

1.2 The proposal

The application proposes the conversion of the property into a house in multiple occupation (HMO) with 9 bedrooms and the creation of a self contained unit in the rear outbuilding. The house would have its communal area - kitchen, dining and living space - on the ground floor of the original building. The bedrooms, which would be en- suite, would be on the upper floors and in the rear extension. The converted garage would provide a self contained unit with a bedroom living area and separate kitchen and bathroom within a new single storey extension to replace an existing conservatory. Three parking spaces would be created beyond this unit with turning space. A secure cycle parking area would be provided next to this. Beyond the parking area, the existing garden would be retained as an amenity space for residents. To allow the conversion, physical works would be required including blocking up openings and creating new windows, roof lights and doors, removing an existing link between the house and its extension, enlarging an existing single storey link on the boundary with no.27.

The application is supported by the following documents:

Statement by applicant - Confirms the history of the site and his family's involvement and the reasoning behind the proposal. It states that the applicant's company has outgrown the premises and the problem with parking in the vicinity due to the proximity to the junction.

Design and Access Statement - Concludes that the current unit does not serve the local needs of the immediate community and therefore its loss will not be significant. Considers that the size of the property lends itself to multi-occupancy and the student need in the area. The application would involve improvements to the fabric of the building. It is accompanied by an old street photograph showing the building as a residential property.

Flood Risk Assessment - Confirms that the site is in Flood Zone 1 (low risk) and has no history of flooding.

Land Contamination Report - This states that the use of the site was residential from 1890 to 1950 and then commercial and domestic from 1951 to the present. Its current land use being commercial as a retail shop. There have been no reported or unreported pollution incidents.

Noise Impact Assessment - Highlights that the site falls within Noise Exposure Category D, due to its location next to the A19 and near a traffic signalled junction. It proposes a glazing and ventilation scheme to ensure internal noise levels within the proposed dwelling meet the requirements of British Standards.

1.3 Relevant history

The building was originally in residential use, being converted into a commercial unit in the 1950s. The current use has operated from the site for 16 years. Planning permission was granted for the conversion of no. 23 from a shop to a HMO for 12 occupants including a self-contained bedsit in 1996 (96/2267/FUL).

The application has been called-in to Committee by the Ward Member, Councillor Aspden. His objections to the application are set out in section 3.3.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Fulford CONF

City Boundary GMS Constraints: York City Boundary 0001

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

Schools GMS Constraints: St. Oswald's CE Primary 0228

2.2 Policies:

CYGP3
Planning against crime

CYGP4B
Air Quality

CYGP4A
Sustainability

CYGP6
Contaminated land

CYHE2
Development in historic locations

CYHE3
Conservation Areas

CYT4
Cycle parking standards

CYH4A
Housing Windfalls

CYH8
Conversion to flats/HMO/student accom

CYS9
No loss of local or village shops

CYL1C
Provision of New Open Space in Development

3.0 CONSULTATIONS

3.1 The application was publicised by way of internal and external consultation letters, a site notice and press notice.

3.2 Internal

Environmental Protection Unit (EPU) - Concerns raised regarding land contamination, air quality and noise. Requested various reports be undertaken. Recommend refusal of the application on the grounds that the site falls within Noise Exposure Category D, which as PPG24 clearly states, 'should normally be refused'.

That being said, the acoustic report submitted with the application demonstrates that by using suitable glazing it would be possible to ensure acceptable internal noise levels are achieved which comply with the requirements of BS8233 and the World Health Organisation (WHO) guidelines on community noise. In addition, the outdoor amenity space located to the rear is unlikely to be adversely affected by noise, and

since the application is for a HMO this area may not be as sensitive to noise as other developments.

As the site is in an air quality management area it will be necessary that all windows to the front of the property are non-openable with mechanical ventilation provided drawing air from the rear.

As a result, the concern is that by sealing this property from noise and poor air quality, it creates substandard accommodation which is unlikely to benefit the future residents of this site or be a benefit to the housing stock of York. Requests conditions if minded to approve against recommendation of refusal. These conditions require firstly a scheme to achieve specified noise levels and secondly all windows to the Main Street to be non-opening with mechanical ventilation.

