

DELEGATED REPORT

Application Number: 23/02001/FUL

Decision Due by: 13th November 2023 (EOT agreed until 17th November)

Proposal: Change of use from dwellinghouse (Use Class C3) to House in Multiple Occupation (Use Class C4). Provision of cycle storage (Retrospective)

Site Address: 187 Divinity Road Oxford Oxfordshire OX4 1LP

Ward: St Clement's Ward

Agent: Mr Stephen Holley

Applicant: Mr Stephen Holley

Recommendation:

APPLICATION BE REFUSED

For the Following Reasons:-

- 1 The proportion of buildings used in full or part as Houses in Multiple Occupation (HMOs) within 100 metres of street length either side of the application site exceeds 20% and therefore the unauthorised use has led to a harmful impact in terms of creating an over-concentration of HMOs. The over-concentration of HMOs is detrimental to the mix of housing and the objectives of creating sustainable and balanced communities. The development proposed is therefore contrary to Policy H6 of the Oxford Local Plan 2036 and the Local Planning Authority finds no basis for making an exception to this policy based on other site-specific considerations.
- 2 No details of bin storage have been provided and therefore the proposal fails to make provision for appropriate bin storage. As such, the proposal would fail to meet the requirements of the day to day needs of occupiers and is contrary to Policies DH7, RE7 and H6 of the Oxford Local Plan 2036.

Main Local Plan Policies:

Oxford Local Plan 2036

S1 - Sustainable development
DH1 - High quality design and placemaking
DH7 - External servicing features and stores
H6 - Houses in Multiple Occupation (HMO)
H14 - Privacy, daylight and sunlight
H16 - Outdoor amenity space standards

- RE2** - Efficient use of Land
- RE3** - Flood risk management
- RE4** - Sustainable and foul drainage, surface
- RE7** - Managing the impact of development
- M1** - Prioritising walking, cycling and public transport
- M3** - Motor vehicle parking
- M5** - Bicycle Parking

Other Material Considerations:

National Planning Policy Framework
Planning Practice Guidance

Relevant Site History:

65/15998/A_H - Alterations to form bathroom.. PDV 9th February 1965.

73/00245/A_H - Ground floor extensions to form bedroom.. PDV 16th February 1973.

23/02001/FUL - Change of use from dwellinghouse (Use Class C3) to House in Multiple Occupation (Use Class C4). Provision of cycle storage (Retrospective). PDE .

Representations Received:

191, 199 Divinity Road

Objects to planning application:

- Amount of development on site
- Effect on adjoining properties
- Effect on character of area
- Local plan policies

I am writing to object to the request to change this property to a HMO from a dwelling. this change in residency is against the Local Plan that has specified that the character of Divinity Road should be unchanged with the current balance of family and student accommodation being retained. Previous enforcement of this policy has occurred at the joined properties at 193 Divinity Road and I see no reason that this should not also apply to the proposal for 187 Divinity Road.

Statutory and Internal Consultees:

Natural England – No comments received at time of writing.

Divinity Road Area Residents Association

- Objects to planning application

DRARA objects to this application, which is approved, we believe would be contrary to Policy H6 of the Local Plan. As the application states, the house has not been in continuous use as a HMO since 2012 and therefore planning consent should have obtained change of use before its conversion to a HMO.

The total number of buildings within 100m (even allowing for Hill Top Court to constitute 3 buildings, the number of entrances) by our calculations is 59. The following 13 dwellings in Divinity Road are currently listed as licensed HMO's or with licences very recently expired, 153, 155, 161, 162, 164, 168, 173, 174, 179, 181, 195, 196, 198. We therefore believe the 20% limit has already been breached (in addition, 194 Divinity Road is a large house in use as college-run and therefore HMO-exempt accommodation, further reducing the proportion of single-family home units.

While we understand the house is apparently well-run and that HMO's used for professional sharers are less likely to add to the very real problems than an over-saturation of student occupied HMOs creates in the DRARA area, planning permission does not distinguish between types of tenants nor is it limited to current owners and if permission were granted in this case, the house could at any time be let as another student HMO. Given that with 64 HMOs currently on Divinity Road the 20% limit is far exceeded across the road as a whole, at over 30% saturation, and hugely in excess of the average proportion of HMOs across the city, at around 5%, DRARA is opposed to any exceptions to the policy. HMOs for professionals and other sharers make an important contribution to the housing mix, but HMOs must be distributed more evenly across the city, as Policy H6 aims to achieve.

