

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

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

Dear Ms Woodruff,

DM/23/00241/FPA | Change of Use from 6 Bed dwellinghouse to 2no. 2 bed flats. (amended description 09.02.2023) | 24 Nevilledale Terrace Durham DH1 4QG

I am writing on behalf of the City of Durham Trust to object to this planning application. As it stands, the Authority cannot determine this planning application because there is an error in what is being sought. If this can be remedied, the application should be refused as it fails the tests in Policies 29 and 31 of the County Durham Plan, and Policies H2 and D4 of the City of Durham Neighbourhood Plan.

Inaccurate description of the proposal

There is a considerable history of planning applications, enforcement action, enforcement notices and appeal decisions since Mrs Moore bought this property in September 2016:

EN/16/01106 | Unauthorised material change of use from domestic dwellinghouse (C3 use class) to HMO (C4 use class) – enforcement action received 16 September 2016. This was followed up with a Planning Contravention Notice (issued 19 September 2016) and an Enforcement Notice, served on 26 January 2017. Mrs Moore appealed (reference APP/X1355/C/17/3169798) and the appeal was dismissed on 31 August 2017.

DM/19/01418/FPA | The change of use of a six-bedroom dwelling (Class C3) to a small House in Multiple Occupation (Class C4) or a six-bed dwelling (C3). This application was validated on 8 July 2019 and refused on 2 September 2019. Mrs Moore appealed (reference APP/X1355/W/19/3239631) and the appeal was dismissed on 27 February 2020.

DM/22/00369/FPA | Change of use from C3 to C4. This application was validated on 9 February 2022 and refused on 6 April 2022. Mrs Moore appealed (reference APP/X1355/W/22/3305838) and the appeal was dismissed on 2 December 2022.

Despite these three appeal decisions that the property is in use class C3, the current application form describes the description of the proposed development as *Change of Use from 6 Bed HMO to 2 No. Flats*. This cannot be the case. The property is in use class C3 and what is being sought is a subdivision into two class C3 properties. This cannot be an application for a change of use.

THE CITY OF DURHAM TRUST

Need for a Design and Access Statement

The Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2013 article 4 is applicable to this application. This makes Design and Access Statements mandatory where any part of the development is in a Conservation Area, providing the floor area is 100 square metres or more. The applicant states that the site area is 208m² which is not quite the same thing as floor area. We have measured the floor area using the IDOX measuring tool on the portal and the total floor area over the three floors is 167m². This exceeds the required 100m² by a comfortable margin.

There is an exemption to this need for a Design and Access Statement in Article 4:

This article does not apply to an application for planning permission which is— [...] (d) for a material change in use of the land or buildings;

However, as we have shown, this cannot be an application for a change of use and consequently a Design and Access Statement is required. The application should not have been validated without this essential document. Determination should be paused until the Statement is provided, following which a reconsultation should take place. Only then will it be possible to determine this application.

General comments

We have the following comments on the application as it stands. There may be further comments once the Design and Access Statement has been provided.

The Highways Development Management comment is predicated on there being three not four bedrooms. In any case, the web page at <https://www.durham.gov.uk/article/22294/Durham-City-Controlled-Parking-Zone-CPZ-> states that *Due to the limited space within the Durham City CPZ, we are unable to provide resident or visitor permits for buildings built or converted after 2000*. Consequently no permits should be issued to this address.

Number 24 sits at the centre of the middle terrace (numbers 18-30) of Nevilledale Terrace, with pedestrian access only at the front and vehicular and pedestrian access at the back.

Flat 2 has to take rubbish to the back of the house. With no access via the ground floor, the shortest route is 110 metres.

Flat 1 has no door at the front and no letterbox. Even if the design were amended to add one it would have to be into Bedroom 2 which is unsatisfactory. To deliver a parcel would require a walk of 110 metres (see above) and back again.