Environment and Conservation - Frontage is part of a late Victorian terrace of brick buildings with decorated gables facing onto Main Street. The frontage building makes a positive contribution to the character and appearance of the conservation area, despite changes to it. Removal of the shop front and rebuilding front elevation could preserve the contribution the building makes to the street-scene subject to details. The upper floor of the rear elevation is visible in views from Heslington Lane. Again, to preserve the character and appearance of the area, painting of brickwork on the main building should be avoided. No objection to the proposed alterations to outbuildings. Demolition of existing link structure and proposed replacement preserves character and appearance of conservation area. Requests conditions in event planning permission granted - material samples, cross-sections, window details, design and materials of window head arches.

Highway Network Management - No objections in principle to the revised plan. Recommend standard condition HWAY19 (Car and cycle parking).

Communities and Culture - Request contribution towards off site provision in lieu of on site amenity open space and sports provision.

3.3 External

Councillor Aspden - objects on behalf of local residents. This is because it is a change of use from a local business to accommodation with a lack of parking and amenity space for 11 bedrooms plus garage conversion. It is a particularly narrow access point and an additional 11-bed HMO will not maintain the community balance in Main Street.

North Yorkshire Police - Analysis of police recorded incidents within a 100m buffer zone shows that the proposed development is in an area of low risk in respect of crime and disorder. It is noted that the proposal is to provide student accommodation. Crime against student properties in York continues to be a concern and therefore there is justification for requiring a high standard of security to be provided in respect of this development. Suggests gating shared passageway and providing fully enclosed and lockable cycle store.

Fulford Parish Council - Objects.

- Loss of longstanding retail facility with no attempt to market the property;
- Inadequate vehicle and cycle parking provision;
- Concentration of HMO uses in a small area leading to adverse impact on residential character and amenity;
- Unsafe access.

Local residents - following responses received:

Response from immediate neighbour at no. 27 - Consider changes to be appropriate as long as the applicant lives in the property as caretaker, otherwise object to student rental property. He will need to ensure adequate off street parking.

Response from two residents of Heslington Lane - Concerns regarding parking, concentration of HMO properties, future residents.

Letter for support on basis that the residential façade of Main Street would be better.

4.0 APPRAISAL

4.1 The main considerations in the determination of the application are:

- loss of shop;
- principle of residential use;
- suitability of building to residential use;
- amenity issues;
- impact on conservation area;
- highway safety
- contamination.

4.2 Policy Context: Central Government advice is contained in Planning Policy Statement 1: Delivering Sustainable Development, Planning Policy Statement 3: Housing, Planning Policy Statement 5: Planning for Historic Environment and Planning Policy Guidance note 24: Planning and Noise.

PPS1 puts the creation of sustainable communities at the heart of the planning system, with accessibility, design and safety being instrumental to this. 'The Planning System: General Principles', the companion document to PPS1, advises of the importance of amenity as an issue.

PPS3 encourages more effective and efficient use of land. It supports PPS1 with regards high quality and sustainable housing.

PPS5 sets out policies that seek to protect designated heritage assets. Policy HE9 establishes the presumption in favour of the conservation of designated heritage assets, including elements that contribute to the significance of a conservation area as a whole.

PPS24 gives advice on the approach to be taken with regards noise exposure categories for residential development to be taken into account in the consideration of applications for residential development near transport-related noise sources.

City of York Draft Local Plan policies are material to the consideration of the application and are summarised in section 2.2.

4.3 Loss of shop

Policy S9 of the Draft Local Plan seeks to retain local or village shops that serve a local need. The policy advises that only where the local need no longer exists or appropriate alternative facilities exist within the local area that change of use proposals that result in the loss of such shops be granted. Its supporting text highlights the importance service that local and village shops provide by offering a range of convenience goods and associated services such as post offices and hairdressers.

