

## COMMITTEE REPORT

**Committee:** East Area  
**Date:** 7 July 2010

**Ward:** Hull Road  
**Parish:** Hull Road Planning Panel

**Reference:** 10/00839/FUL  
**Application at:** 1 Barstow Avenue York YO10 3HE  
**For:** Change of use from dwelling (use class C3) to house in multiple occupation (use class C4)  
**By:** Mr Mark Smith  
**Application Type:** Full Application  
**Target Date:** 21 June 2010  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 Members will no doubt be aware that new legislation was introduced by the former Government on 6 April this year, whereby the occupation of a dwelling by three or more unrelated people is now classed as a house in multiple occupation (HMO) and would require planning permission. Effectively, the legislation created a new "use class" (Class C4), in addition to the existing use class for a dwelling (Class C3), and planning permission is now required to change between use class C3 and the new C4 use class. It should be noted that the new legislation is not being applied retrospectively, and that properties that were already occupied as HMO's under this definition prior to 6 April are not required to apply for planning permission.

1.2 This application seeks planning permission to convert a two bedroom single occupancy dwellinghouse (Use Class C3) into a five bedroom house in multiple occupation (HMO) (Use Class C4). The application site is 1 Barstow Avenue in the Hull Road area of York. No external changes are proposed as part of the proposed development. This application has been brought before East Area Planning Sub-Committee at the request of Cllr Pierce in order to consider the wider context of new C4 planning applications and the lack of car parking at the application site. A site visit will allow members to understand the nature of the objections raised and put them into context.

1.3 Members need to be aware that the situation surrounding the new HMO use class has changed as a result of a recent ministerial announcement that it is the intention of the new coalition Government to amend the legislation in the near future. Briefly, the new C4 use class would remain, but planning permission would no longer be required to change from Class C3 (dwelling) to Class C4 (HMO). If considered necessary, it would then be open to individual local planning authorities to retain control by designating "Article 4 Directions" in particular areas, which could effectively be used to remove the right to change between the use class C3 and C4 without planning permission being obtained. It is anticipated that this change will come into force in October 2010.

1.4 Such ministerial statements are a material planning consideration, although in the meantime the original legislation remains and the Council still has a number of

"live" applications that are yet to be determined. However, it is likely that even if planning permission is refused, or enforcement action taken in respect of unauthorised HMO's, by October the controls may have been removed altogether. The new Government has indicated a clear change in direction and this clearly cannot be ignored in the making of decisions on individual applications.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

### 2.2 Policies:

CYH8

Conversion to flats/HMO/student accom

## **3.0 CONSULTATIONS**

### Internal

3.1 Highway Network Management - No objections to the principle of development, however it is noted that Barstow Avenue is heavy with on street parking and the change of use would result in an increase in occupants of the property. It is therefore recommended that the area to the front of the dwelling be surfaced to accommodate a parked vehicle.

### External

3.2 Hull Road Planning Panel - No objections however concerns are raised regarding the potential increase in vehicles and possible parking issues.

3.3 Third Parties - Two letters of objection have been received from local residents, one from the adjoining semi at 3 Barstow Avenue and one through a planning agent representing the residents of 5 Green Dykes Lane which backs onto the application site. The following comments were made:

#### 3 Barstow Avenue:

- the proposal involves altering the chimney breast which cannot be good for the structure of the next door house;
- the proposal would reduce the value of 3 Barstow Avenue;
- the noise and chaos from the proposed change would be difficult to cope with;
- car parking is already a problem in the area;

## 5 Green Dykes Lane:

- three of the five bedrooms provide less than 6 sq m of space which is insufficient for a desk as well as a bed let alone any wardrobe or storage space;
- CYC's publication '2009/10 Code of Best Practice for Student Accommodation' sets a recommended minimum spaces standard of 6.5 sq m for study rooms and 10 sq m where there is no separate living room, the proposal is below this standard;
- the same document states that kitchens must be an appropriate size for the number of occupants, a different authority requires kitchens to have a minimum space of 3sq m per user, the combined kitchen and living room amounts to just 2.6 sq m per user in this application;
- properties on both Green Dykes Lane and Barstow Avenue enjoy a pleasant spacious feel and benefit from well maintained green gardens, however two student houses at 1 and 3 Green Dykes Lane have been let to students and the front gardens are not maintained, refuse and recycling bins are left in front gardens and hedges have been removed for ease of maintenance;
- the cumulative effect of HMO's is already affecting the character of the area as well as the amenity of existing residents, landlords are not always present to monitor the behaviour of their tenants and may not have the inclination to keep the property well maintained, lack of maintenance leads to a deterioration in the fabric of the property and affects the visual amenity of an area;
- should the application be approved suitable conditions should be applied to ensure the garden is kept in a clean and tidy state with regular hedge cutting and weeding and convenient bin storage to ensure bins are put tidily away between collections.

## 4.0 APPRAISAL

### 4.1 It is considered that the key issues are:

- Principle of development;
- Impact on the character and appearance of the area;
- Impact on the amenities of local residents;
- Car parking; and
- Cycle and bin storage.

### 4.2 Policy H8 sets out the current criteria by which conversions of houses to HMO's should be assessed. Policy H8 states that planning permission will only be granted for the conversion of a house to a HMO where:

- the dwelling is of sufficient size 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.

