

## COMMITTEE REPORT

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

**Ward:** Osbaldwick  
**Parish:** Osbaldwick Parish Council

**Reference:** 10/00645/FUL  
**Application at:** 53 Thirkleby Way Osbaldwick York YO10 3QA  
**For:** Change of use from dwelling (use class C3) to house in multiple occupation (use class C4)  
**By:** Mrs Heather Richardson  
**Application Type:** Full Application  
**Target Date:** 3 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 three bedroom single occupancy dwellinghouse (Use Class C3) into a five bedroom house in multiple occupation (HMO)(Use Class C4). The application site is 53 Thirkleby Way in Osbaldwick. No external changes are proposed as part of the proposed development. This application has been brought before East Area Planning Sub-Committee due to the level of objection from local residents and Osbaldwick Parish Council. 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:

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 accommodation

## **3.0 CONSULTATIONS**

### Internal

3.1 Highway Network Management - It is recommended that details be submitted of car and cycle parking in line with current standards.

3.2 City Development - A policy approach to address and reflect issues around the new C4 use class will take place through the Local Development Framework process. However in considering this planning application consideration should be given to the protection of the character of the area and the amenity of local residents, and the provision of adequate storage for waste recycling and litter collection. The relevant local policies are GP1 (Design) and H8 (Conversions). There are no policy objections to the principle of development.

### External

3.3 Osbaldwick Parish Council - Object to the application and support the concerns raised by local residents. As this is one of the first applications of this type to be dealt with by the Council it is recommended that this Planning Committee deal with it. Objections are raised on the following grounds:

- 1) There is inadequate parking provision which would lead to parking problems for neighbouring properties and verge parking leading to a general deterioration of the street environment;
- 2) Potential for noise and disturbance, HMO's in residential and family neighbourhoods are totally inappropriate and there should be a presumption

against granting planning permission. The lifestyle of student residents is incompatible with that of working families and the many elderly residents and the potential for late night disturbance is unacceptable;

- 3) The change to the character of the neighbourhood is of concern, there are a number of student rental properties in the immediate vicinity and any further increase would bring the street closer to a 'tipping point' whereby the residential amenity for existing long term residents is compromised to such an extent that they simply give up and sell up leaving further properties for student landlords to exploit;
- 4) The potential loss of garden space for parking, rubbish storage etc which would change the character of the area and result in a loss of bio-diversity;
- 5) Change to the character of the area in terms of local amenities such as schools and shops. A local supermarket on Hull Road secured a 24 hour alcohol license to serve the growing student market and the problems of falling school enrolment numbers in students areas is a known problem.
- 6) Allowing family houses to be turned into student houses will add more development pressure to the York Green Belt. There is a strong need for housing for young people, therefore no more houses should be lost to the student let market. The University of York should ensure adequate provision of student accommodation on campus with rent capping to ensure such accommodation is financially attractive.

3.4 Third Parties -Ten letters of objection were received from local residents, the following points were raised:

- four of the eighteen houses on this part of Thirkleby Way are rented properties, this is too high a percentage for a residential area;
- houses in the area have small drives and the road is narrow so there will be parking problems if HMO's are allowed;
- the road is already busy and more traffic would harm the quality of life for residents;
- allowing more student houses will create noise and disturbance for residents;
- the proposed extensions are an overdevelopment of the house;
- loss of ecology and amenity by over-extending the property into the back garden plus the inevitable provision of some parking in the front garden;
- there will be a loss of visual amenity by the likely lack of maintenance of the property and grounds and the extra refuse, which would be generated by transient occupiers;
- gardens in the surrounding area would not be able to be enjoyed;
- overfilled bins could attract vermin;
- more student houses would lower the value of surrounding properties;
- can the drains cope with the extra demand;
- the property would be overcrowded;
- it is not clear on the application form how many bedrooms there would be;

- some of the details on the submitted plans are inaccurate, an internal door has been missed off as has a window;
- there is no designated area for wheelie bins or recycling boxes;
- cars parking across the front garden would be an eyesore, grass verges could be spoiled by visiting cars, which could also hinder visibility from neighbouring driveways;
- 'To Let' signs associated with student houses give streets the appearance of a dormitory suburb;
- the increase in the student population has had a detrimental effect on the community spirit of Osbaldwick as students don't put anything back into the area;
- the property is needed for families.

