

Date: 18 June 2020 **Ward:** Osbaldwick and Derwent
Team: East Area **Parish:** Osbaldwick Parish Council
Reference: 19/02065/FUL
Application at: 173A Osbaldwick Lane York YO10 3BA
For: Change of use from dwelling (use class C3) to House in Multiple Occupation (use class C4)
By: Mrs Clare Naismith
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.173A Osbaldwick Lane (2.no upper floors) to a small House in Multiple Occupation (Use Class C4).

1.2 The application was reported to the March 2020 Area Planning Sub-committee meeting and deferred in order to explore the potential to add a condition requiring the tenancy agreements for the HMO to restrict the ownership of private cars. Consideration of this matter is at paragraph 5.18.

1.3 The site lies within a parade of commercial properties. It is accessed via a side gate and rear entrance door. There is a reasonably large sheltered garden at the rear. The proposed use would comprise at first floor of a kitchen, dining room, bathroom and 2.no bedrooms. The second floor would comprise 2.no bedrooms (both en-suite). This will result in 4.no bedrooms in total.

1.4 The property has had a rear roof dormer added under planning permission ref.17/02331/FUL.

Call-in

1.5 The application has been called in by Councillor Mark Warters for consideration of the impact on the highway network and on the operation of adjacent commercial development.

2.0 POLICY CONTEXT

Publication Draft Local Plan 2018

CYH8 - Conversion to flats/HMO/student accom

Development Control Local Plan 2005

CYH8 - Conversion to flats/HMO/student accom

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 173A Osbaldwick Lane, the current density level is 2.78%. 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

- Advertised as a 4.no bedroom HMO when 5.no bedrooms exist
- Off-road parking to the front is that of No.173 Osbaldwick Lane
- Will lead to further displaced parking

4.0 REPRESENTATIONS

Councillor Mark Warters

4.1 Objection. Impact on the highway network given the absence of dedicated parking and on the operation of adjacent commercial development.

Publicity / Neighbour Notification

4.2 Two letters of objection received

- Car parking may be displaced on to Osbaldwick Lane and the detrimental impact on local businesses.
- Only 3 parking spaces exist on the forecourt
- Obstruction of the access road
- Parking spaces already taken up by the ground floor business.

5.0 APPRAISAL

KEY ISSUES

5.1 The key issues in the assessment of this proposal are HMO policy and cumulative impact, 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, 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

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 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 Local Plan 2005

5.8 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.

5.9 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.

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 approved 15 April 2012 (Amended 2014)

5.10 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.

5.11 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.

5.12 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

5.13 DCLP policy H8 requires that a dwelling has a minimum of 4 bedrooms if it is to be considered acceptable for change of use to an HMO. However, had the Article 4 Directive not been made, this proposal would have constituted permitted development. Given that the purpose of the Directive was to control concentrations of houses in multiple occupation and protect family housing, the requirement of the policy for a minimum of 4 bedrooms is not considered to be a material consideration in the appraisal of this proposal.

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 173a Osbaldwick Lane, there is currently 1 HMO out of 36 properties (density level 2.78%). The proposal if approved would take this to 5.5%. At the neighbourhood level there are currently 74 HMO's out of 1681 properties (density level 4.40%) The proposed increase would take this to 4.46%. 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 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 application site includes the parking area in front of the premises. This is shared between the commercial occupier on the ground floor and the flat above. The geometry of the access means that the area can accommodate up to 3 vehicles whilst retaining access to the side gate for pedestrians and cyclists.

5.18 Members deferred the consideration of the application at the March Sub-Committee "in order to explore the potential to add a condition requiring the tenancy agreements for the HMO to restrict the ownership of private cars." The monitoring and enforcement of such a condition would be difficult. Furthermore the annex E maximum parking standards for a 4 bedroom dwelling is 2 car parking spaces, the standard for a 4 bedroom HMO is also two spaces. The application of the Council's parking standards would not result in a requirement for additional spaces. It is considered that there will not be a significant demonstrable impact on parking as a result of the change of use. A condition restricting car ownership on such a small development is not considered necessary or reasonable given the likely impact of the proposals and therefore would not meet the tests for conditions set out in the CIL Regulations and the NPPF.

5.19 Currently the use of the applicant's forecourt is informal, it is recommended that the proposed management plan includes the parking arrangements so that all uses within the premises can be accommodated.

Cycle Storage

5.20 External access to the rear of the property (via a side gate) exists and will remain. This is of sufficient width for cycle access to the rear garden. Cycle storage can be secured by planning condition.

Bin Storage

5.21 External access to the rear will remain following development. This is wide enough for refuse bins.

Amenity of Future Occupants

5.22 The internal layout is considered adequate for the needs of 4.no tenants. In addition, the rear garden is both large and sheltered. Local amenities exist in addition to a regular bus route into the city centre. Sufficient off-road parking will exist at the front of the property and secure cycle provision could be made in the rear garden. In consequence, this aspect of the proposal is considered to be acceptable.

Impact on the Amenity of the Occupants of Neighbouring Properties

5.23 The application property lies within a parade of commercial premises. In this respect it differs from an exclusively residential neighbourhood. There is nothing inherent in the proposal which will result in significant harm to the amenity of neighbouring residents and any approval would be subject to a condition requiring a management plan. This would seek to address issues that can arise in association with a multiple occupancy use.

6.0 CONCLUSION

6.1 It is considered that the use of the property as a small HMO (use Class C4 HMO is in terms of the concentration of HMOs in the area and the impact on residential amenity and highway safety. 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. Consideration has been given to the imposition of a condition requiring the development to be car-free, however this would not meet the NPPF tests of reasonableness.

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:-

Approved Drawings No's 46 01A - 46 - 04A - 46 -03B - Dated September 2017

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
- v) Use of the forecourt for parking for business and residential occupiers

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

4 Prior to occupation of the property as a House in Multiple Occupation, details of cycle storage, including 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.

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:

Requested revised plans to indicate correct floor layout and off-road parking provision

Contact details:

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