Oxfordshire County Council

- Comments neither objecting to or supporting the planning application

Car parking

No off-street parking spaces are available at the site, with residents having to park within Divinity Road and the surrounding streets. The site lies within Divinity Road CPZ with each property being limited to two residential parking permits. As a result, the proposed change of use is unlikely to lead to an increase in on-street parking or pose a significant risk to highway safety and convenience.

Cycle parking

The applicant has provided a plan showing the proposed shed which is to be used for cycle parking. No details have been provided regarding the number of spaces which are to be provided nor the type of cycle parking which is to be used i.e Sheffield stands. Furthermore, the cycle shed does not appear to be provided with unobstructed access to the street. The proposals are unlikely to have a detrimental impact on the local highway network in traffic and safety terms. Oxfordshire County Council do not object to the granting of planning permission, subject to the following:

Cycle Parking

Before the development permitted is commenced details of the cycle parking areas, including dimensions and means of enclosure, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall not be brought into use until the cycle parking areas and means of enclosure have been provided within the site in accordance with the approved details and thereafter the areas shall be retained solely for the purpose of the parking of cycles. Reason: To encourage the use of sustainable modes of transport in line with 2036 Local Plan policy

Officer Comments: The above condition from the Highways Authority recommended details of cycle parking areas to be provided before the development permitted is commenced. However, as the application is retrospective, the development has already commenced as the property is already in use as a C4 HMO without permission. Therefore, officers consider that this condition would not be appropriate, and details of cycle storage should be provided as part of the application given the retrospective application.

Issues:

- I. Principle - Density of HMOs
- II. Design
- III. Impact on Neighbouring Amenity
- IV. Indoor and Outdoor Amenity Space
- V. Bin and Cycle Storage
- VI. Car Parking
- VII. Other Matters

Officers Assessment:

Site:

187 Divinity Road is a two storey mid-terrace property located in east Oxford. The property sits on the north side of the street and is constructed under a tiled roof and finished in render. The property benefits from a two-storey bay window to the front elevation and is set back from the road behind a low boundary wall with a small front garden. To the rear is an existing single storey extension and large garden.

Proposal:

Planning permission is sought for the change of use of the property from a single dwellinghouse (Use Class C3) to a small (Use Class C4) House in Multiple Occupation (HMO). Permission is sought on the basis of a retrospective application, given that from the information provided, as well as council records, the property has been in use as a C4 HMO since 2015. The plans also show the provision of cycle storage.

Assessment:

Principle - Density of HMOs

Policy RE2 states that planning permission will only be granted where development proposals make efficient use of land. Development proposals must make best use of site capacity, in a manner compatible with the site itself, the surrounding area and broader considerations of the needs of Oxford, as well as considering the criteria set out in the policy.

The proposal to change the use of the house to a HMO, would make an equal or more efficient use of the land for housing compared to the C3 use. The proposal therefore complies with Policy RE2.

Oxford has a large number of HMOs and in some areas of the city, high concentrations of HMOs are resulting in changes to the character of the local area and can contribute to local parking problems and large numbers of transient households. This has led to concerns in some communities that their communities are becoming unbalanced because the number of short-term tenants with less-established community ties has increased. The above changes in character to areas of Oxford as a result of increased levels of HMOs has been actively addressed by Oxford City Council, firstly by the removal of permitted development rights to change the use of a single dwelling to an HMO, and also by the Oxford Local Plan 2036, which directly addresses the issue of overconcentration of HMOs in Policy H6 and its accompanying text. The Oxford Local Plan states that the Council will prevent over concentration of HMO in areas where there are already significant numbers.

Policy H6 of the Oxford Local Plan 2036 states that planning permission will only be granted for the change of use of a C3 dwellinghouse to a C4 House in Multiple Occupation (HMO) where the proportion of buildings used in full or part as an HMO within 100 metres of street length either side of the application site does not exceed 20%. The proposed HMO must also comply with the space standards set out in Policy H15 and the City Council's good practice guidance on HMO amenities and facilities.

There are 60 buildings within 100m street length of the site. Of these, licensing and Council records indicate that 14 of these, including the application site, have, or have applied for an HMO license. The actual number may be higher, due to some HMOs not being licensed, but the figures indicate that 23% of buildings in the relevant area would be HMOs, including the application site, which is above the 20% concentration defined in Policy H6. Therefore, an additional HMO in this location would exceed the 20% HMO threshold outlined in Policy H6 and would therefore lead to an oversaturation of HMOs in the locality and would thereby give rise to harm to the character of the area.

Therefore, considering the proposal would lead to an oversaturation of HMOs within the area, which is contrary to the aims and objectives of Policy H6, the proposal for an additional HMO here is considered to be unacceptable in principle as it would fail to accord with Policy H6 of the Oxford Local Plan 2036.