## **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 An amendment to the Use Classes Order came into force on 6th April this year whereby a new use class (C4) was introduced. This amendment separates dwellinghouses from houses in multiple occupation, whereby planning permission is required if a single household dwelling is being converted into a property occupied by more than one household and more than two people, including shared houses. There is no new local policy framework, which specifically deals with the recent changes in legislation, however Policy H8 sets out the current criteria by which conversions of houses to HMO's should be assessed.

4.3 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.

4.4 The applicant has submitted a revised plan showing that the intention is to convert the three bedroom house into a five bedroom HMO. The three existing upstairs bedrooms would remain as bedrooms, with the two ground floor reception rooms converted to provide two additional bedrooms. The original plan to convert the garage into a sixth bedroom has been removed from the plans. This would leave a garage, kitchen, and downstairs and upstairs bathroom for use by future residents. It is considered that this internal layout is suitable for five occupants in terms of providing a reasonable level of residential amenity. There is an intention to build a

small rear extension in place of the existing workshop to create a larger kitchen/living area, however this is not under consideration as part of this change of use application. The property has a reasonable sized rear garden, which can be used, as outdoor amenity space and there is a garage for storage.

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

4.6 No. 53 Thirkleby Way currently has a driveway, which could accommodate one parked car. This is in line with maximum car parking standards set out in the Local Plan. The existing garage is proposed to be reduced in size to make space for a downstairs shower room; this limits the available off street parking capacity to one car. There are no car parking restrictions on Thirkleby Way and the width of the highway allows cars to be parked on the road side whilst also allowing cars to pass. However, a number of local residents have raised concerns about the visual and highway safety impacts of cars being displaced onto the roadside. Highway Network Management raised no objections on highway safety grounds to the proposed conversion.

4.7 The applicant suggested that the front garden be paved over to allow two vehicles to park off road, however this is considered undesirable from a visual amenity point of view. The house is in a sustainable urban location and occupants would not necessarily require a private car. On balance, it is considered that the provision of just one car parking space would not warrant a reason for refusal based on the fact that any additional residents cars or visitors cars would be required to park on the highway. It is proposed that details of how resident car ownership levels would be controlled be submitted by the applicant for approval by the Local Planning Authority as part of an overall management plan of the property. Such an arrangement could be used to ensure that vehicle numbers generated by the use do not become excessive.

4.7 Information from Council Tax records indicate that there are two registered student houses on Thirkleby Way, although local residents have indicated there are four. There are around 50 houses on Thirkleby Way. At the present time there is no guidance on what would constitute 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.

4.8 As the potential occupation level of 53 Thirkleby Way is not increasing significantly as a result of the proposed conversion, it is considered that there would not be an increase in noise and disturbance through general comings and goings or through the reasonable occupation of the house. A number of local residents stated that occupiers of HMO's, often assumed to be students, create more noise and disturbance through activities, which are perceived to be less common within family housing. However, it is not the purpose of the planning system to distinguish or make assumptions in relation to different groups of people and it should not be

assumed that future residents would create more noise and disturbance than is likely if the property was owner occupied. Other (non planning) legislation is in place to control issues such as noise or anti-social behaviour.

4.8 No 53 Thirkleby Way has an attached garage built up to the curtilage boundary with number 51. This results in there being no access around the side of the house to the back garden. Therefore it is considered reasonable and necessary that the garage is retained for the purpose of storing bicycles and bins. This will allow bicycles to be stored securely and encourage future residents to choose a sustainable transport mode. Retaining the garage would also allow bins to be stored out of sight from the public realm, which would help to maintain the visual amenity of the street.

4.9 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. It is therefore considered reasonable and necessary to impose a condition relating to the maintenance of the front garden area and the storage of bins away from the front garden. The majority of houses on Thirkleby Way have maintained a "green" front garden area, which adds to the visual character of the area.

4.10 Current guidance published by the 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.

4.11 The applicant has shown on the submitted plans an intention to build an extension at the rear to create a larger communal area. This is not considered as part of this change of use application and the removal of permitted development rights would ensure the Council has control over the design and use of this extension, in the event that the change of use is approved and implemented.

## **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 The garage shown on the approved plans shall be retained at all times as a garage for the purposes of bicycle and bin storage, and shall be used for no other purpose without the prior written consent of the Local Planning Authority.

Reason: To enable bicycles to be stored securely and to enable refuse bins to be stored away from the public realm, in the interests of visual amenity.

4 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.

## **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.

## 2. INFORMATIVE

The submitted plans indicate an intention to erect an extension at the rear of the house for the purpose of creating a larger kitchen/living room. This was not considered as part of the change of use application and therefore this decision notice does not grant permission for its erection.

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