

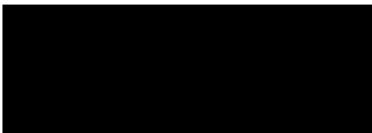
## PLANNING STATEMENT

Change of use of building from commercial use (use class E) to small House in Multiple Occupation (HMO) for four people (use class C4)

289 Hull Road  
York  
YO10 3LB

December 2023

**Contact**



# Contents

Figures .....	4
Appendices .....	4
<b>1 INTRODUCTION</b>	<b>5</b>
Context .....	5
Site Context .....	5
Planning History .....	6
Proposed Alterations.....	6
<b>2 PLANNING POLICY</b>	<b>7</b>
York Local Plan.....	7
York Emerging New Local Plan .....	7
National Planning Policy .....	8
Article 4 Direction .....	10
<b>3 PRINCIPLE OF DEVELOPMENT</b>	<b>12</b>
Acceptability in Principle.....	12
<b>4 MATERIAL PLANNING CONSIDERATIONS</b>	<b>13</b>
Visual Impact .....	13
Residential Amenity.....	13
Highways Impacts.....	14
<b>5 CONCLUSION</b>	<b>16</b>
<b>6 APPENDICES</b>	<b>17</b>
A – Cycle Parking Storage Detail .....	17

## Figures

1.1	Application site in context

## Appendices

A	Cycle Parking Storage Detail

# 1 INTRODUCTION

## Context

- 1.1 This Statement has been prepared by Dewar Planning on behalf of Moore's Property Solutions Ltd (the "Applicant") to accompany a planning application for the Change of use of building from commercial use (use class E) to small House in Multiple Occupation (HMO) for four people (the "Proposed Development") at 289, Hull Road, York.
- 1.2 This planning statement is to be read alongside the submitted technical plans

## Site Context

- 1.3 The host property '289 Hull Road' has operated as a Foot Clinic since the previous change of use. The application site is the only commercial use premises within a linear plot of 9 properties, north of one of Yorks main arterial roads, Hull Road (A1079).
- 1.4 The predominant uses around the application site are entirely residential dwellinghouses.
- 1.5 The application site lies within the Osbaldwick and Derwent Ward and within defined Article 4 land and as such this application for change of use has been put forward under a full planning application.

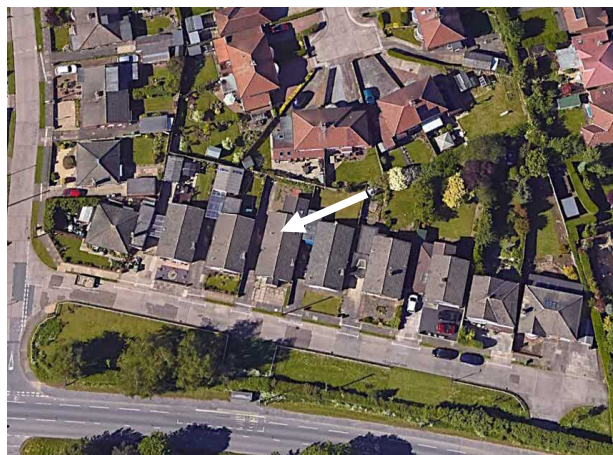


Figure 1.1 application site in context

## Planning History

### 1.6 Relevant planning history for the site includes:

DC 3/100/280/PA - Erection of an extension of surgery to include a consulting room, treatment room and examination room and construction of four parking spaces – Refused 05.04.1989

DC 7/100/09050A/FUL – Extensions and alterations to existing surgery. Approved 04.02.1997;

DC 21/00877/FUL – Construction of dropped kerb to front – Refused 08.10.2021

## Proposed Alterations

1.7 The application seeks permission for the conversion of the existing commercial premises into a four person House in Multiple Occupation (HMO), consisting of four bedrooms, a shared kitchen and living spaces and two toilet shower rooms.

1.8 The proposed plans detail the changes internally to provide the HMO layout as well as external changes including removal of the front porch and cycle parking to facilitate additional parking space and external space, also the plans detail the removal of the side door and the addition of a new rear door. Additionally, the applicant proposes to include amenity space to the rear with bike and bin stores as indicated on the provided plans.

