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## Appeal Decision

Site visit made on 26 October 2020 by L Wilson BA (Hons) MA MRTPI

**Decision by Chris Preston BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 November 2020**

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**Appeal Ref: APP/C2741/D/20/3257697**

**17 Deramore Drive, York YO10 5HW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr C England against the decision of City of York Council.
  - The application Ref 20/00568/FUL, dated 17 March 2020, was refused by notice dated 10 July 2020.
  - The development proposed is described on the application form as a two storey gable and rear extension over existing garage.
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### Decision

1. The appeal is allowed and planning permission is granted for a two storey gable and rear extension over existing garage at 17 Deramore Drive, York YO10 5HW in accordance with the terms of the application 20/00568/FUL, dated 17 March 2020, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 399.001 Revision B.
  - 3) The development hereby permitted shall not be occupied until the car parking and cycle spaces have been laid out within the site in accordance with drawing No. 399.001 Revision B. The parking and cycle spaces shall thereafter be kept available at all times for those purposes.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matters

3. The reason for refusal relates to policies within the Publication Draft City of York Local Plan 2018 (PDLP) and the City of York Draft Development Control Local Plan 2005 (DCLP), which was approved by the Council for development control purposes. Neither of these plans have been formally adopted.
4. The Council accepts that the policies of the DCLP carry very limited weight accordingly and I see no reason to disagree. The PDLP has been submitted for examination but no information has been provided as to whether there are any

outstanding objections to relevant policies or whether any feedback has been provided by the examining Inspector. In the absence of such information, I have given the policies limited weight, in line with paragraph 48 of the National Planning Policy Framework (the 'Framework').

### **Main Issue**

5. Whether the proposal would lead to an unacceptable intensification of the House in Multiple Occupation (HMO) use, having regard to the amenity of local residents and the provision of parking, bin and cycle storage arrangements.

### **Reasons for the Recommendation**

6. The proposed development seeks to extend an existing HMO to accommodate a further bedroom. On my site visit I observed that the property, and area, appeared well maintained and that there was ample space for on-street parking.
7. Although the property does not benefit from a Certificate of Lawful Use for a HMO, the Council state that if such an application was submitted then it is likely that it would be successful. They accept that the property could be used as a HMO by up to six persons without further planning consent, provided that any associated extensions could be erected under permitted development rights. The proposed scheme requires planning permission and must be assessed against local and national planning policy.
8. I understand that the Council introduced an Article 4 Direction because cumulative impacts of high levels of HMOs can cause a loss of amenity in local neighbourhoods. The Council's Draft Controlling the Concentration of Houses in Multiple Occupation Supplementary Planning Document (approved 2012, amended 2014) (SPD) sets out guidance relating to HMOs. Paragraph 2.1 of the SPD states that the document remains a draft until such a time as there is an adopted development plan in York. As set out in the procedural matters section above, the Council currently does not have an adopted development plan. Therefore, this limits the weight I give to the SPD.
9. The SPD and Policy H8 of the PDLP set out that a threshold of 20% of all properties being HMOs across a neighbourhood and 10% at street level has been established as the point at which a community can tip from balanced to unbalanced. The Council highlight that, excluding the appeal property, the levels in the vicinity of the appeal site are 19.57% and 15.18% respectively. In contrast, the Badger Hill Residents Community Group has calculated that 24.4% of the dwellings within 100m of No. 17 are HMOs.
10. Whichever of those figures is correct, the SPD and Policy H8 are applicable to a change of use from a C3 dwelling house to a HMO rather than proposals seeking to extend an existing HMO. Although the area does exceed the threshold of HMOs, the scheme does not propose a new HMO and there is no conflict with those policies. I have not been referred to any local or national policy that specifically seeks to preclude extensions to existing HMOs.
11. The Council requires three off-street parking spaces, and they must be 2.4 metres wide and 4.8m long. In addition, for practical purposes and to accommodate working areas and manoeuvring around the vehicle, parking spaces should be 6m long and 3.6m wide. They have calculated that the proposed parking spaces to be 5.7m long and 9m wide.

