

## COMMITTEE REPORT

BY THE EXECUTIVE DIRECTOR OF ECONOMIC GROWTH AND NEIGHBOURHOOD SERVICES

READING BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE: 12<sup>th</sup> January 2022

Ward: Park

App No: 211662/VAR

Address: 44 College Road, Reading, RG6 1QB

Proposal: Change of use from C3 to C4 to change an existing 4/5 bedroom house to a six bedroom HMO with ensuites without complying with condition 4 of planning permission 141428 (restriction on parking permits).

Applicant: Mr Ashok Sawhney

Extended Target Date: 14/01/22

### RECOMMENDATION

GRANT the removal of condition 4. The following conditions and informatives would be attached to the newly produced decision notice.

Conditions to include are as follows. Additions to the original conditions are underlined and elements to be removed have a ~~strike-through~~

#### 1) CONDITION RETAINED

The development shall be carried out in accordance with the following documents:

Existing and Proposed Floor Plans - Drawing no: A-1010 Rev B, received 27th February 2015

Existing and Proposed Elevations - Drawing no: A1015 Rev A, received 5th September 2015

Proposed Landscape - Drawing no: A-1200 Rev B, received 1st April 2015

Proposed Bin Store and Cycle Store Details - Drawing no: A-1030 Rev B received 2nd March 2015.

Reason: For the avoidance of doubt and to ensure that the development is carried out and adhered to in accordance with the application form and associated details hereby approved.

#### 2) CONDITION MODIFIED TO REFLECT LOCAL PLAN POLICIES

Cycle storage shall be provided in accordance with approved plan A1030 Rev B before the end of July 2015 and thereafter retained for the use of occupiers of the C4 HMO at all times.

Reason: To encourage travel by sustainable alternatives to driving a motorcar in accordance with the Local Planning Authority's approved transport ~~policies in accordance with Core Strategy Policies CS23 and CS24~~ policy TR5 of the Reading Borough Local Plan (2019).

#### 3) CONDITION MODIFIED TO REFLECT LOCAL PLAN POLICIES

Bin storage to be provided in accordance with approved plan A-1030 Rev B before the end of July 2015 and to be retained thereafter for the use of occupiers of the C4 HMO at all times.

Reason: In the interests of visual amenity of the area and to comply with Policies ~~CS7: Design and the Public Realm~~, ~~CS18: Residential Conversions~~ and ~~DM8: Residential Conversions~~ CC7 and H8 of the Reading Borough Local Plan (2019).

#### 4) CONDITION REMOVED

~~Prior to any agreement being entered into for a new occupation of, or transfer of any interest in, the residential units hereby approved the prospective occupier/transferee shall be informed of the prohibition on entitlement to a car parking permit. All material utilised for advertising or marketing the residential units for letting or sale shall make it clear to prospective tenants and occupiers that no parking permit will be issued by the Council to occupiers of the residential units. The residential units hereby approved shall not be occupied until the Council has been notified in writing of the full postal address of the units. Such notification shall be addressed to the Council's Planning Manager (Implementation) quoting the planning application reference specified in this Decision Notice.~~

~~Reason: In order that the Council can update its records to ensure that parking permits are not issued to the occupiers of the new residential units hereby approved, and thus ensure that the development does not harm the existing amenities of the occupiers of neighbouring residential properties by adding to the already high level of on street car parking in the area in accordance with adopted RBLP policy DM12.~~

#### 5) CONDITION MODIFIED TO REFLECT LOCAL PLAN POLICIES

The sound insulation of the C4 HMO hereby approved shall be upgraded in accordance with the submitted details as shown on approved plan A-1010 Rev B before the end of July 2015 and thereafter to be retained for the benefit of occupiers of the C4 HMO.

Reason: In the interests of the amenity of the occupants of neighbouring properties and the future residents of the HMO, and to comply with Policies ~~DM4 (Safeguarding Amenity)~~, ~~CS18 (Residential Conversions)~~ and ~~DM8 (Residential Conversions)~~ CC8 and H8 of the Reading Borough Local Plan (2019).

#### 6) CONDITION MODIFIED TO REFLECT LOCAL PLAN POLICIES

The lounge and dining area as shown on the approved plan are to be retained for communal use at all times.

