Plan Policy CYH8: 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

4.6 Draft Supplementary Planning Document (SPD): Controlling the Concentration of Houses in Multiple Occupancy was approved by Cabinet on 15 April 2012. This Guidance has been 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.

4.7 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.

4.8 Paragraph 5.17 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

APPRAISAL

4.9 One of the principle aims of the Council's SPD is to avoid situations where existing communities become unbalanced by an overconcentration of HMO's within a particular street or the wider area. 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.

4.10 Within 100m of 20 Kirkdale Road, York, there are currently 3 known HMOs out of 41 properties, 7.32%. At the neighbourhood level there are currently 72 known HMOs out of 692 properties, 10.40%. The current street and neighbourhood HMO levels are below the thresholds established by the SPD and, in respect of the latter, considerably below. Therefore in view of the Council's own policy, it is not considered that there are grounds to refuse the application on the basis that it would create an unbalanced community.

4.11 The Planning Enforcement officer has investigated 5 other houses in Kirkdale Road, which have been reported as unauthorised HMO's. These have been inspected and established that 4 are not being used as HMO's. A fifth is occupied by 4 students on a joint tenancy and is therefore in use as an HMO. However, this increases the street HMO level from 7.3% to 9.75% and the area HMO level from 10.4% to 10.5%, so the SPD threshold is not breached in either case.

4.12 There remains, however, a need to assess what impact the proposal would have on residential character and amenity in the light of the parameters outlined in the SPD and Local Plan. In this respect external alterations are not an issue as none are proposed.

4.13 In terms of car/cycle parking and bin storage, the applicant has advised in its current use as a dwellinghouse bins have been kept in the rear garden and a bicycle in the utility room. This has left the garage, drive and gravelled forecourt available for car parking; i.e. 3 parking spaces.

4.14 The cycle parking standard for a 4 bed HMO is 4 spaces and the maximum car parking requirement is 2 spaces. In this respect the existing garage could be used to store both bins and cycles for the proposed HMO use and this would still leave two car parking spaces at the front of the property. It is therefore considered that car/cycle parking and bin storage issues are catered for.

4.15 In respect of other requirements within the Local Plan. The application property has been examined internally and is well maintained, the internal layout and room size are considered to be acceptable and the property is considered to be large enough for a 4 bedroom HMO operation.

4.16 In respect of the Local Plan policy requirement that a property has a minimum of 4 bedrooms if conversion of a house to an HMO is to be granted, it is considered that this aspect of the policy is no longer appropriate as the policy was written at a time when the small HMO use class (3-6 residents) did not exist. At that time an HMO was defined as a property containing 7 or more unrelated people living together and it was generally thought that a property needed to be fairly large to accommodate the amount of people that could occupy it.

5.0 CONCLUSION

5.1 It is considered that the proposal complies with national guidance in the NPPF, Development Control Local Plan Policies and the City of York Council's Supplementary Planning Document (Controlling the Concentration of Houses in Multiple Occupancy). It is therefore considered that planning permission should be granted.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 Prior to the dwelling being occupied as a House in Multiple Occupancy, a management plan shall be submitted to and agreed in writing by the Local Planning

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Authority and shall be implemented as agreed unless otherwise agreed in writing by the Local Planning Authority.

The Management plan shall relate to the following areas:

- Information and advice to occupants, including minimising noise and disturbance for neighbours
- Refuse and recycling facilities
- Property maintenance
- Secure cycle storage

Reason: In the interests of the proper management of the property and the amenity of adjacent residents and which may otherwise be compromised unless approved prior to the commencement of development on the site.

3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) the garage indicated on the submitted drawings shall not be altered or converted to living accommodation.

Reason: To ensure that there is adequate cycle parking/storage space at the property and any proposals to increase living accommodation can be assessed on their merits.

7.0 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 (paragraphs 186 and 187) 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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