

No.3	APPLICATION NO.	2021/0334/COU
	LOCATION	10 Mulberry Close Ormskirk Lancashire L39 4AG
	PROPOSAL	Change of use to HMO for maximum of 4 students.
	APPLICANT	Mr Stephen Harrison
	WARD	Derby
	PARISH	Unparished - Ormskirk
	TARGET DATE	3rd June 2021

1.0 REFERRAL

- 1.1 This application was to be determined under the Council's delegation scheme, however, Councillor Owens has requested it be referred to Committee to consider the proposal against Policy RS3 of the West Lancashire Local Plan and the impact of the development on neighbouring residential amenity.

2.0 SUMMARY

- 2.1 The change of use of the property to an HMO would not exceed the 5% limit in place for Mulberry Close. However, it is considered that the owing to the location of the property within close proximity to a number of family homes, the change of use would impact detrimentally upon the amenity of neighbouring residents. On this basis I consider that the proposal fails to accord with Policy GN3 of the Local Plan and as such should be recommended for refusal.

3.0 RECOMMENDATION: REFUSE

4.0 THE SITE

- 4.1 The application site consists of a modern, three-storey, end terrace dwellinghouse located on the south side of Mulberry Close in Ormskirk. The site has a fully enclosed garden to the rear and parking to the front.
- 4.2 The site is located within the key service centre of Ormskirk.

5.0 THE PROPOSAL

- 5.1 This planning application seeks permission in retrospect for a change of use of the dwellinghouse (C3) to a four-bedroom house in multiple occupation (HMO) (C4). The supporting statement outlines that the property would be in use by students.
- 5.2 On the ground floor is a kitchen/ dining room, wc and lounge. On the first floor is bedroom 1 and 2. On the second floor is bedroom 3 and 4 and a bathroom.
- 5.3 To the front of the property are 2 on-site parking spaces.
- 5.4 No external alterations are proposed.

6.0 PREVIOUS RELEVANT DECISIONS

- 6.1 2010/1450/FUL - Erection of 58 dwellings including 16 No. affordable units, comprising 4 No. 2 bedroom, 39 No. 3 bedroom and 9 No. 4 bedroom houses and 6 No. 2 bedroom

apartments; including garages, car parking, hardstandings, internal access roads and associated landscaping. GRANTED

6.2 2007/0760/ARM - Reserved Matters - Erection of 120 residential units comprising 52no. two, three, four and five bed houses and 68no. one and two bed apartments; public open space, internal access roads, car parking, garages and associated landscaping. RESERVED MATTERS APPROVED

6.3 2003/0037 - Outline - Development of site for employment (Class B1) and residential purposes (including details of means of access). APPROVED

7.0 CONSULTEE RESPONSES

7.1 (Lancashire County Council) Highway Authority – 27.04.2021
Due to the highly accessible location of the site, no objections in principle. The proposed development should have a negligible impact on highway safety and highway capacity within the immediate vicinity of the site.

Condition suggested for cycle storage.

7.2 Environmental Health – 30.04.2021
Objection
Concern in relation to disruption to neighbouring amenity

8.0 OTHER REPRESENTATIONS

8.1 Objections have been received from neighbouring properties on the grounds of:

Principle

Proposal would be contrary to Policy RS3 as the proposal would result in the percentage of HMOs exceeding 5%

Character of area

Area is a quiet residential area;
Mix of first-time buyers, young families and retired people;
The estate was built as residential properties for local residents – not for students;
Students should be located within the numerous halls of residence;
The proposal takes away a house that was meant for young professionals and families;
Proposal would change the dynamic of the area

Amenity of residents

Concerns in regard to noise and antisocial behaviour;
Some disruption already occurred as a result of the change of use – disturbance in the early hours of the morning – drug use (police logs given)

Parking

Already significant parking issues on the estate;
Increased demand for limited off road parking – potential for 4 car owners (tenants) as well as visitors

Covenants

The estate is subject to a restrictive covenant restricting use to a single private residential dwelling – use as a HMO would be in breach of the covenant

- 8.2 Comments have been received from the tenant of 10 Mulberry Close and can be summarised as follows:
Object to the unfounded slurs made against the tenants' reputation;
The current tenants are trainee professionals;
Dispute claims made by residents in regard to parties being held at the property and drug use

9.0 SUPPORTING INFORMATION

- 9.1 Student Accommodation Statement.