Reason: To protect the amenities of the occupiers of the C4 HMO ~~Sites and Detailed Policies Document policy DM4: Safeguarding Amenity & DM8: Residential Conversions~~ in accordance with Policies CC8 and H8 of the Reading Borough Local Plan (2019) and the Residential Conversions SPD (2013).

#### 7) CONDITION MODIFIED TO REFLECT LOCAL PLAN POLICIES

Notwithstanding the permitted development right under Part 2, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015, the existing front boundary wall is not to be removed.

Reason: To maintain the character and appearance of the area in accordance with ~~Core Strategy Policy CS7~~ Policy CC7 of the Reading Borough Local Plan (2019).

### **Informatives**

1) The occupiers of the residential unit(s) will not be automatically entitled to an on-street car parking permit. Current and new occupiers should be informed of this and be advised to find out more about parking permits on the Council's website. There is already a high level of on street car parking in the area and the site is located close to local facilities, with frequent public transport services on nearby roads.

2) Terms

3) HMO License required

4) Property to be in C4 use only

5) Building Control

6) Positive and Proactive

## **1. INTRODUCTION**

- 1.1 The application site is a Victorian/Edwardian semi-detached three storey property to the east of Reading town centre with original decorative brickwork and other features. It has a large rear garden and an enclosed paved area to the front bounded by a wall and low railing above. The property was granted retrospective planning permission in 2015 for its conversion to a 6 person (small) HMO, a C4 use. The property remains in use as a 6 person C4 HMO, as confirmed by the Council's HMO team.
- 1.2 There are a number of existing HMOs in the road along with a Nursery. There is on-street parking, with several houses with their own off-road parking.
- 1.3 The property is not Listed, nor in a Conservation Area.
- 1.4 This application was called into Planning Applications Committee for determination by Cllr Tony Page due to concern over the application being contrary to standard planning policy.



**Site Location Plan**

**1.5 Documents/ Information submitted:**

Application Form  
Location Plan

**Received 11<sup>th</sup> October 2021**

**2. PROPOSAL**

- 2.1 Retrospective planning permission was granted for application 141428 for the conversion of the property to a 6 person HMO. The applicant (a new owner) is seeking to remove condition 4 of this permission. The condition reads:

*Prior to any agreement being entered into for a new occupation of, or transfer of any interest in, the residential units hereby approved the prospective occupier/transferee shall be informed of the prohibition on entitlement to a car parking permit. All material utilised for advertising or marketing the residential units for letting or sale shall make it clear to prospective tenants and occupiers that no parking permit will be issued by the Council to occupiers of the residential units. The residential units hereby approved shall not be occupied until the Council has been notified in writing of the full postal address of the units. Such notification shall be addressed to the Council's Planning Manager (Implementation) quoting the planning application reference specified in this Decision Notice.*

*Reason: In order that the prospective occupiers are made aware of the fact that they will not be entitled to an on-street car parking permit, in the interests of the*

*proper management of parking, and to ensure that the development does not harm the existing amenities of the occupiers of neighbouring residential properties by adding to the already high level of on street car parking in the area in accordance with Core Strategy Policy CS24 and Sites and Detailed Policies document Policy DM12.*

- 2.2 It is the applicant's intention to apply for parking permits for the property. The applicant's justification for obtaining parking permits is as follows:

*The HMO license was granted without any parking permits. I accepted this, when I bought the HMO, on the understanding that I will be paying just one single dwelling rates. Since the change of the decision to treat the HMO as six self-contained units, has surely made the original decision of no parking, redundant, as all the material facts have changed. In addition, my rates bill has increased from approximately £2000.00 per annum (as for the rest of the houses on the street, similar to mine) to over £9000.00 per annum.*

*I am asking the council to repeal the parking restriction, as this is grossly unfair. I am aware of the needs of the other street residents.*

- 2.3 Whilst Officers acknowledge the position of the applicant, an increase in council tax has no bearing on planning decisions and is not a reason the issuing of a parking permit. It should also be noted that in planning terms, the site is not 6 self-contained dwellings, but one HMO dwelling. Only material planning considerations can be taken into account when assessing applications.

- 2.4 The Council's Parking Permits team is responsible for the issuing of parking permits.