The site is currently in use as a fancy dress shop with retail floor space, display and storage over three levels. It does not provide and has not been a local shop serving the community for over 15 years. There are other such facilities along Main Street, Fulford Road and Broadway that fulfil the local need for convenience goods. It is noted that many of the units on Main Street itself are in retail uses that serve the wider

community and that there are currently vacant shop premises. It is unlikely that a different type of retail business, or indeed any other commercial use, would require the amount of floor space available in this out of centre location given the limited on-street parking and difficult access arrangements to off-street parking. Therefore, notwithstanding the lack of any information relating to the marketing of the property, it is considered that refusal on the grounds of loss of a local shop would be difficult to justify.

4.4 Principle of residential use

The surrounding area is a mix of residential and commercial uses, but with the predominant use in the immediate vicinity being residential interspersed with commercial and community uses. The adjoining properties, nos. 23 and 27 are in residential use with no.23 being a house in multiple occupation for 12 occupants (it has a self-contained bedsit at the rear). An application has recently been submitted for conversion of the Methodist Church next to no.27 to residential. The conversion of the property for residential is considered in principle to be a compatible alternative use.

4.5 Suitability of building to residential use

The property is large with accommodation over three floors and has a substantial rear garden. As a result of this, the limited parking and the surrounding residential uses, the property lends itself well to residential use. It is located on a busy main arterial road and public transport route into the City Centre and within access by foot or cycle to shops and services. Local Plan Policy H4a supports residential proposals where they involve conversion of an existing building within the urban area with good access to jobs, shops and services by non-car modes.

A noise impact assessment was requested by the Council, because the application proposed a residential use at a site that is adjacent to the A19 York-Selby road and south of a signal controlled junction. The assessment report concluded that the site falls within Noise Exposure Category D. PPG24 sets out noise exposure categories for dwellings to be taken into consideration when assessing proposals for residential development near transport-related noise sources. It advises that development falling within category D 'should normally be refused' planning permission. As a result, EPU is unable to support residential development at the site.

The assessment, however, also considered the proposed glazing of the scheme against British Standards (BS). It concluded that when assessed against the relevant BS for internal noise levels within dwellings, all rooms would be within the 'good' design range for daytime hours and 'good' design range with 'reasonable standard' for night time maximum noise levels. EPU accept that by using suitable glazing it would be possible to ensure acceptable internal noise levels are achieved that comply with BS requirements and World Health Organisation Guidelines. EPU does not contest the findings of the assessment. The application has been amended to remove the two ground floor bedrooms originally proposed, replacing these with the communal kitchen, itself a less noise sensitive room.

In addition, the site falls within a recently declared Air Quality Management Area (AQMA) on Fulford Main Street. This is because of the concentrations of nitrogen dioxide at a number of sites along the Main Street that breach the health based annual average nitrogen dioxide objective. Whilst an Air Quality Action Plan (AQAP) is currently being developed, the Council's Environmental Protection Unit (EPU) raises concern about the suitability of the site for residential use.

If approved, EPU would require a mechanical ventilation system be put in place to draw air in from the rear of the property and all front windows be non-openable as well as a noise attenuation scheme. This would affect users of the kitchen and upper floor bedrooms, who would not be able to have openable windows and would be reliant on the ventilation system for fresh air. The kitchen would also require an extraction system for cooking smells and smoke.

EPU raises concerns about the substandard accommodation that may be created in order to address noise and air quality. However, it is noted that the living room would be located at the rear of the house where these measures would not be required and that residents would not, therefore, be confined to their rooms and could seek relief from them if necessary in either the living room or rear garden. For this reason, the proposal for a house in multiple occupation is preferable to more noise sensitive developments, such as a single family dwelling, flats or bedsits.

The proposal would be unlikely to contribute to air quality issues within the Air Quality Management Area and as such accords with Local Plan Policy GP4b.

