

## **Schedule of Planning Applications**

Committee Date: 26<sup>th</sup> July 2023

Application Number:	06/22/0612/CU - <a href="#">Click here to see application webpage</a>
Site Location:	128-129 Nelson Road Central, Great Yarmouth, NR30 2JY
Site Location Plan:	See Appendix 1
Proposal:	Retrospective change of use of the first/second floor flat to a C4 House of Multiple Occupation (HMO)
Applicant:	Mr K Haran, 128-129 Nelson Road Central, Great Yarmouth, NR30 2JY
Case Officer:	Mr R Tate
Parish & Ward:	Nelson Ward
Date Valid:	01-03-23
Expiry / EOT date:	26-04-23
Committee referral:	As requested by Councillor T Wright amidst concerns that the development does not address refuse storage and has amenity impacts.

**RECOMMENDATION: APPROVE, SUBJECT TO CONDITIONS**

## **REPORT**

### **1. The Site and Context.**

- 1.1 The application site sits to the northern side of Nelson Road Central, within a row of three-storey terrace buildings comprising a convenience store on the ground floor and two storeys of residential use above. The adjoining property to the north is the Colonel H public house, to the south are terraced dwellings, as are the properties opposite on the east side of Nelson Road Central.
- 1.2 The application relates to the retrospective change of use of the first and second floors from a flat (C3 use class) to a “small House of Multiple Occupation” (HMO) use (C4 use class), which is for a group of between 3-6 persons living together but as independent households. Ordinarily this would be a change of use class activity which is allowed through ‘permitted development’, were it not for the introduction of the Great Yarmouth Borough-wide Article 4 Direction which removed such permitted-development rights.
- 1.3 The application form states that the change of use started in November 2011; no previous applications have sought to change the use or confirm a lawful use established through

continuity of use and passage of time. The application was submitted in response to investigations by the Planning Enforcement Officer.

- 1.4 The building is located within the development limits of Great Yarmouth and is located close to the centre of town; a short 0.6 mile walk to the Market Place, for example. The property does not have any associated off-road parking and there are double-yellow lines in front of the property on Nelson Road Central.
- 1.5 The residential unit is accessed via an alley leading from adjacent 62 Rodney Road, west of the Colonel H Freehouse, which provides access to the rear of the application building. The application form states that the bins are stored in this passageway but this is extremely narrow, and clarification is sought from the applicant ahead of the Committee Meeting.
- 1.6 The change of use of a property from use class C3 residential use to class C4 'small HMO' use is usually considered to be permitted development under Schedule 2, Part 3, Class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This permitted development right is removed as there is a Borough-wide Article 4 Direction in place preventing the change from C3 to C4 as permitted development. As such, this requires express planning permission.

## **2. The Proposal**

- 2.1 The application seeks retrospective planning permission for the change of use of the residential flat (which currently has a lawful use in class C3) to a 'small HMO' class C4. The application does not state how many people will occupy each room but the floor plans illustrate how the development includes 5 bedrooms of between 7.0sqm and 12.5sqm internal floor area.
- 2.2 The submitted plans shows the following layout:
  - Ground Floor: Access from the curtilage at the rear of the shop, via two flights of stairs to:
  - First Floor: Landing, Communal Kitchen and store, Communal Living Area, Bedroom 1 (with an ensuite WC, sink and shower; no bath); and,
  - First Floor: 4no. bedrooms all with en-suites (WC, sink and showers, no baths).

## **3. Site Constraints**

- The site is within the development limits as defined by GSP1.
- The site is within the Orange 400m to 2.5km Indicative Habitat Impact Zone.

## **4. Relevant Planning History**

- 4.1 There is no relevant planning history

## 5. Consultation Responses

<b>Local Highways Authority</b>		<b>Response: No objection</b>
<b>Officer comment / response:</b>	n/a	
Any relevant Condition / Informative note?	n/a	

<b>Environmental Services</b>		<b>Response: No objection</b>
I note the information submitted by the applicant and have no objections to this application.		
<b>Officer comment / response:</b>	n/a	
Any relevant Condition / Informative note?	n/a	

<b>Strategic Planning</b>		<b>Response: Support in principle</b>
The principle of locating a new HMO within this area is broadly supported through Policy H12. A condition restricting the occupancy of the HMO should be considered to ensure that it remains as a C4 HMO.		
<b>Officer comment / response:</b>	n/a	
Any relevant Condition / Informative note?	A condition to restrict usage to 5 persons is recommended both to ensure usage is restricted to C4 use but to also mitigate the intensity of the use and to ensure that no significant amenity impacts are generated.	