### **3. PLANNING HISTORY**

- 3.1 211242/VAR - Application for variation of condition 4 of planning permission 141428 to allow two parking permits to be issued to the property - Application Withdrawn

141428/FUL - Retrospective change of use from C3 to C4. To change an existing 4/5 bedroom house to a six bedroom HMO with ensembles - Application Permitted

### **4. CONSULTATIONS**

- 4.1 Internal Consultees

**Transport Development Control - Objection.** The Transport Officer concluded:

*When consulted on planning applications for new dwellings (or redevelopment of dwelling and creation of multiple units), the Highway Authority assesses the proposals on a number of grounds including parking requirements. Where proposals are in areas where Resident Parking Controls exist, conditions are imposed to ensure no parking permits are issued in areas of controlled on street parking. This is to avoid adding to the pressures for on-street parking that led to the imposition of the controls in the first place.*

*The proposed removal of condition 4 of planning permission 141428 does not comply with the Council's Parking Policy to regulate parking permits issued to dwellings converted to multiple units and is therefore considered to be harmful in respect of public and highway safety, contrary to Policy TR5 of the adopted Local Plan.*

**Parking Permits Team** - Confirmed that both conditions or informatives on planning decision notices are satisfactory triggers to alert the parking permit team to not automatically issue a parking permit to an address

4.2 External Consultation

4.3 The following addresses were formally notified of the application in writing on 18/10/21:

3, 16, 20, 27, 29, 32, 33, 34, 38, 42, 43, 58 College Road  
43b, 43c, 45a Bulmershe Road

4.4 2 representations were received (objections) relating to the following matters:

- Precedent may be created on the road to issue parking permits to HMOs
- Supplementary Planning Document makes clear that any new HMOs would not be entitled to parking permits
- Concerns over parking pressure on the road

*Officer comment: these matters will be discussed in the Appraisal section below*

**5. LEGAL AND PLANNING POLICY CONTEXT**

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy Framework, among them the ‘presumption in favour of sustainable development’.

5.2 The application has been assessed against the following policies:

5.3 National Planning Policy Framework (2021)

5.4 Reading Borough Local Plan (2019)

TR3: Access, Traffic and Highway-Related Matters

TR5: Car and Cycle Parking and Electric Vehicle Charging

Supplementary Planning Guidance/Documents

- Revised Parking Standards and Design SPD (2011)
- Residential Conversions SPD (2013)

**6. APPRAISAL**

6.1 The main issues for consideration are:

- Principle of Development
- Removal of condition 4
  - a) Notification of postal address provided to Head of Planning
  - b) Removal of restriction on parking permits

Principle of Development

- 6.2 As the use of the property as a Class C4 HMO has already been granted planning permission and has been implemented the only matter for assessment is whether there is justification for deleting condition 4.

#### **Removal of condition 4**

- 6.3 Members will note that the condition the applicant is seeking to be removed has two parts with the purpose of making new occupiers aware that they may be precluded from obtaining a parking permit. Ordinarily, these two parts form two separate planning conditions. The two parts of the condition state:
- All future occupiers of 44 College Road will not be entitled to a parking permit
  - The residential units shall not be occupied until the Council has been notified of the full postal addresses of the unit. This information is required to be sent to the Planning manager. This is in order for the Council to update its records and so parking permits will not be issued
- 6.4 Officers need to assess the implications of the removal of the condition whilst keeping in mind the relevant tests of planning conditions outlined in the National Planning Practice Guidance (NPPG) to understand if they can be upheld.
- 6.5 Conditions can only be attached to planning permissions, and subsequently upheld in longevity, should they meet the following tests. Conditions are required to be:
1. Necessary
  2. Relevant to planning
  3. Relevant to the development to be permitted
  4. Enforceable
  5. Precise
  6. Reasonable in all other respects

Condition 4 will be assessed against the above criteria.

#### **a) Notification of postal address to Head of Planning**

- 6.6 Planning permission 141428 was granted in 2015 and officers are aware the development has been implemented with occupiers in the HMO. As such, the element of the condition requiring notification of the postal address being submitted to the Head of Planning is no longer considered relevant to this proposal as in the 6 years since permission was granted, the Council has obtained record of the address by other departments of the Council, such as the HMO Team. As such, the requirement for the postal address to be provided is no longer considered necessary or directly relevant to planning directly and therefore does not meet the tests of conditions outlined in the NPPG. Because this element of condition 4 cannot be upheld, the removal of the whole condition is accepted as conditions need to meet the relevant NPPG tests in their entirety.