4.6 Amenity issues

The proposal would introduce a second HMO to the terrace, with the potential for the erosion of neighbour amenity. Having said this, the site is located on a busy main road with a mix of residential and commercial uses where the general activity levels are higher than a primarily residential area. EPU have not raised concern about the potential for noise disturbance from the property to the neighbouring dwelling at 27. Access into and out of the property would be from an existing entrance in the passageway. There is already a parking area and garden at the rear and whilst there would be an intensification of use of these, it would be unlikely to result in significant harm to the amenity of adjacent residents.

Policy H8 of the Local Plan relates specifically to the conversion of dwellings in multiple occupation uses. However, the reasoning behind the policy and the impact of concentration of uses can also be applied to the proposal. It is noted that the proposal would result in a large HMO adjacent to a similarly large HMO at no.23. However, it should be borne in mind that the existing use is not a dwelling in a quiet suburban location, but a shop on a busy main road where there are a variety of other residential and commercial uses.

Sufficient private amenity space exists to serve the HMO even with the creation of a larger parking/turning area. In accordance with Local Policy L1c, a financial contribution towards provision of public open space in lieu of provision on site is required. This would be based on amenity open space and sports provision only and equates to £1,700.

4.7 Conservation area

When determining planning applications within Conservation Areas, the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character and appearance of the area. The building forms part of a terrace of mid Victorian property of similar design and because of its location at back of footpath is characteristic of properties along this main road. Despite alterations to the property, it makes a positive contribution to the character and appearance of the conservation area. The proposal would help ensure a longer term use for the building and one that is compatible with its original purpose. The changes to the lower front elevation would preserve the contribution the building makes, though further details of the replacement windows would be required. The upper floor window should either be restored or

replaced with a like for like design. To retain the character and appearance of the conservation area, the painting of brickwork on the main building should be avoided on both the front and rear elevation. The Council's Conservation Officer raises no objection to the scheme, subject to details of materials and windows that can be suitably dealt with by the imposition of conditions.

4.8 Highway safety

The site is located on a main public transport and cycle route into the City Centre and is close to local facilities and services. Three vehicle spaces and an enclosed cycle parking store would be provided to serve the HMO and self-contained unit at the rear of the property, accessed via the existing shared passageway and then through a gated opening at the rear of single storey rear extension. The vehicles would have to pass by the bedrooms of the main property and the bedroom/living space of the rear unit. However, as they would be related to the property which they would serve, there is no objection on amenity or highway safety grounds. The access is already present and the numbers of parking space would not be significantly increased as a result of the proposal. Further details of the cycle storage are required to address concerns raised by the Police about security.

4.9 Contamination

The contamination assessment showed that the building had been in domestic use from 1890 to 1950 and then in either domestic or commercial use from 1951 to the present day. In light of this and the fact that there have been no reported or unreported pollution incidents, there are no issues with regards to contamination at the site.

5.0 CONCLUSION

5.1 The proposal would convert this Victorian terrace back to a residential use as a house in multiple occupation for nine residents with a self-contained unit to the rear, which would be more compatible with immediate properties than its current commercial use. Whilst the proposal would result in the loss of a shop, it is noted that it does not serve a local need and that other retail premises remain in the vicinity that serve this need. The changes to the building, subject to details, would preserve the character and appearance of the Fulford Conservation Area. Adequate parking provision for cars and cycles is proposed. There are noise and air quality issues due to the location of

the site on the A19 and near its junction with Heslington Lane. However, the layout has been rearranged with the number of bedrooms reduced and measures proposed to ensure the property would meet British Standard and World Health Organisation levels.

5.2 In conclusion, concerns expressed about the substandard quality of residential provision and limited parking need to be balanced against the desire to preserve a building that makes a positive contribution to the character and appearance of the Fulford Conservation Area by finding a suitable alternative use. Other residential uses would be less suitable than the proposal on environmental grounds and commercial uses, whether hotels, offices or retail, are likely to be problematic because of the site's location and its limited or restricted parking to serve such a use. The proposal is, therefore, considered to be such a suitable alternative use and the application is recommended for approval.