## 6. Publicity & Representations received

Consultations undertaken: A site notice was posted outside the property and public consultation ended on the 16-04-23. No public comments have been received.

### Ward Member – Cllr Tony Wright

<b>Cllr Tony Wright</b>	<b>Response: Object</b>
<b>Highways concerns –</b>	

The proposal for 5 units does not take in to account the highways issues in this area as the frontage leads straight on to main highway route with no parking and of course is in zone A residents parking.

#### **Refuse & storage concerns –**

There are continuous problems with the passageway adjacent to Number 125 Nelson Rd Central with the passage being used already for the residents for bin collections and quite often there is some misuse by fly tipping (some of which I have had to report), therefore it begs the question where the extra refuse bins are going to be placed.

I do have serious reservations regarding this issue and when considering the waste bins which have to be put on the pavement at the junction of Rodney Rd/St Georges Rd/Nelson Rd. This is unacceptable and the view that the bins could be put in the rear passageway is not an option due to the narrowness of the passage, so even if this was a condition I can guarantee this would be impossible to adhere to.

There is a serious issue with regard to waste bins in this area, especially with Lancaster Squares bins which are just off nelson rd and regularly overflowing.

For the reason and the observation of strategic planning this should not be accepted.

<b>Officer comment / response:</b>	<p><b>Re Principle of Development:</b> The principle of development is supported by policy H12 (if other criteria are satisfied) and the site is outside of an area where the Local Plan resists HMOs.</p> <p><b>Re Bin Storage:</b> Often, with a 'small HMO' use which is restricted in the number of occupants allowed to reside there, it is considered that there would not be a significant material change in the volume of waste created and the need for additional bin usage compared to that required for an existing flat. However, there has been no information provided on the size of the former flat.</p> <p>Environmental Services colleagues advise that each household/property is entitled to two 240l wheelie bins (recycling and waste). Where a property has a large number of residents they are able to apply for additional capacity, which is possible only if there are 6 residents or more. A flat of 5 or fewer residents would be entitled to two bins, but Environmental Services try to work with property owners to judge an appropriate number of bins for a complex of multiple flats based on their needs i.e. the number of residents, which might involve needing 'palladin bins' for example Residential properties are expected to store bins in their curtilage not the highway, but where a property does not have storage for the necessary bins the alternative is for that property to be registered on a bag collection rota from kerbside.</p> <p>This issue deserves closer scrutiny, especially as the 'small HMO' use is said to have been in use for 12 years, so should be recorded as such with the Environmental Services team.</p> <p>If there is found to be no significant increase in the refuse storage expectations, comparing former use and proposed use, then it would have to be acknowledged</p>
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	<p>that the bins would continue to be stored where they were stored when the unit was in use as a residential flat, and it would be considered that there would be no greater harm from this proposal than before.</p> <p><b>Next steps:</b></p> <p>The Case Officer will liaise with the applicant and colleagues within the Environmental Services team to clarify the refuse requirements for this application. This should be clarified within the Pre-Committee Meeting Update Report on 26<sup>th</sup> July.</p>
Any relevant Condition?	<p>To be confirmed at the Committee Meeting.</p> <p>If the application is only able to address policy H12 by creating no additional need for refuse storage, i.e. ensuring that no more than the existing refuse is required, then a condition could be used to limit the number of occupants to 5 persons, to ensure the refuse storage requirements remain as per that of a residential flat which was already established and would have been permitted development as a flat above a shop. This would match that of the advice from Environmental Services.</p>

## Relevant Planning Policies

### The Great Yarmouth Core Strategy (adopted 2015)

- Policy CS1: Focusing on a sustainable future.
- Policy CS2: Achieving sustainable growth.
- Policy CS3: Addressing the borough's housing need.
- Policy CS9: Encouraging well-designed, distinctive places.
- Policy CS11: Enhancing the natural environment.
- Policy CS16: Improving accessibility and transport.