12. The Council consider that the parking spaces would not leave adequate space to access the front door without having to move a car and that the location of the dropped kerb would result in cars being parked at an angle. They also are concerned that the car parking space to the front of the garage could result in issues with bin storage, and collection, and cycle storage which are proposed within the garage.
13. The appellant has submitted a photograph which shows three vehicles parked within the proposed parking area and bins to the side. The picture demonstrates that there would be space around the parked vehicles to access the front door and each vehicle would be able to enter and leave the driveway without a vehicle being moved. The proposed parking spaces would exceed the minimum space requirements and would not be significantly below the standards relating to practical purposes.
14. I am also satisfied that the garage could be opened even if a car was parked to the front, and that the bin and cycle storage area within the garage would be accessible, given the length of the parking spaces. The proposed parking layout would be acceptable and would not result in a significant increase in on-street parking nor have an unacceptable impact on highway safety. In addition, the bin and cycle storage area in the garage would remain accessible and there is no reason to suppose that the extension would increase the likelihood of storage and visual clutter at the front of the property.
15. The addition of one bedroom, to an existing HMO, would not have an unacceptable effect upon the amenity of local residents. The small increase in the number of occupants would not significantly increase noise and disturbance from comings and goings in the context of the existing scale of the house and the pattern of development in the local area. I also note that the proposed bedroom would not be adjacent to the party wall of the adjoining neighbour and therefore the scheme would not result in a substantial increase in noise transmission between the properties.
16. For these reasons, and based on the evidence presented, the proposed development would not lead to an unacceptable intensification of the HMO, having regard to the amenity of local residents and the provision of parking, bin and cycle storage arrangements. Accordingly, it would not conflict with the Framework, Policy H8 of the PDLP, Policies GP1 and GP4 of the DCLP, Appendix E of the DCLP, the SPD, and the Draft House Extensions and Alterations Supplementary Planning Document (2012). These collectively seek, amongst other matters, to ensure that HMOs are not detrimental to the overall quality of the area and that new development provides adequate provision for car and cycle parking and for the storage and collection of refuse and recycling.

#### *Other Considerations*

17. The Council has drawn my attention to two appeal decisions<sup>1</sup> and Local residents have also highlighted recent appeal cases. However, I have not been provided with a copy of these decisions and therefore I am unable to determine whether the circumstances are comparable to the scheme before me. From the limited information provided it would appear that Inspectors considered the proposed parking and cycle storage arrangements in those cases to be unacceptable. For the reasons given above that would not be the case in this

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<sup>1</sup> APP/C2741/D/18/3207676 and APP/C2741/D/18/3207708

instance and each application, or appeal, must be considered on its individual merits.

18. Local residents have expressed a range of concerns which relate to: sufficient accommodation being built in the area, difficulty of converting back to a C3 use, visual impact, impact upon the living conditions of neighbouring occupiers in terms of loss of light, overshadowing and overlooking, applicant receives large income from the HMO at the expense of residents, loss of external amenity space and a gazebo within the garden. I note that the Council did not refuse the planning application on these matters and I see no reason to disagree with its assessment.
19. I agree with the Council that the scheme would not be detrimental to the established character of the area or have an unacceptable effect upon the occupiers of neighbouring properties. Aesthetically, the alterations are similar to a typical 'non-HMO' extension and the building could quite easily be converted back to a C3 use without any significant issues. The presence of purpose built student accommodation elsewhere would not, of itself, represent a reason to withhold permission for a modest addition to a HMO. In addition, whilst the gazebo structure within the garden is not shown within the drawings, it is unclear why this is relevant to the planning issues of the scheme proposed. Consequently, the other considerations raised by residents are not matters which justify withholding permission.

### **Conditions**

20. In addition to the statutory commencement condition a condition is necessary in the interests of certainty to ensure that the development is carried out in accordance with the approved plans. The Council has suggested one planning condition relating to the parking and cycle storage area. This is necessary to provide adequate parking and storage in relation to the scale of the proposal, in light of guidance found in the Planning Practice Guidance.

### **Conclusion and Recommendation**

21. For the reasons given above I recommend that the appeal should be allowed.

*L M Wilson*

APPEALS PLANNING OFFICER

### **Inspector's Decision**

22. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be allowed subject to the conditions attached.

*Chris Preston*

INSPECTOR