5.3 Conditions would be required regarding noise and air quality mitigation, cycle parking, details of windows and materials, details of cycle parking and public open space provision.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans:-

Drawing no. 11002-200 Rev.B dated 07/06/11 and received 10 June 2011;

Drawing no. 11002-201 Rev.B dated 3/11 and received 10 June 2011;

Drawing no. 11002-202 Rev.A dated 3/11 and received 10 June 2011;

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 commencement of development, a scheme demonstrating that the building envelope shall be altered to achieve internal noise levels of 30 dB LAeq 1 hour and 45 dB LAm_{ax} (23:00-7:00) in bedrooms and 35dB LAeq 1 hour (07:00 - 23:00) in all other habitable rooms shall

be submitted to and approved in writing by the Local Planning Authority. These noise levels are with windows shut. The approved scheme shall be implemented prior to occupation of the building.

Reason: To protect the amenity of residents from noise.

INFORMATIVE: The noise assessment report suggests double glazing be installed with a 4mm thick glass pane, a 12mm gap followed by a 4mm pane. This will ensure that the internal noise levels will comply with BS8233 and World Health Organisation Guidelines. Please note that trickle vents and hit and miss vents are not suitable in any facade onto Main Street for air quality reasons.

4 Prior to the commencement of development, details of a scheme of ventilation and extraction for the main building shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall provide ventilation through mechanical methods and shall draw air from the rear of the property. The scheme of extraction relates to the kitchen area only. The approved scheme shall be implemented prior to occupation of the building.

Reason: To protect future occupants' health from poor air quality.

INFORMATIVE: All ventilation must comply with the requirements of building regulations.

5 Details of all machinery, plant and equipment to be installed shall be submitted and approved in writing by the Local Planning Authority. These details shall include maximum (LA_{max}) and average sound levels (LA_{eq}), octave band noise levels, the position of plant, equipment and machinery and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the Local Planning Authority. The machinery, plant and machinery and any approved noise mitigation measures shall be fully implemented and operational before the proposed first use and shall be appropriately maintained thereafter.

Reason: To protect the amenity of local residents and occupants of the development during operation of any noise emitting machinery, plant and equipment.

6 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance and in the interests of preserving the character and appearance of the Fulford Conservation Area.

7 A sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location within the Fulford Conservation Area.

8 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

- Vertical cross section through front elevation at scale of 1:20 illustrating rebuilt front elevation, sill profile and set back of windows in reveals;
- Section drawings of windows at scale of 1:10;
- Full details of proposed replacement windows;
- Design and materials for arches forming window head to ground floor front elevation;

Reason: So that the Local Planning Authority may be satisfied with these details, in the interests of preserving the character and appearance of the Fulford Conservation Area.

INFORMATIVE: Please note that the profile of the upper sash to the attic window should be restored rather than the top of the pane blanked off. Painting of brickwork should be avoided.

9 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

10 Prior to the development commencing details of the cycle parking areas, including means of enclosure and method of securing both cycles and the 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.

11 No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space shall thereafter be provided in accordance with the approved scheme or the alternatives arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy L1c of the Development Control Local Plan which requires that all new housing sites make provision for the open space needs of future occupiers.

INFORMATIVE:

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £1,700.

No development can take place on this site until the public open space has been provided or the Planning Obligation has been completed and you are reminded of the local planning authority's enforcement powers in this regard.

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:

- loss of shop;
- principle of residential use;
- suitability of building to residential use;
- amenity issues, including noise and air quality;
- impact on character and appearance of the conservation area;
- highway safety
- crime;
- contamination.

As such, the proposal complies with advice in Planning Policy Statement 1: Delivering Sustainable Development, Planning Policy Statement 3: Housing, Planning Policy Statement 5: Planning for the Historic Environment and Policies GP3, GP4A, GP4B, GP6, HE2, HE3, T4, H4A, H8, S9 and L1c of the City of York Development Control Local Plan.

Contact details:

Author: Hannah Blackburn Development Management Officer

Tel No: 01904 551325