### The Great Yarmouth Local Plan Part 2 (adopted 2021)

- Policy GSP1: Development Limits.
- Policy A1: Amenity.
- Policy H12: Houses in multiple occupation.

## Other Material Planning Considerations

### National Planning Policy Framework (July 2021)

- Section 4: Decision Making
- Section 12: Achieving well-designed places
- Section 15: Conserving and enhancing the natural environment

## Planning Analysis

Legislation dictates how all planning applications must be determined. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) states: *In dealing with an application for planning permission the authority shall have regard to—*

*(a) the provisions of the development plan, so far as material to the application,*

*(aza) a post-examination draft neighbourhood development plan, so far as material to the application,*

*(b) any local finance considerations, so far as material to the application, and*

*(c) any other material considerations.*

This is reiterated at paragraphs 2 and 47 of the National Planning Policy Framework.

### **Assessment of:**

#### ***Retrospective change of use from C3 dwellinghouse to C4 House of Multiple Occupation (HMO)***

#### **Main Issues**

The main planning issues for consideration include:

- Principle of development
- Amenity
- Parking and Highway Safety

## **7. Principle of Development**

7.1 Houses in Multiple Occupation (HMOs) are, for planning purposes, those properties being shared by three to six residential occupants who form two or more (separate) households and who share a kitchen, bathroom and/or toilet. This is use class C4 rather than a 'large HMO' of more than 6 persons living independently of each other which is a 'sui generis' use meaning 'a class of its own'. It is noted that there has been financial pressure in the past to convert guest-houses, hotels and 'normal' C3 dwellings in the Town to both C4 and sui-generis HMOs, particularly in the Back of Sea Front Area.

7.2 HMOs undoubtedly play an important role in providing lower-cost accommodation in the Borough, and the Council is keen to ensure that where they are proposed (and present) they are of a good standard. As with any dwelling, a HMO must provide suitable levels of amenity for occupants and prevent unacceptable amenity impacts on neighbouring residents and the local area. Any new HMO proposal must therefore be appropriately located and designed, and Local Plan Part 2 Policy H12 seeks to ensure there is not an

over-concentration of HMOs in any one area, taking into account factors such as parking provision, bin storage and general amenity (which are also covered by other Local Plan policies such as CS9, A1 and I1).

- 7.3 Policy H12 is the principal policy when assessing applications for HMOs. This policy recognises where HMOs have presented a strain on the local character and identifies areas within the Town where new HMOs (both C4 and sui-generis 'large HMO' types) will not be permitted. These are within the 'Great Yarmouth Seafront Area' (Policy GY6), the 'Hall Quay Development Area' (Policy GY3) and the 'Back of Seafront Improvement Area' (Policy GY7) where the Local Plan seeks to develop a different character for those areas: in those locations, new HMOs are not permitted.

- 7.4 The application site is not within any of the areas where the principle of HMOs is considered in the Local Plan to be unacceptable. As such, subject to the proposal providing sufficient bin storage and not harming neighbouring amenity (which will be explored in later sections of this report), the principle of a C4 HMO in this location is considered to be acceptable and consistent with the requirements of policy H12.

- 7.5 For those areas where HMOs are not considered unacceptable in principle, LPP2 Policy H12 goes on to state:

*"The concentration of HMOs in a local area must not significantly imbalance the current mix of housing types there (i.e. use class C1 hotels, guest houses and related types and use class C3 dwelling houses).*

*In particular, any proposal that would result in the 'sandwiching' of a single residential or tourist accommodation property between two or more sui generis HMOs will not be acceptable.*

*For proposed sui generis uses, any proposal that would result in more than 20% of properties within 50 metres of the application site being sui generis HMOs will not be acceptable [this final paragraph is not relevant to this application for a C4 use proposal]."*

- 7.4 Strategic Planning colleagues have not identified a possible significant 'imbalance' in the current mix of housing types in the area, were this to be approved, nor suggested that it would create a 'sandwiching' of the property between two 'large HMOs' of 'sui generis' use. As such it is considered that the development will not conflict with the principle of policy H12.