10.0 RELEVANT PLANNING POLICIES

- 10.1 National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012-2027 Development Plan Document provide the policy framework against which the development proposals will be assessed.
- 10.2 The site is located within the settlement area of Ormskirk designated as a Key Service Centre in the West Lancashire Local Plan.
- 10.3 **National Planning Policy Framework**
Delivering a sufficient supply of homes
Achieving well designed places
- 10.4 **West Lancashire Local Plan (2012-2027) DPD**
Policy SP1 – A sustainable development framework for West Lancashire
Policy GN1 – Settlement Boundaries
Policy GN3 – Criteria for Sustainable Development
Policy IF2 – Enhancing Sustainable Transport Choices
Policy RS3 - Provision of Student Accommodation
- 10.5 **Supplementary Planning Document, Design Guide (Jan 2008)**

11.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY

- 11.1 The main considerations for this application are:

Principle of development
Impact on residential amenity / Intensification of use
Highways / parking provision
Bin storage

Principle of Development

- 11.2 The property lies within the area covered by the 'Article 4 Direction' relating to houses in multiple occupation (HMOs), and thus planning permission is required for the proposed change of use to the property.
- 11.3 Policy RS3 (Provision of Student Accommodation) of the West Lancashire Local Plan DPD (2012-2027) is relevant to this planning application. Policy RS3 states that when assessing proposals for conversion of a dwelling house or other building to a House in Multiple Occupation (HMO) the Council will have regard to the proportion of existing properties in use as, or with permission to become an HMO either in the street as a whole or within the nearest 60 properties in the same street whichever is the smaller.

- 11.4 Policy RS3 sets limits on the proportion of properties in a street that can be HMOs. If this limit has already been exceeded, or if it would be exceeded by an additional HMO, Policy RS3 seeks to restrict conversion. This is to protect the character of the area and to ensure the supply and location of affordable family housing in Ormskirk.
- 11.5 The proposed limit for Mulberry Close in Policy RS3 is 5%. According to the Council's records, there are currently no HMOs on Mulberry Close. Within Mulberry Close there are 19 houses and six apartments, making a total of 25 residential properties on the road.
- 11.6 When calculating percentages of properties that are HMOs, WLPP policy RS3 refers to "the proportion of existing residential properties" and does not distinguish between apartments and houses. Paragraph 7.47 of the policy justification makes a distinction between residential and commercial / retail properties, and it excludes residential units "specifically for the accommodation of older people or in a class C2 use" from calculations but does not exclude apartments.
- 11.7 Therefore, the change of use of one dwelling house to an HMO would not result in greater than 5% of the residential units being HMOs, i.e. the limit is not exceeded. Therefore, the change of use of 10 Mulberry Close to an HMO is considered to be compliant with this aspect of WLLP Policy RS3.

Impact on residential amenity / Intensification of use

- 11.8 Policies RS3 and GN3 are consistent with the NPPF's aims to encourage sustainable communities whilst retaining the existing character of areas and protecting residential amenity.
- 11.9 Mulberry Close does not have any other HMOs within the street. Whilst there are some within the adjoining streets, I do not consider that the introduction of a HMO in this location would result in clustering of HMOs within the vicinity.
- 11.10 However, the proposal is in a quiet cul-de-sac in an area popular with families. In addition, the property is at the end of the cul-de-sac with numerous other residential properties in close proximity. It is likely that a property occupied by 4 unrelated individuals will generate a greater level of comings and goings than a single-family household. Student lifestyle often tends towards such activities taking place late at night which will involve noise from voices and movements. This has the potential to cause disruption to other nearby residents.
- 11.11 An appeal decision (ref: APP/P2365/W/16/3162636) for a HMO house in a residential area in 2017, supported the view that noise from comings and goings of students is likely to be detrimental the amenity of neighbouring occupiers. The Inspector commented that a household of mainly young people in their late teens or early 20's may tend to come back late to the house on some evenings, particularly at weekends. He identified that students may regularly be in groups and in high spirits when there would inevitably often be loud talking and banter and on occasions boisterous and anti-social behaviour. Such disruption is often after midnight.
- 11.12 Such late evening noise and disturbance resulting from the intensive use of HMOs close to family residential properties may lead to disruption to residents nearby at a time when they would expect a quieter environment and uninterrupted sleep. This would be particularly so for households with young children, disabled residents, elderly occupiers or those working the next day.