### 4.3 The applicant has submitted a layout plan showing that the intention is to convert the existing two bedroom house into a five bedroom HMO. Upstairs

'bedroom 1' would be split into two bedrooms and 'bedroom 2' would remain, as would the upstairs bathroom. The downstairs living room would be split into two bedrooms with the kitchen/dining area remaining. The property has a reasonably sized rear garden which can be used as outdoor amenity space. A letter of objection has been received stating that the bedrooms and living accommodation do not comply with best practice guides in terms of size, however these are not adopted planning policies and thus carry little weight. It is considered that the proposals could provide a reasonable level of amenity for future occupiers and it would be for potential tenants to determine if the rooms and communal space are suitable for their needs.

4.4 No external alterations are under consideration as part of this application and therefore the proposal satisfies the second criteria of Policy H8.

4.5 There is no off road car parking available at 1 Barstow Avenue. Local Plan Policy H8 states that there should be 'adequate' off road parking. Planning Policy Guidance 13 'Transport' aims to reduce dependency on the car and sets maximum car parking standards, Paragraph 51 of PPG13 states that Local Planning Authorities should 'not require developers to provide more spaces than they themselves wish, other than in exceptional circumstances'. It is not considered that a small scale development in a sustainable location close to the University, bus stops, cycle routes, and shops and services would represent exceptional circumstances. On street car parking is available and at the time of the officer's site visit there were spaces available. Even if the property continued to be occupied as a traditional family house, it could generate at least one and possibly a greater number of vehicles, which would need to be parked on the road.

4.6 However, as stated within the two letters of objection from and on behalf of local residents a significant increase in demand for on street car parking could result in difficulties for local residents. It is therefore proposed that a management plan be conditioned as part of any approval to ensure that the number of vehicles owned by occupants of the dwelling are controlled by the landlord. The applicant's agent has confirmed that this would be acceptable. Highway Network Management raised no objections on highway safety grounds but suggested that the front garden be paved over to allow a car to park off road, however it is considered that this would harm the visual amenity of the area.

4.6 Information from Council Tax records indicate that there are six registered student houses on Barstow Avenue and seven on the adjacent Green Dykes Lane. There are approximately 80 houses on these two streets. At the present time there is no guidance on what constitutes an excessively high concentration of HMO's within an area or on a street. Without such guidance it is difficult to conclude that creating an additional HMO in the street would create an excessively high concentration which would be detrimental to the area. The area still retains a strong residential character which is consistent with its suburban location, and there are no obvious indications that the number of HMO's is harmful to the visual character of the area or the way it functions.

4.7 The potential occupation level of the property is increasing, as the number of bedrooms is increasing from two at present to five. However, the proposed

additional bedroom upstairs does not adjoin the shared party wall with 3 Barstow Avenue. Therefore potential noise disturbance to bedrooms in the neighbouring house is minimised. The two proposed bedrooms to be created on the ground floor would be adjacent to neighbouring reception rooms which are less sensitive to noise nuisance. It is considered that general comings and goings associated with a HMO of the size proposed would not be harmful to the level of amenity which neighbouring residents could reasonably expect to enjoy. Other non-planning legislation is available to control issues such as noise or anti-social behaviour.

4.7 There is an alleyway to the side of the house which allows access to the rear garden. The applicant has indicated on the plans a possible location for a covered and secure cycle storage shed. It is recommended that a condition is attached to any approval to ensure a suitable cycle storage facility is provided for use by future residents of the house. In addition, the side access to the garden allows refuse and recycling bins to be stored out of the front garden and away from the public realm. It is suggested that these details are agreed within a management plan for the property which is a suggested condition should the application be approved.

4.8 The nature of HMO's is that they tend to be occupied for relatively short periods of time, occupants move on and other tenants move in. This can sometimes create a lack of ownership of the property and its garden areas. One letter of objection raises concern and includes photographs of two houses in the area which are let and the front gardens are not attractively maintained. The majority of houses on Thirkleby Way have maintained a "green" front garden area which adds to the visual character of the area. It is therefore considered reasonable and necessary to impose a condition relating to the maintenance of the front garden area.

4.9 Current guidance published by Communities and Local Government indicates that C4 houses have permitted development rights. It is recommended that a condition is attached to any approval to remove permitted development rights for this property. Permitted development rights for dwellings would allow significant extensions to the rear of the house and in the roofspace without the need for planning permission. Given that these extensions could create a significant increase in occupancy levels if they were converted to bedrooms it is considered important that the Local Planning Authority retains the ability to control this.

4.10 Letters of objection also raised concerns about the structural integrity of the house if the chimney breast is removed, the value of neighbouring houses, and disruption during building works. However, none of these issues are planning considerations and therefore should not be given weight in considering this application.

## **5.0 CONCLUSION**

5.1 Subject to suitable conditions the proposal is considered to comply with Policy H8 of the Local Plan and is therefore recommended for approval.

## **COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

2 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A (extensions), B (extension of the roof), C (alterations to the roof), E (erection of outbuildings), and F (hard surfacing) of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

3 Prior to the commencement of the development hereby approved, a management plan shall be submitted to and approved in writing by the Local Planning Authority, to include arrangements for the regular maintenance of the front garden, the storage of bins and recycling boxes within the site, and controls over the maximum number of residents vehicles. The approved management plan shall be implemented prior to occupation and shall subsequently be adhered to at all times.

Reason: In the interests of visual amenity, the amenity of adjacent occupiers and in order to ensure that there are adequate measures in place to control the number of residents vehicles at the site.

4 Prior to the development commencing details of the cycle parking areas, 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.

**7.0 INFORMATIVES:  
Notes to Applicant**

1. Reason for Approval

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- The principle of development;
- Impact on the character and appearance of the area;
- Impact on the amenities of local residents;
- Car parking; and
- Cycle and bin storage.

As such the proposal complies with Policy H8 of the City of York Development Control Local Plan.

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