

# THE CITY OF DURHAM TRUST

---

Phone (0191) 373 3452  
Email: [secretary@durhamcity.org](mailto:secretary@durhamcity.org)  
Web site: <https://www.durhamcity.org>

c/o Blackett, Hart & Pratt, LLP  
Aire House  
Mandale Business Park  
Belmont  
Durham, DH1 1TH

12 January 2022

Dear Ms Morina

**DM/21/04212/FPA | Change of use from dwelling (use class C3) to house in multiple occupation (use class C4). | 1 Diamond Terrace Durham DH1 5SX**

The Trust objects to this planning application and asks that it be refused for the reasons set out below.

The covering letter asserts as the opening sentence in the *Historic and Current Use* section, that “The property itself is believed to have been in use as a HMO historically for well over 10 years and let to post graduate students until its purchase by the applicant in July 2020.” The only evidence offered is an email, now more than 14 years old, from the next door neighbours saying that the property is “currently let to students”. This is not proof of HMO status as the living arrangements are not given.

In any case, we are aware that the property was lived in by a single family from February 2010 till July 2020. *The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010*, which introduced the C4 use class, was made on 8th March 2010 and came into force on 6th April 2010. On that date 1 Diamond Terrace was in use class C3 sub-category (a) Use as a dwellinghouse ... by people to be regarded as forming a single household. It has remained as such from February 2010 on. As the applicant says, its status was not changed when the property became vacant.

Consequently this proposal must be assessed under County Durham Plan Policy 16.3. Given that the County Council’s data team have indicated that the percentage of Class N exempt student properties within 100 metres is 45.0% the application must fail the test in part (a) of Policy 16.3. The applicant has challenged this on the basis that the percentage for the DH1 5SX postcode is only 4.85%. However, as figure 3 shows, that postcode extends from the railway line close to the former DLI car park right down to Milburngate Bridge, a much larger area. The figure of 45.0% is reliable.

The comment from the Nuisance Action Team about the absence of noise complaints needs to be read with the knowledge that this was not in fact an HMO.

The applicant is arguing that their proposal can benefit from the exemption in Policy 16.3(i). We disagree. The issue is whether commercial uses are predominant in the area within 100 metres of 1 Diamond Terrace. The Milburngate development boundary is outside this area as is the Radisson Blu hotel building. The only commercial use is the Main Street USA building and possibly the Probation office, though we would not classify this as commercial. There are 20 dwellings within 100m of 1 Diamond Terrace. Certainly the area is mixed, but commercial uses

# THE CITY OF DURHAM TRUST

---

do not predominate. The covering letter emphasises that “commercial uses are prominent”. The word in the policy is *predominant* not *prominent*. This is an important difference, and uses can be prominent without being predominant.

There is a notable residential presence in this location, within the mix of uses, and as such, in the context of Policy 16, the proposal would not accord with the exception criteria set out in criterion 3(i). Over half the houses are occupied by long-term residents paying Council Tax. The largest land use within the 100m radius is wooded slopes. The Green Belt extends behind Sidegate and reaches the far end of Diamond Terrace. The houses in Diamond Terrace and Sidegate cover 1,700m<sup>2</sup>. Fram Well House covers 540m<sup>2</sup> and Mainstreet USA 200m<sup>2</sup>. Its proposed replacement, St Cuthbert’s House, would be 450m<sup>2</sup> but that application has not been determined. These measurements are taken from the relevant planning applications as mentioned in the applicant's covering letter. The area within the 100 metre radius is 31,412m<sup>2</sup>. The conclusion has to be that no particular use dominates.

Consequently the Trust asks that this application be refused, as it does not meet any of the criteria in Policy 16.3 of the County Durham Plan. Retaining 1 Diamond Terrace in C3 use would save a modest family home, of which there is a shortage in the City.

Yours sincerely,



Francis Pritchard  
Honorary Secretary