Design

Policy DH1 of the Oxford Local Plan 2036 states that planning permission will only be granted for development of high-quality design that creates or enhances local

distinctiveness. Proposals must be designed to meet the key design objectives and principles for delivering high quality development, set out in Appendix 6.1.

The proposal would not lead to significant exterior alterations to the building that would lead to a deterioration of its design quality or contribution to the street scene.

If the overriding reasons for refusal had not applied, the proposal would be considered acceptable in design terms and accord with Policy DH1 of the Oxford Local Plan 2036.

Impact on Neighbouring Amenity

Policy H14 of the Oxford Local Plan 2036 states that planning permission will only be granted for new development that provides reasonable privacy, daylight and sunlight for occupants of both existing and new homes. Policy H14 sets out guidelines for assessing development in terms of whether it will allow adequate sunlight and daylight to habitable rooms of the neighbouring dwellings.

Policy RE7 of the Oxford Local Plan 2036 states that planning permission will only be granted for development that ensures that standards of amenity are protected including the amenity of communities, occupiers and neighbours. Developments must also not have unacceptable unaddressed transport impacts. Where developments do impact standards of amenity then appropriate mitigation measures should be prided where necessary. The factors the City Council will consider in determining compliance with the above elements of this policy include visual privacy, outlook, sunlight, daylight and overshadowing.

The proposal would not lead to any additional built form or external alterations to the house, since the proposed change is solely in terms of its use. Therefore, the proposal would not give rise to an unacceptable loss of daylight, outlook, privacy or be overbearing to neighbours. It is acknowledged that the change of use would lead to an increase in the intensity of the use of the house but this is dealt with in Policy H6 (with respect to the concentration of HMOs) and the management of the HMO (which is resolved by a licensing requirement across the City).

If the overriding reasons for refusal had not applied, the proposal would have acceptable amenity impacts and therefore accord with Policies H14 and RE7 of the Oxford Local Plan 2036.

Indoor and Outdoor Amenity Space

Policy H6 of the OLP 2036 also states that permission for a change of use to an HMO will only be granted where the proposed HMO complies with the space standards set out in Policy H15. Policy H15 of the Oxford Local Plan 2036 states that planning permission will only be granted for new dwellings that provide good quality living accommodation for the intended use.

The proposed plans show five acceptably sized bedrooms, one with en-suite bathroom, a bathroom on both the first and ground floor, along with an acceptably sized kitchen and dining space and separate living room. The accommodation is acceptable for a maximum of five occupants. In any event, the principle of the

proposed change of use to a small Use Class C4 HMO (in terms of facilities) is acceptable and it is for the HMO licencing regime to control the exact layout and maximum number of occupants. The HMO would comply with the space standards set out in Policy H15 and the City Council's good practice guidance on HMO amenities and facilities and is therefore considered acceptable in this regard.

Policy H16 of the Oxford Local Plan 2036 states that planning permission will only be granted for dwellings that have direct and convenient access to an area of private open space. H16 sets out the expectations for the size and quality of outdoor space across various types of dwellings.

The change of use would not impact upon the outdoor amenity space. Therefore, the change of use would still provide sufficient shared garden space amenity for the day to day needs of occupiers and the development is therefore acceptable in the context of Policy H16 of the Oxford Local Plan 2036.

If the overriding reasons for refusal had not applied, the proposal would have acceptable amenity impacts and therefore accord with Policy H15 and H16 of the Oxford Local Plan 2036.

Bin and Cycle Storage

Policy H6 also states that planning permission will only be granted for HMOs where the applicant has demonstrated compliance with the City Council's good practice guide on HMO amenities and facilities. The accompanying text makes it clear that adequate provision should be made for refuse storage and collection, whilst cycle and car parking policy for HMOs are set out in Policies M3 and M5.

Policy M5 of the Oxford Local Plan 2036 states that planning permission will only be granted for development that complies with or exceeds the minimum bicycle parking provision as set out in Appendix 7.4. Bicycle parking should be, well designed and well-located, convenient, secure, covered (where possible enclosed) and provide level, unobstructed external access to the street. Bicycle parking should be designed to accommodate an appropriate amount of parking for the needs of disabled people, bicycle trailers and cargo bicycles, as well as and facilities for electric charging infrastructure.

