

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

Dear Ms Jennings,

Planning Application DM/22/00369/FPA
Change of use from C3 to C4 | 24 Nevilledale Terrace Durham DH1 4QG

The City of Durham Trust objects to this planning application and asks you to refuse it because more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption). Consequently Policy 16.3 of the County Durham Plan applies and the change of use to C4 must not be permitted. Neither of the exemptions set out in clauses (h) and (i) apply.

This representation follows the headings of the applicant's Design and Access Statement.

Introduction

The introduction to the Design and Access Statement gives this basis for why the applicant feels the planning application should be granted:

Policy plan 2019 states that "Whilst the proposed policy D3 on HMOs sets a clear threshold for resisting further HMOs, **it is recognised that individual cases of personal circumstances will be additional considerations in deciding on particular cases.**"

We infer that by *Policy plan 2019* is meant the *Durham City Neighbourhood Plan 2019 Pre-Submission Draft*. This is because the quoted text is the final sentence of paragraph 4.182 of the Draft. However, this Draft was the subject of an independent examination and Policy D3 was deleted as a result of the County Council accepting the recommended modification M43 in the Examiner's report. Recommended modification M44 was also accepted. This required consequential changes to the supporting text, and therefore the quoted text was also deleted.

The City of Durham Neighbourhood Plan was adopted by the County Council on 7th July 2021 and does not include the quoted text. **It follows that no weight can be given to arguments which rely on the exception contained in the deleted paragraph 4.182.**

Notwithstanding this, Mrs Moore is making the case that personal circumstances apply in her individual case. Mrs Moore is a student landlord. We have been able to identify, using public sources, 18 properties (listed in the Appendix) which she either owns or has owned in the recent past. She is the sole director of G M and J Properties Ltd (Company number 10874546) which has nine buy-to-let mortgages with Paragon Bank PLC. All of this points to 24 Nevilledale

THE CITY OF DURHAM TRUST

Terrace being a commercial investment which has not been a success. The exceptions, such as they are, in Policy 16.3 of the County Durham Plan, apply to owner-occupiers unable to sell.

History

Land Registry Records¹ show that 24 Nevilledale Terrace was purchased for £280,000 on 12 September 2016, shortly before the Article 4 Direction came into force on 17 September 2016. This removed the permitted development right to convert from use class C3 to C4.

The Design and Access Statement says that “The council ruled against it being an HMO”. This is a very brief account of a fairly lengthy process as revealed in two appeal decisions which are attached.

Immediately after buying the property building works commenced. Mrs Moore let the property to students. The Council took enforcement action as there had been no permission given for a change of use. Mrs Moore appealed (reference APP/X1355/C/17/3169798) on the grounds that her tenants had tenancy agreements dating from 13 September 2016. She lost. The Inspector held that “A material change of use would only have taken place when the appeal property was actually brought into use as a house in multiple occupation (HMO).” and “The neighbours were clearly monitoring the property very closely and their evidence is consistent with that of the Council that, prior to the relevant date of 17 September 2016, the property was uninhabitable due to the extent of building works and was, indeed, uninhabited.”

In May 2019 Mrs Moore applied for permission for a change of use from C3 to C4 (reference DM/19/01418/FPA). This was refused on 2 September 2019. Mrs Moore appealed (reference APP/X1355/W/19/3239631) and this too was refused on 27 February 2020.

The Design and Access Statement goes on to say that Mrs Moore has “suffered considerable financial loss.” Given that the purchase price was £280,000 and the property was unsuccessfully listed at £385,000 only two years later there does appear to be leeway for reducing the price. Instead, according to the agent’s letter, the property is now listed at £460,000.

We note that two houses in the same block as number 24 have sold since the Article 4 Direction came into force. These are number 29, sold for £343,300 on 21st June 2017 and number 20, sold for £385,000 on 27th January 2020. Both are, we understand, lived in by single householders. The assertion by the agent that “families don’t want to buy because the location is considered to be too student dominated” is not borne out by the evidence.

Proposal

We consider this section of the Design and Access Statement is not relevant to this matter.

Local Policy

The case made here does not amount to valid planning grounds for an exception to the provisions of Policy 16.3, particularly as this was a commercial transaction.

Multiple Occupation

The assertions in this section are contrary to the conclusions of the Inspector in the later appeal, published only two years ago; “However, there would be harm to the living conditions of the

¹ <https://data.gov.uk/dataset/314f77b3-e702-4545-8bcb-9ef8262ea0fd/archived-price-paid-data-1995-to-2017>
(Contains HM Land Registry data © Crown copyright and database right 2021. This data is licensed under the Open Government Licence v3.0.)