- 11.13 The HMO use is already operational. I have been informed by the Environmental Health Service that they have received a complaint about 10 Mulberry Close regarding noise being generated in the early hours of the morning on a number of occasions. The complaint is currently open and under investigation. The Environmental Health Officer has therefore objected to the proposal and considers that the premises are unsuitable for use as a HMO in this location, due to the levels of noise and disturbance likely to be generated.
- 11.14 On that basis I consider the change of use of the dwelling to a HMO in this quiet, family, residential location would have an unacceptable impact on the living conditions of nearby residents, with particular regard to noise and disturbance in conflict with the aims of Policy RS3 and requirements of Policy GN3.

Amenity of future occupants

- 11.15 Policy GN3 of the West Lancashire Local Plan (2012-2027) DPD allows development provided it retains or creates reasonable levels of privacy, amenity and sufficient garden/outdoor space for occupiers of the neighbouring and proposed properties.
- 11.16 With respect to the proposed layout, I am satisfied that the room layouts would generally provide reasonable levels of amenity and outlook for future occupants.
- 11.17 The property has an enclosed rear garden which provides ample amenity space for occupants. I am satisfied that the proposal accords with Policy GN3 in this regard.

Highways / parking provision

- 11.18 Policy GN3 of the West Lancashire Local Plan 2012-2027 DPD states that development should incorporate suitable and safe access and road layout design in line with latest standards. Policy IF2 of the Local Plan specifies parking standards for new developments.
- 11.19 I have consulted the Highway Authority who have advised that they have no objections to the proposal and are satisfied that the development would not result in a significant impact on highway safety within the local area.
- 11.20 HMOs generally require 50% parking or 1 off-street car parking space per 2 residents. It has been identified in the Student Accommodation Statement that the property accommodates a maximum of 4 students. As such 2 on-site parking spaces would be required. To the front of the property there is a private drive which accommodates 2 parking spaces. Furthermore, the site is located on the edge of the town centre close to local facilities and there is a relatively short walking distance to/from Edge Hill University. In addition, public transport services including bus and train stations are located close to the site.
- 11.21 Cycle parking provision has not been demonstrated as part of the proposal. To aid social inclusion and promote sustainable forms of transport, should the application be recommended for approval, a condition for details of on-site cycle parking provision should be included.

Bin storage

- 11.22 Bin storage for 3 receptacles is provided to the side of the property.

Other matters

11.23 As part of the application process a response has been received from the property manager for the development. They have advised that there is a restrictive covenant on the property which restricts its use to one private residential dwelling only. The covenant also restricts anything which may be or become a nuisance or annoyance or cause damage to the Transferor or to the owners, tenants or occupiers of any adjoining neighbouring property. They have therefore requested that the application be refused on these grounds.

11.24 Whilst this covenant may be in place and restrict the use of the property as a HMO, this is not a material planning consideration and remains a civil matter between the parties.

Summary

11.25 As a result of the above, I consider that the proposal fails to accord with Policy GN3 of the Local Plan and as such should be recommended for refusal.

12.0 RECOMMENDATION

12.1 That the application should be REFUSED for the following reason:

Reason for Refusal

1. The application fails to comply with the NPPF and Policy GN3 of the adopted West Lancashire Local Plan 2012 to 2027 DPD as the proposed development would result in noise nuisance and disturbance to occupants of neighbouring properties to the detriment of their residential amenity.