Appendix 7.4 states that the minimum bicycle parking standards for HMOs is at least 1 space per occupant, meaning a minimum requirement of five spaces is required. Limited details of the proposed cycle storage have been provided. The applicant has failed to submit elevational drawings of the cycle storage and no block plan showing the proposed location of the cycle storage has been provided. However, upon the officer carrying out the site visit, the cycle storage had already been implemented, in the form of a shed at the end of the rear garden. Upon further investigation, the shed likely constitutes permitted development and has been in place for a period of 10 years or more, meaning it is likely immune from any enforcement action. The existing cycle storage is secure, covered and enclosed. Whilst the design is not of the highest quality as the shed has deteriorated slightly over time, as it is located in the rear garden, the views of the shed would be very minimal and as mentioned above,

the shed likely constitutes permitted development and therefore there would be no basis for refusal on design grounds in this instance.

The existing cycle storage provides parking and storage for five bicycles and would therefore meet the minimum requirements outlined in Appendix 7.4. Access is provided from the front to the rear of the property via a shared alleyway between No. 187 and No. 189, which the applicants have declared they have right of access to. The City Council's Technical Advice Note (TAN) on Car and Bicycle Parking advises that access aisles between cycle stands in an enclosed store should be a minimum of 1.1 metre. This is not the same as the proposals which include an alley, but is useful in terms of prescribing a minimum figure where bicycles can be wheeled to access cycle stores. The side access between the properties measures 1.2 metres in width, which although small, on balance, is considered to be suitable for bicycles to be transported via the side access. Therefore, the existing cycle storage is considered to be acceptable in this instance and comply with both Appendix 7.4 and Policy M5 of the Oxford Local Plan 2036. If the overriding reasons for refusal had not been applied, it would have been conditioned for the applicant to provide elevation and block plan drawings of the cycle storage.

Policy DH7 of the Oxford Local Plan 2036 states that permission will only be granted where outdoor needs are properly accommodated, including refuse and recycling storage. Bins should be provided in accordance with Oxford City Council's Technical Advice Note on bin storage.

No details on proposed bin storage have been provided as part of this application and therefore the proposal fails to make provision for appropriate bin storage. The use of the property as an HMO means that there may be additional refuse bins required compared with a dwellinghouse occupied by a single household. Officers have considered that there would in some cases be an opportunity to resolve the requirement for a refuse store in the front garden but this cannot be provided by condition as planning permission would be required in order to provide a refuse store that would adequately screen bins (having had regard to the provisions of Part 2, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)). The failure to provide adequate storage of bins can lead to their proliferation in a front garden to the detriment of the amenity of the area or lead to their storage on the public highway to the detriment of highway safety. As such, the proposal would fail to meet the requirements of the day to day needs of occupiers and is contrary to Policies DH7, RE7 and H6 of the Oxford Local Plan 2036. In reaching this view, officers have been mindful of the needs of all road users where refuse bins could impede the highway and this should be carefully considered in the context of both highway safety and the requirements of Section 149 of the Equalities Act (2010) (the Public Sector Equality Duty).

For the reasons outlined above, the proposal would fail to accord with Policies H6, M5 and DH7 of the Oxford Local Plan 2036.

Car Parking

Policy M3 of the OLP 2036 states that for development within Controlled Parking Zones (CPZs) where the site is within 800m of a local shop and 400m of a frequent

bus service, the development should be car free, however the relevant technical Advice Note makes it clear that where existing sites are being redeveloped, there should be no net increase in the number of parking spaces.

No off-street parking spaces are available at the site, with residents having to park within Divinity Road and the surrounding streets. The site lies within Divinity Road Controlled Parking Zone with each property being limited to two residential parking permits. The site is within 800m of a local shop and 400m of a frequent bus service.

Officers note that use of the house as an HMO may result in a larger number of adult residents and the possibility of more cars being associated with the house and therefore were the proposals otherwise acceptable, eligibility for parking permits could be removed to ensure there is no on street parking in an area that suffers from on street parking stress.

No net increase in parking is proposed to the site. The Local Highway Authority has no objection. If the overriding reason for refusal had not applied, the proposal would be in accordance with Policy M3 of the Oxford Local Plan 2036.

Other Matters

Upon officers completing the site visit, part of the property appeared capable of separate use. This may constitute a breach of planning controls in itself, but planning permission was not sought for this. As the overriding reasons for refusal have been applied, although the applicants would not have permission for the subdivision, officers have considered to not condition for the potential subdivided rooms to be excluded from the plans, as would be the case if the application was approved.

Conclusion: Refuse planning permission.

Human Rights Act 1998

Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to refuse this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to refuse planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers: TAN12: Car and Bicycle Parking

Contact Officer: Victoria Ashton

Extension: 8290

Date: 16th November 2023