

THE CITY OF DURHAM TRUST

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6 December 2021

Michelle Penman
Durham County Council
Planning Development
Central/East Room 4/86-102
County Hall
Durham DH1 5UL

Dear Ms Penman,

Planning application DM/21/03860/FPA 76 Whinney Hill Durham DH1 3BG

The City of Durham Trust has considered the above planning application and asks the Authority to refuse it for the reasons given below.

Applicability of County Durham Plan Policy 16.3

We have carefully considered the Planning Statement submitted by the applicant's agent, and the report of the Planning Inspector who allowed the appeal for the adjoining property, 75 Whinney Hill (Appeal reference APP/X1355/D/20/3258480). However, 75 Whinney Hill was determined by the Authority under the terms of the previous City of Durham Local Plan and its Interim Policy on Student Accommodation, with the new County Durham Plan only being taken into account by the Inspector at the appeal stage. Because this appeal was conducted under the Householder Appeals procedure the Trust was unable to submit any representation. From our examination of the schedule of information submitted as listed in the Appeal Questionnaire we consider that an essential document, namely the Local Plan Inspector's Report, was omitted and this led the Appeal Inspector to reach the wrong conclusion when she was balancing the conflict with Policy 16.3 of the new County Durham Plan against possible harm in relation to nearby residents' living conditions and the character and appearance of the area. Indeed she said "I have very limited specific evidence that the student occupation of two additional bedspaces in the existing HMO would be detrimental to the area." Had the Trust been able to make further comments we could have provided the relevant specific evidence that we set out below.

The pre-submission draft of the County Durham Plan did not propose any controls over extensions to HMOs. This was changed in the course of the Examination in Public. The Local Plan Inspector's report includes

258. The 10% threshold applies to new build and changes of use, but not to extensions to existing houses in multiple occupation. This is to allow extensions that are required to improve the quality of accommodation or to provide additional space that would not materially impact on the character of the area or residential amenity. However, as drafted, the policy would not only allow the provision of additional living space, kitchens and bathrooms but also additional bedspaces. **Cumulatively over time, this could lead to a significant increase in the number of students living in an area, undermining the**

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objective of the policy [*our emphasis*]. Main modifications are therefore required to part 3 of policy 16 so that criteria (a), (h) and (i) apply to extensions that result in specified or potential additional bedspaces [MM93 and MM95]. Consequential modifications are also required to the reasoned justification [MM97].

This issue was considered at the Examination in Public on 14 November 2019, and on the basis of what was said then and on evidence submitted beforehand it will be seen that the Local Plan Inspector considered that the cumulative impact of individually small numbers of students was significant, Indeed he says that not to refuse applications like the one under consideration here would undermine the objective of the Policy.

CDT Policy 29 Sustainable Design

The preamble to this policy states that *All development proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and other local guidance documents where relevant.* Two aspects of this are relevant to this application:

Nationally Described Space Standards (NDSS)

76 Whinney Hill as it stands meets the requirements of the NDSS. Bedroom 4 at 12.8m² is a double bedroom. The largest bedroom in the proposal is 8.76m² which is below the 11.5m² minimum for a double room, but every dwelling with two or more bedspaces must provide at least one double (or twin) bedroom (paragraph 4.1b). Also, bedroom 6 is 7.42m², less than the 7.5m² standard for single rooms.

A well-designed building that meets the requirements of the NDSS should not be modified so it fails the Standard. This is moving in the wrong direction. There should be no back-peddalling.

Residential Amenity Standards

Policy 29 requires that all development proposals will have regard to supplementary planning documents, which includes the council's Residential Amenity Standards Supplementary Planning Document referred to in Paragraph 5.303 of the CDP. This sets down standards for alterations, extensions and distances between new dwellings.

Bedroom 6 extends into the back garden a distance of 1.35m, which brings it to within 11.3m of 79 Whinney Hill. The SPD sets a minimum privacy distance of 21 metres for directly facing buildings and 13 metres for looking at a blank gable wall. While 76 and 79 are at an angle, it is clear that the new window does not provide the required privacy. It should be noted that bedroom 6 replaces a shower room, which has smaller windows with obscured glass so privacy is not currently an issue.

We have read the Design and Conservation advice and do not challenge its conclusion that no harm has been identified to the Conservation Area nor the inner setting of the Durham World Heritage Site. Our objections are founded on different policies of the County Durham Plan.

We urge you to refuse this application because it does not meet the requirements of County Durham Plan Policies 16.3 and 29, including the Nationally Described Space Standards and the Residential Amenity Standards SPD.

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Yours sincerely

John Lowe

Chair, City of Durham Trust