- 7.5 In terms of its practical application, Policy H12 requires the applicant to state the number of occupants which would occupy each bedroom, as well as the number and size of kitchens and bathrooms. Those sizes would be assessed against each minimum size limit set out in Policy H12 as below.

Policy H12 goes on to state:

*"Any HMO proposals [sic] will need to at least meet (but ideally exceed) the minimum room dimensions required to secure a licence from the Council's Environmental Services section under the Housing Act 2004 (or any amended or subsequent legislation), even in cases where a licence is not required."*

The *Policy H12 Minimum Internal Space Standards for Houses in Multiple Occupation* are:

Floor area of bedroom	Number of Persons
10.2 sqm (110sqft or more)	2 people
8.4m2 - 10.2m2 (90-110 sqft)	1.5 people
6.5m2 - 8.4m2 (70-90sqft)	1 person
4.6m2 - 6.5m2 (50-70sqft)	0.5 person (i.e child of 1-10 years old only)
Less than 4.6m2 (50sqft)	Not suitable as sleeping accommodation

*The “floor area” space standards requirements are set out to be consistent with the 1985 Housing Act (sections 325 and 326), which are also referred to in the 2004 Housing Act (any person over the age of 10 is counted as an “adult” and children between the age of 12 months and 10 years as 0.5 of an “adult”).*

7.6 According to the size standards outlined in Table 6.1 of the policy supporting text to H12 (above), when comparing the standards to the sizes of rooms in the building, the proposal the subject of this application could result in the following maximum number of persons for each bedroom:

- Room 1 = 10.6sqm – maximum of 2 persons
- Room 2 = 9.2sqm – maximum of 1.5 person (adult and child of 1-10 yrs)
- Room 3 = 12.5sqm – maximum of 2 persons
- Room 4 = 9.8sqm – maximum of 1.5 person (adult and child of 1-10 yrs)
- Room 5 = 7.0sqm – maximum of 1 person

If considered for approval, planning conditions should be used to ensure the occupancy in each room does not exceed the above limits, in the interests of the amenity of future residents.

7.7 Any C4 use class HMO dwelling is also expected to provide a minimum of one bathroom and one kitchen per six occupants. The application HMO proposal makes provision for each bedroom to contain an ensuite which is considered acceptable. A single kitchen is also provided, for communal / shared use.

7.8 The room sizes were all evident on the submitted plans, and Environmental Health Officers did not raise any concerns with the proposal.

7.9 Given the size of the bedrooms, the property could feasibly accommodate 9 occupants (7 adults and up to 2 children) overnight, but having only one kitchen is not sufficient for any more than 6 persons. Any more than 6 occupants would also be an intensity of use which exceeds that allowed within the proposed C4 use class definition and would need express planning permission in its own right as a *sui generis* use.

7.10 Providing that the occupancy is restricted to no more than six occupants (either 1 per bedroom and no more than 2 people per Rooms 1 and 3, or any conceivable combination involving adult plus child occupancy in Rooms 2 and 4), then the bathroom and kitchen provision would be acceptable and amenity would be considered to be appropriate.



- 7.11 However, the proposal must also address the expectations for Refuse storage and collection, as set out at Policy H12 criteria (a).

## **8. Bin Storage**

- 8.1 Policy H12 A states:

*“For all HMO proposals:*

*(a) There must be provision of adequate practical bin storage for the number of potential occupants out of sight from the street such as within the curtilage to the rear of the property, or in covered bin storage within a frontage curtilage, of a scale and of a design which maintains or improves the character and amenity of the area”.*