#### **b) Removal of restriction on parking permits**

- 6.7 There is concern from neighbouring residents that the removal of condition 4 would mean the occupiers of 44 College Road would be automatically entitled to a parking permit from the parking permit team. From the Transport consultation response, it is considered that there is a still high demand for on-road parking in the area, and

the desire to control the entitlement of a parking permit for occupiers of this unit is still as relevant and applicable as it was in 2015 when the original planning application was approved.

- 6.8 As discussed above in paragraph 6.6, condition 4 cannot be upheld for the reasons outlined. However, the pressure on street parking remains the same. As this is a Section 73 application, a new decision notice will be produced (if approved) with necessary conditions and informatives re-attached.
- 6.9 Where proposals are in areas where Resident Parking Controls exist and none or insufficient on-site parking provision is proposed, it has been this Council's standard practice for this type of planning condition and an informative to be imposed at the request of Transport Officers to ensure no parking permits are issued in areas of controlled on-street parking. This is to avoid adding to the pressures for on-street parking that led to the imposition of the controls in the first place. Since 2015 the text used in the condition and informative has been amended to clarify that occupiers will not be automatically entitled to a parking permit.
- 6.10 The planning conditions and informatives themselves were designed so that the Parking Permit team would be aware of any changes to the properties and what actions to take when residents apply, but also to ensure that prospective residents (either tenants or purchasers) are fully informed of the situation regarding parking permits prior to occupying the property. The Council has a process for granting discretionary permits for those properties that are exempt from the permit scheme; however, the applications are considered by panel members on the Traffic Management Sub-Committee and not by Officers. In considering an application for a discretionary permit, the Head of Service will consider whether any exceptional circumstances exist to support the application that are specific to the household and require it to have the regular use of a car.
- 6.11 The Council has produced a Parking Standards and Design Supplementary Planning Document (SPD) adopted 31st October 2011 which sets out detailed expectations for parking provision with development. The SPD states on page 32 and 33 that *"Conversion of an existing residential dwelling to multiple dwellings or redevelopment of a dwelling and creation of multiple units will not entitle the additional dwellings or units to additional parking permits."*
- 6.12 Within the Residential Conversions SPD (2013), it also states that for all developments that involve a residential conversion, such as the change of use from a single dwelling to a HMO, occupiers will be reminded that they will not be entitled to a permit via an informative rather than a condition. Upon consultation with the Council's Legal department it was considered that officers should be abiding by the wording of the SPD unless there are exceptional circumstances to override this document. There are not considered to be any in this instance and to include a condition rather than rely on an informative without substantial and robust justification could be open to challenge.
- 6.13 Given that the Parking Permit Team considers both conditions and informatives on decision notices to help determine if a parking permit should be issued, it is not considered that the removal of Condition 4, and the retention of the informative on the decision notice would result in any change in the decision of the Parking Permit Team and the occupiers will still not be entitled to a parking permit by default. As such, the situation surrounding parking permits will not change despite the granting of this application. This therefore also addresses the objection raised by the



Transport department and neighbouring objections. The Parking Permit team would have to be contacted directly to discuss the situation from here on should the applicant wish to do so.

## **7. CONCLUSION**

- 7.1 To summarise, the proposed variation of the planning permission to remove the original Condition 4 is considered acceptable as the condition does not meet the relevant planning tests outlined in the NPPG, not because the applicant's justification for the removal of the condition is supported. This is due to the requirement for postal addresses no longer being necessary or relevant to planning. As such, the condition in its entirety cannot be upheld. However, Officers are aware and agree that there is a pressure for on street parking in the local area but it needs to be correctly determined if a condition or informative should be attached on the newly produced decision notice.
- 7.2 Given the proposal relates to a residential conversion, Officers are informed by the wording of the Residential Conversion SPD (2013) which states that occupiers will be informed via an informative (rather than condition) that they will not be eligible for a parking permit team, which is also a satisfactory trigger to alert the parking permit team not to automatically grant a parking permit.
- 7.3 As such, the recommendation is to grant the removal of the condition, but attach the informative to the new decision notice, along with all other original conditions which have been reproduced and updated in line with the Reading Borough Council 2019. No additional conditions are considered necessary or relevant to this specific application.

**Case Officer: Connie Davis**