## 2 PLANNING POLICY

### York Local Plan

- 2.1 The City of York Draft Local Plan Incorporating the 4th Set of Changes (April 2005) and the associated appendices and proposals maps were approved by Council for development management purposes, but not formally adopted.
- 2.2 Given that the new Local Plan has reached an advanced stage of preparation and reflects the 2012 NPPF, the 2005 Draft Local Plan now carries very little relative weight in decision-making.

### York Emerging New Local Plan

- 2.3 The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. The Planning Inspectorate held an examination hearing on 15<sup>th</sup> March 2022. The Planning Inspectorate website (as of 7<sup>th</sup> November 2023) details that the City of York Draft Local Plan has not yet passed examination nor has it therefore been accepted.
- 2.4 Whilst the Draft Local Plan has not yet passed through examination, its policies can only be afforded limited weight. Relevant Draft Local Plan policies include:
- § DP2 – Sustainable Development
  - § EC2 – Loss of Employment Land
  - § D1 – Plac emaking
  - § CC2 – Sustainable Design and Construction of New Development
  - § H8 – Houses in Multiple Occupation
  - § ENV2 – Managing Environmental Quality
  - § ENV4 – Flood Risk
  - § ENV5 – Sustainable Drainage
  - § WM1 – Sustainable Waste Management
  - § T1 – Sustainable Access
  - § T7 – Minimising and Accommodating Generated Trips

- 2.5 Where the development plan is silent, the NPPF is a material consideration for decision-taking. Permission should be granted unless there are specific policies in the Framework which indicate development should be restricted or the adverse impacts of the development outweigh the benefits when assessed against the Framework as a whole.
- 2.6 The NPPF therefore provides the main policy context within which the proposed development is to be considered.

## National Planning Policy

- 2.2 Relevant Government planning policy is now contained largely within the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).
- 2.3 Paragraph 2 of the NPPF states that planning law (namely Section 38(6) of the Planning & Compulsory Purchase Act 2004 and Section 70(2) of the Town & Country Planning Act 1990) requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions.
- 2.4 Paragraph 11 of the NPPF states that at the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision taking. For decision-taking this means approving development proposals where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 2.7 Paragraph 38 of the NPPF advises that local planning authorities should approach decisions on proposed development in a positive and creative way



and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

2.5 Paragraph 53 of the NPPF states that the use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities). Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

2.8 Paragraph 130 of the NPPF states that policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 2.9 Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:
- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
  - b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

#### Article 4 Direction

- 2.10 National government announced changes to the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 on 6th April 2010.
- 2.11 Government amended the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 1995 on 1st October 2010 to allow a change of use from a C3 (dwelling house) to a C4 (small HMO) use to be permitted development. Therefore, from this date this change of use does not require planning permission.
- 2.12 With regards to Article 4, it should be noted that the City of York passed this on 20th April 2012. A copy can be found at: [hmo-article-4-direction-and-plan\(york.gov.uk\)](http://hmo-article-4-direction-and-plan(york.gov.uk)). You will observe that the Schedule reads as follows:
- “Development consisting of a change of use of a building from a use falling within Class C3 (dwellinghouses) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended, to a use falling within Class C4 (houses in multiple occupation) of that Schedule, being development comprised within Class I of Part 3 of Schedule 2 to the 1995 Order and not being development comprised within any other Class.”*

2.13 The proposed development seeks to create a four person HMO, however as the existing use is a commercial use (as a foot clinic), the Article 4 controls do not apply.

### 3 PRINCIPLE OF DEVELOPMENT

#### Acceptability in Principle

- 3.1 The proposed development has been submitted as a full application for planning permission due to the application site being an existing commercial use not benefiting from permitted development to C4 use. The Article 4 Direction is acknowledged however the direction does not apply in the case of the proposed development as it does not involve the change of use of a dwellinghouse. The application site is an existing commercial premises.
- 3.2 Regarding the principle of the change of use as proposed, the development would not result in the loss of a family dwellinghouse. Additionally, it is considered that the proposed development use as a four person HMO would result in fewer comings and goings and general activity than the commercial foot clinic.
- 3.3 The conversion from a commercial premises into a HMO is considered an appropriate form of development within the immediate site location, surrounded by existing dwelling houses. The application site is situated in a highly sustainable location for a 4 person HMO with a bus stop for local routes less than a 2-minute walk from the application site. there are also a number of shops and services accessible at a short distance on foot or by public transport.
- 3.4 For these reasons the proposed development is considered acceptable in principle subject to an assessment against other material planning considerations which are discussed in turn as follows.