THE CITY OF DURHAM TRUST

occupiers of neighbouring properties and the balance of the housing mix to the detriment of the social cohesion of the area and these are sufficient reasons to dismiss the appeal.”

HMO figures

The 10% threshold is enshrined in the County Durham Plan, which was adopted only 15 months ago. The figure is based on sound evidence contained in it, see paragraph 5.157 which says

This 'tipping point' has been derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', which was published in 2008. The policy approach recognises that it is the cumulative impact of HMOs that has an impact upon residential amenity and can change the character of an area over time.

Durham City Conservation Area

The impact on the Conservation Area, or lack of it, has no bearing on the implementation of Plan Policy 16.3.

Transport

The arguments advanced here are speculative and have no bearing on the central issue.

The analysis relating to “Policy D3-2019” is irrelevant since, as explained earlier, that Policy does not form part of the adopted City of Durham Neighbourhood Plan.

Other matters

Although it is stated that “Each tenancy agreement for the properties owned by the applicant is set up with a lead tenant for a group of people living together as a single household.” this is not how it is viewed by the local authority. Mrs Moore owns seven properties listed in the HMO Public Register and each of these is by definition considered to be a house in multiple occupation. The same is true of her other properties which are not large enough to be included in the HMO Public Register.

The Design and Access Statement makes a general argument about balanced communities, based on point 2 of the Sustainable Development Statement in the County Durham Plan, but does not address Policy 16.3 and its supporting text which clearly shows how an incremental growth in student lets beyond the 10% tipping point is detrimental to balanced communities.

The remaining points relate to the overview contained in chapter 4 of the County Durham Plan, which led to the specific policies contained in chapter 5, including Policy 16.3. These were very well tested at the Examination in Public and Mrs Moore could have participated or made representations. She did neither. The Plan is robust and cannot be challenged in this way.

Mrs Moore’s final point is that “The applicant believes that the conversion of 24 Nevilledale Terrace to C4 use would not be detrimental in any way to the area.” This is a challenge to the decision of the Inspector in appeal reference APP/X1355/W/19/3239631. He said “However, there would be harm to the living conditions of the occupiers of neighbouring properties and the balance of the housing mix to the detriment of the social cohesion of the area and these are sufficient reasons to dismiss the appeal.”

THE CITY OF DURHAM TRUST

Conclusion

This application is an attempt to re-run the earlier application reference DM/19/01418/FPA, which was refused and the refusal upheld on appeal, reference APP/X1355/W/19/3239631. None of the arguments advanced in the current application stands up to scrutiny, and consequently we ask that it be refused because more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption). Consequently Policy 16.3 of the County Durham Plan applies and the change of use to C4 must not be permitted. Neither of the exemptions set out in clauses (h) and (i) apply.

Yours sincerely,

John Lowe

Chair, City of Durham Trust

THE CITY OF DURHAM TRUST

APPENDIX

Properties owned by Gabrielle Moore or G M and J Properties Ltd

This list has been compiled from the following public sources:

- A. An advanced search in the public access planing database for Applicants G Moore and Gabrielle Moore
- B. The HMO Public Register (Licence Holder field)
- C. The Land Registry list of UK companies that own property in England and Wales
- D. Companies House records for company number 10874546, G M and J Properties Ltd

Address	Sources
24 Nevilledale Terrace Durham DH1 4QG	A
9 Cedar Drive Durham DH1 3TF	A C D
34 The Hallgarth Durham DH1 3BJ	A
11 Cedar Drive Durham DH1 3TF	A C D
32 Whinney Hill Durham DH1 3BE	A B C D
36 The Hallgarth Durham DH1 3BJ	A C D
22 Allergate Durham DH1 4ET	A C
The Cottage 22A Allergate Durham DH1 4ET	A
Land At The Rear Of 97 Gilesgate Durham DH1 1JA	A
97 Gilesgate Durham DH1 1JA	A B
5 Mistletoe Street Durham DH1 4EP	A B
14 Archery Rise, Durham City, Durham, DH1 4LA	B
19 Whinney Hill, Durham City, Durham, DH1 3BE	A B
20 Mistletoe Street, Durham City, Durham, DH1 4EP	B C D
24 Sutton Street, Durham City, Durham, DH1 4BW	B C D
33 Roundhaven, Durham, DH1 3TX	C D
41 Roundhaven, Durham, DH1 3TX	C D
1 Larches Road, Durham, DH1 4NL*	C D

***Note:** 1 Larches Road is listed in the HMO Public Register but the licence holder is shown as Mr Anthony James Bimbi