

c/o Blackett, Hart & Pratt, LLP  
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Durham, DH1 1TH  
8 February 2023

Web site: <http://www.DurhamCity.org>

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

Dear Mr Richards,

## **DM/23/00174/FPA | 41 Whinney Hill Durham DH1 3BD**

The City of Durham Trust objects to this planning application for the reasons set out below and asks the Authority to refuse it.

The description on the application form, which has been copied into the online details, appears to be in error. The Design & Access and Heritage Statement says that the property “is currently occupied by 6 students”. This would put it in use class C4, though no evidence is offered that the house was occupied by students when that use class was introduced. The proposal is for a change of use to *sui generis*.

Whatever the current use class is, County Durham Plan Policy 16.3 is applicable. The relevant part states:

### **3. Houses in Multiple Occupation**

In order to promote create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and *sui generis*), extensions that result in specified or potential additional bedspaces and changes of use from any use to:

- a Class C4 (House in Multiple Occupation), where planning permission is required; or
- a House in Multiple Occupation in a *sui generis* use (more than six people sharing)

will not be permitted if:

- a. including the proposed development, 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);

Since the wording is “changes of use **from any use to**” the starting point is immaterial. What matters is that the proposal is for a House in Multiple Occupation in a *sui generis* use. Consequently the only question is whether clause (a) is satisfied. For the precise figure we must await the response from HMO Data but given that the Student Exemptions map for November 2022 shows percentages broadly in the 40% - 60% range for this area it seems inevitable that this will be the case.

# THE CITY OF DURHAM TRUST

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A further consideration is the size of the reconfigured rooms. CDP Policy 29 (Sustainable Design) says, under the Buildings heading, "All new residential development will be required to comply with the Nationally Described Space Standards (NDSS)". We consider that this proposal, insofar as the reconfigured rooms are concerned, falls into this category.

Using the online IDOX measuring tool we discover that Bedroom 04 currently has a floor area of 8m<sup>2</sup>. This is better than the NDSS minimum for a single bedroom, which is 7.5m<sup>2</sup>. The whole building has a gross internal floor area of 121m<sup>2</sup> which is marginally below the standard for a six-bed two storey building, which is 123m<sup>2</sup>.

Adding an extra room without increasing the gross internal floor area means that this house falls below the required floor area which, by extrapolation from the published table, would be 136m<sup>2</sup>. Also, the size of bedroom 04 has decreased to 6.83m<sup>2</sup> and the new bedroom 07 is 6.48m<sup>2</sup>. Both are now below the 7.5m<sup>2</sup> minimum.

Even if it is held that this type of development does not need to comply with the strict requirements of the NDSS, CDP Policy 29 states

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, and:

[...]

- b. create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security;

Reducing bedroom sizes and introducing more residents to a house that is already slightly lower than the floor area prescribed in the NDSS is moving away from achieving a well-designed building. And even if it is considered (we don't) that students may be housed in rooms that are smaller than set out in the NDSS, doing so will make it more difficult to adapt the house in the future to changing circumstances.

Finally, bedroom 07 appears to be below the 6.51m<sup>2</sup> required by the HMO space standards (see the comments from the HMO team) but this will require accurate measurement to be certain.

Consequently we ask that this application be refused as it does not meet the requirements of County Durham Plan Policies 16.3 and 29.

Yours sincerely,

JOHN LOWE  
Chair, City of Durham Trust