## 4 MATERIAL PLANNING CONSIDERATIONS

### Visual Impact

- 4.1 Paragraph 130 of the NPPF sets out that decisions should ensure that, amongst other things, developments are sympathetic to local character, including the surrounding built environment.
- 4.2 The development would be in keeping with the existing neighbouring properties and the proposed change from commercial to HMO use would remove commercial signage as well as the porch front, improving the character and appearance of the area.
- 4.3 In summary, the proposed development would be in keeping with the character of the surrounding area and therefore acceptable in terms of visual amenity and compliant with the NPPF.

### Residential Amenity

- 4.4 Paragraph 53 of the NPPF states; “ *the use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities). Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.*”
- 4.5 It is considered the proposed development which provides a 4-bedroom shared HMO use, is similar to that of the existing neighbouring C3 residential uses which could house a family and thus creates a similar impact upon neighbouring amenity and highway safety. The property provides a communal kitchen and living room and two toilet and shower rooms for shared use between the occupants. The internal and external layout as proposed is considered suitable and would provide an acceptable level of amenity.
- 4.6 It is considered that the nature of occupation as a four person HMO would not have a negative effect on adjacent neighbours, however, a comprehensive

management plan has been provided which would assist in such issues such as information and advice to residents, garden maintenance, refuse and recycling collections and property maintenance issues. We would be happy for this document to be conditioned, which would provide an opportunity for any problems that may arise to be referred to the Applicant.

- 4.7 The proposals do not seek to increase the overall footprint of the property or extend and there is therefore no intensification of the dwelling, conversely, the removal of the porch to the front with commercial signage and cycle parking bars will open up the frontage of the dwelling, assimilating well with neighbouring plots.
- 4.8 In view of the above, the design of the proposal is therefore acceptable and accords with paragraphs 130 and 132 of the NPPF.

### Highways Impacts

- 4.9 The application site is located in a highly sustainable location which access to a range of key facilities and services, including employment, retail, health and education uses. Furthermore, as stated earlier in this report, a bus stop is located within 100 metres the site providing regular services to York and surrounding areas.
- 4.10 The number of cars associated with the proposed development could be as low as zero, due mainly to the highly sustainable location of the application site however it was noted that when undertaking a site visit on a Saturday morning (when most cars would be parked on the road) there was plentiful on street parking available both on the road to the front of the application site and the surrounding roads, all of which were unregulated (i.e not permit parking or restricted in other means).
- 4.11 As detailed in the submitted plans the proposed development provides plentiful front and side as well as on street parking and secure cycle parking and storage. The site layout plan shows that the removal of the porch allows safe ingress and egress and parking for a vehicle. The submitted site layout plan shows how this can be achieved and a separate plan ref. HR005 has been

provided which shows the size of parking spaces as well as secure cycle parking of which specification is shown in Appendix A of this document.

- 4.12 The impact of the development-generated traffic on the surrounding area for a minor development of this size would be negligible and it is therefore concluded that the proposed development could be accommodated without resulting in a significant detrimental impact upon the network. This is in line with the severe impact test within NPPF at paragraph 111.

## 5 CONCLUSION

- 5.1 Paragraph 38 of the NPPF states that local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. It goes on to state that local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible.
- 5.2 Whilst the application sites lies within Article 4 land, the proposal does not seek to convert a dwelling into a HMO, instead the commercial foot clinic is to be removed and a four person HMO created, this is not against the wording of the Article 4 direction and as explained in the aforementioned sections of this statement, the proposal is appropriate for its location.
- 5.3 A small HMO for four people as proposed will provide a good contribution to the overall housing mix to the benefit of the local and wider housing objectives, in particular, to provide affordable well-built accommodation for all.
- 5.4 It is considered that, on balance, the development complies with the aims and intentions of all relevant policies and would not result in adverse visual amenity, residential amenity or highway safety impacts. As such it is recommended that Planning Permission be granted.



# 6 APPENDICES

## A – Cycle Parking Storage Detail