Both of these deficiencies mean that the proposals fail to meet the requirements of County Durham Plan Policies 29 and 31, and Neighbourhood Plan Policies H2 and D4:

THE CITY OF DURHAM TRUST

Policy 29 of the County Durham Plan

Policy 29 Sustainable Design begins

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:

- a. contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities;

The section on *Extensions and Alterations* states

Proposals for alterations and extensions to residential property, and development associated with the incidental enjoyment of a dwelling, should ensure the development is sympathetic to the existing building(s) and the character and appearance of the area in terms of design, scale, layout, roof design and materials.

Supporting paragraph 5.287 includes

Extensions and/or alterations that are sympathetically designed, do not detract from the character of the area and have no adverse effect on the amenity of neighbours in accordance with Policy 31 (Amenity and Pollution) will be approved.

Plainly a proposal that requires a walk of 110 metres between the front and back of the house in order to access essential services is not well-designed. The impact on the amenity of neighbours we leave to the neighbours to describe.

The run of houses in Nevilledale Terrace are of such importance that they were included in the Article 4(2) Crossgate in 2007, ahead of a wider designation in 2016. They are a well-designed set of town houses and a conversion in this manner to a pair of flats will break this unity.

The other aspects of this policy should be addressed in the Design and Access Statement.

Policy 31 of the County Durham Plan

Policy 31 Amenity and Pollution states

Development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living and/or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result.

THE CITY OF DURHAM TRUST

Development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.

[remaining paragraphs not relevant]

For the residents of Flat 2 to have to carry rubbish and recycling a distance of 110 metres is an unacceptable impact on their living conditions. The foreseeable consequence is that the rubbish will be emptied less frequently leading to unhygienic conditions and unacceptable odours.

The absence of a letterbox is an unacceptable impact for the living conditions for the residents of Flat 1.

Should it be argued that these issues could be addressed by not blocking the interconnecting doorways, this would result in an unacceptable loss of privacy for the residents. Were this application ever to be approved in some form a condition would be necessary to prohibit the unblocking of these openings, the grounds being the privacy requirements of Policy 31.

City of Durham Neighbourhood Plan Policy H2

Neighbourhood Plan Policy H2, in referring to the Durham City Conservation Area, states

Development proposals within or affecting the setting of the Durham City Conservation Area should sustain and enhance its significance as identified within the Conservation Area Appraisals.

No evidence has been advanced to show that this proposal will sustain and enhance the Conservation Area. The requirement is to enhance: this proposal will be a backwards step. Further comments on this aspect will follow on receipt of the Design and Access Statement.

City of Durham Neighbourhood Plan Policy D4

Neighbourhood Plan Policy D4: *Building Housing to the Highest Standards* states that

All new housing, and extensions and other alterations to existing housing, should be of high quality design relating to:

- a) the character and appearance of the local area; and
- b) aesthetic qualities; and
- c) external and internal form and layout; and
- d) functionality; and
- e) adaptability; and
- f) resilience; and
- g) the improvement of energy efficiency and the reduction of carbon dioxide emissions.

New residential development should meet the Building for Life 12 standards provided for in County Durham Building for Life Supplementary Planning Document (2019).

THE CITY OF DURHAM TRUST

Points (c) and (d) are particularly relevant to this proposal. The internal form of the proposal is a clumsy attempt to create two flats with no attempt to overcome the access issues already identified. Consequently it no longer works as a building: its functionality has been compromised.

Conclusion

This representation is of necessity an interim one pending the provision of the mandatory Design and Access Statement. Nevertheless, it is clear that the application fails to meet the requirements of Policies 29 and 31 of the County Durham Plan, and Policies H2 and D4 of the City of Durham Neighbourhood Plan.

Finally, we note that the bedrooms proposed are well-proportioned. Should any of them be occupied by a couple such as to take the number of unrelated occupants to three or more, that would make the property a C4 HMO for which there is no permission.

Yours sincerely,

JOHN LOWE

Chair, The City of Durham Trust