- 8.2 The application form states that the bins are stored within the rear curtilage / passageway behind the shop, which provides the access to the flat.
- 8.3 The Environmental Services team has suggested that a flat would be entitled to storage of up to 2no. 240 litre wheelie bins if they can be accommodated off the highway (1 per refuse, 1 per recycling), sufficient to cater for up to 5 persons in a household in that flat. The flat could (and possibly was) provided through ‘permitted development’, so regardless of the age of the 5no. residents of the flat, it would have to be acknowledged that refuse storage is expected for 5no. persons. If that refuse storage is not sufficiently large, or if the storage access is not adequate for wheelie bins, the Environmental Services team has confirmed that properties can still be served by household refuse bin bag collection from kerbside.
- 8.4 It is acknowledged that refuse storage is challenged in this application site, given the restricted curtilage and narrow access which probably prevents wheelie bin use. However, there are means to facilitate refuse storage and collection which suggests this should not be considered a suitable reason to refuse the application.
- 8.5 It is recommended that planning conditions are used to secure and confirm a refuse storage and collection management plan to identify how and where refuse is stored, confirm suitable arrangements are in place for its collection, and ensure compliance therewith.
- 8.6 The Case Officer will make a site visit to confirm refuse storage arrangements ahead of the Committee Meeting. If storage space is limited and would not be able to provide for more than the 5 persons threshold of Environmental Services, then it is likely that the Case Officer will confirm the proposed recommendation that occupancy be limited to 5 persons maximum, regardless of possible occupancy based on the property’s room sizes alone. Should space allow, there is unlikely to be any reason why the accommodation should not be limited to a maximum of 6 persons and remain within the definition of a ‘small HMO’ C4 use class. This will be confirmed in the Pre-Meeting Committee Update Report.

## **9. Amenity for future occupants**

- 9.1 In a House of Multiple Occupation, residents share communal spaces such as kitchens, living rooms and bathrooms. The supporting text to policy H12 requires that a minimum ratio of one kitchen and one bathroom for every six occupants is provided. As discussed above, the proposal complies with this and does provide communal kitchen and living space for the residents with each bedroom having an en-suite.
- 9.2 Occupants of HMOs tend to spend more time within their individual bedrooms rather than if the property were to be used as a single family dwelling. It is therefore important that each room is of a regular size, well sized and provided with suitable levels of natural light and outlook. All of the bedrooms within the property are considered to provide residents with sufficient levels of amenity; photographs should be able to confirm to the Meeting. As such, in this regard, the proposal is considered to comply with policies A1 and CS09 F.

## **10. Amenity for neighbouring users**

- 10.1 Adopted Policy A1 expands on CS09 F to ensure that no significantly harmful amenity issues occur, including overlooking and loss of privacy; nuisance, disturbance and loss of tranquillity from waste and clutter, intrusive lighting, noise, and poor air quality (including odours).
- 10.2 The supporting text to policy H12 recognises that HMOs can sometimes have amenity impacts both on their residents and on adjoining residents. In general, use class C4 'small HMOs' should have no significantly greater impact on amenity, character and parking (for example) than use class C3 dwellings, compared to what might be significantly larger impacts which could occur with a sui-generis 'large' HMO of more than 6 persons in residence. This is considered true in this instance.

## **11. Highways**

- 11.1 There is no off-street parking provided as part of this application. However, it is recognised that the site is located within a highly sustainable location, close to the town centre and its associated shops, services, amenities, and wider public transport links. As such, future residents would not be totally dependent on the private car and would have access to services by sustainable means. Due to the close proximity of the town centre, in this instance cycle storage is not considered so essential that the application should be refused without it.
- 11.2 The Local Highways Authority (Norfolk County Council) have been consulted on the application and raise no objection to the scheme.
- 11.3 Members should be mindful of NPPF paragraph 111 which states: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”* As the area is subject to residential permit parking there is no reason to

believe that the levels of car parking will increase in the vicinity nor that highways safety would be compromised.

## **12. Impact on Designated Sites**

- 12.1 In terms of the impact on designated sites within the Borough, a C4 HMO (up to 6 people) and a C3 dwelling are considered to be equivalent in their impacts, according to the County-wide GIRAMS strategy. As such, because a flat was previously established or allowed under permitted development, a HRA and GIRAMS contribution is not required as there is not considered to be an additional impact.

## **13. Planning Balance**

- 13.1 The application site is within an area where the principle of 'small-scale HMO' uses are considered acceptable and this proposal would not undermine the Council's strategy for ensuring that HMOs are directed away from areas that are earmarked for regeneration, or where a slight character change might be especially detrimental, as identified through other policies in the Local Plan. The application proposal provides suitable levels of amenity for future occupants and each occupant would have a quality of living space which would be in line with policies A1 and H12.
- 13.2 No off-street parking is provided, and the surrounding area does have parking restrictions in place due the existing level of demand. However, the site is located close to the town centre and future occupants would not be reliant on the private car so this proposal would not necessarily directly lead to an increased pressure on parking.
- 13.3 The application site does have a challenging curtilage, especially in respect of outdoor amenity and refuse storage and collection. In this respect, due consideration has to be given to the predecessor use of the site and/or its fallback position whereby the premises could be used as a single-household flat. If the impacts of this proposal are limited to be no greater than those alternatives, there are no reasons why the development should be refused permission, subject to conditions to limit the intensity of use.

## **14. Conclusion and Recommendation**

- 14.1 Having considered the details provided, the application is considered to comply with policies CS01, CS02, CS03, CS09, CS11 and CS16 from the adopted Core Strategy, and subject to conditions would comply with policies GSP1, H12 and A1 from the adopted Local Plan Part 2. It is considered that there are no other material considerations to suggest the application should not be recommended for approval.

## **RECOMMENDATION:**

It is recommended that application should be APPROVED subject to the following Conditions:

### **Proposed Conditions**

1. The development shall be carried out in accordance with the following plans received by the Local Planning Authority on the 1<sup>st</sup> March 2023:

- 1719/1 (proposed site plan, floor plans and elevation)

The reason for the condition is:-

For the avoidance of doubt.

2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking or re-enacting that Order) the premises shall only be used as a House of Multiple Occupation comprising a maximum of five bedrooms only. Only the rooms labelled as Bedrooms 1, 2, 3, 4 and 5 on the approved floor plan (1719/1) shall be used for bedroom accommodation, and all other rooms shall remain available for use as communal facilities accommodation.

The reason for the condition is :-

To ensure the permission operates in accordance with what was applied for and to ensure suitable communal living accommodation for all occupiers, in the interests of residential amenity and to accord with policies A1 and H12 of the adopted Great Yarmouth Local Plan Part 2.

3. The House of Multiple Occupation hereby permitted shall not be permanently occupied by any more than 5 people at any one time.

The reason for the condition is :-

To minimise the impact on neighbouring amenity resulting from any intensification of the use, to accord with policies A1 and H12 of the adopted Great Yarmouth Local Plan Part 2.

4. There shall be no more than 5 persons occupying the property at any one time, and whilst doing so the following restrictions shall apply at all times in respect of the maximum occupancy of each bedroom labelled as Rooms 1 – 5 on the approved plan ref.1719/1:

- Room 1: maximum of 2 persons occupancy at any one time

- Room 2: maximum of 1.5 person (an adult and child of 1-10 yrs) occupancy at any one time
- Room 3: maximum of 2 persons occupancy at any one time
- Room 4: maximum of 1.5 person (an adult and child of 1-10 yrs) occupancy at any one time
- Room 5: maximum of 1 person occupancy at any one time

The reason for the condition is :-

To minimise the impact on neighbouring amenity resulting from any intensification of the use, and to ensure that appropriate standards of amenity will exist for future residents, to accord with policies A1 and H12 of the adopted Great Yarmouth Local Plan Part 2.

5. Within 1 month of the date of this permission, a Refuse Storage and Collection Management Plan shall be submitted to and approved in writing by the Local Planning Authority, sufficient to identify to all occupants how and where refuse is stored, confirm suitable arrangements are in place for its collection, and confirm instructions to residents are provided immediately upon successive occupancy. The development shall thereafter be operated in strict accordance with the details as approved.

The reason for the condition is :-

To minimise the impact on neighbouring amenity resulting from any intensification of the use, and to ensure appropriate facilities exist for future residents, to accord with policies A1 and H12 of the adopted Great Yarmouth Local Plan Part 2.

### **Appendices:**

1. Site Location Plan

Location of development

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Nelson Road Central

A horizontal number line representing distance in meters. It starts at 0m on the left and ends at 30m on the right. Major tick marks are labeled at 0m, 10m, 20m, and 30m. Between each major tick mark, there are four smaller, unlabeled tick marks, dividing each 10m segment into five 2m segments.

