

THE CITY OF DURHAM TRUST

c/o Blackett, Hart & Pratt, LLP
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15 July 2023

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

The Trust has reviewed the latest documents provided by the applicant, namely the floor plan, site plan, amended application form and planning statement. The description of the proposal is now consistent with the provided plans, but there is nothing in the planning statement to make us change our objections based on a failure 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.

Amended application form

The application form states that the foul sewage is to be disposed of via the main sewer, but no connection is proposed to the existing drainage system. This seems to be inconsistent.

Planning statement

Table 5, quoted in paragraph 4.10, is misleading because it includes part-time students in its numbers. The table at <https://www.hesa.ac.uk/data-and-analysis/students/where-study#accommodation> (also from the HESA) shows that Durham had 21,220 full-time and sandwich HE students in 21/22 – 1,010 fewer than the quoted figure. In 2022/23 there are 910 fewer. The arguments in paragraphs 4.11 to 4.17 have been decisively countered by the Parish Council in its further submission, and we support them in their entirety.

Paragraph 4.18 states that it would not be proportionate to consult with the relevant education provider, in this case Durham University, due to the small size of the proposal and the fact that the flats might appeal to non-students. There is no such get-out clause in either Policy 16.2(b) or in paragraph 5.142 of the supporting text. It is true that the same argument was advanced by the same consultant (but a different applicant) in planning application DM/21/03914/FPA. However, this aspect was not assessed by the Officer in her delegated report.

In our view if an applicant wishes to rely on Policy 16.2 then they must take it as a whole and not seek to disregard parts of it that are inconvenient to their case.

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We have reservations about paragraph 4.20 regarding the housing aspect of criterion 16.2(c) and will deal with it below along with criterion 16.2(g).

The site meets the requirements of criterion 16.2(d) as it is readily accessible to the various University sites (paragraph 4.21).

Criteria (e) and (f) (paragraphs 4.22 to 4.26) are effectively a subset of Policy 29 and our comments in our letter of 7 March apply here. The fact that the future tenants of the upper apartment will have to walk 110 metres from their front door to the bins is poor design, as is the absence of a letter box for the tenants of the lower apartment, who will be the only occupants of the entire terrace who will have to receive deliveries at the rear of their premises.

Paragraph 4.27 claims that the proposal meets the requirements of criterion (g). It does not. There would be a change of occupier (this property has never been lawfully let to students). The criterion requires that “the activities of the occupants of the development will not have an unacceptable impact upon the amenity of surrounding residents in itself or when considered alongside existing and approved student housing provision.” This question was considered by the Inspector in appeal reference APP/X1355/W/22/3305838 against the refusal of an application reference DM/22/00369/FPA to convert 24 Nevilledale Terrace to an HMO. While the current proposal is for a different category of student residence, the conclusions reached in the Decision paragraph 13 are extremely relevant:

It is reasonable to assume that the occupiers of an HMO are likely to lead independent lives from one another. Taking account of the size of the appeal property, the activity generated by several persons living independent lives, with separate routines, and their attendant comings and goings along with those of their visitors, would lead to a level of activity that would be more marked and intensive than that which could reasonably be expected to be associated with a single household. This activity, within an area where there are already a number of existing HMOs, would have a detrimental effect on the living conditions of neighbouring occupiers.

Plainly the Inspector has reached the conclusion that the occupants of the development would have an unacceptable impact upon the amenity of surrounding residents.

Paragraph 4.27 also says that “it is noted that no objections to the proposals have been raised by the Nuisance Action Team subject to conditions regarding sound proofing and construction management”. The conclusion of the Nuisance Action Team is that “the development is unlikely to cause a statutory nuisance.” This is a very low standard. Paragraph 5.328 of the County Durham Plan, which follows Policy 31, says

Development proposals will be unacceptable where any resulting noise from new development would constitute a Statutory Nuisance under Part III of the Environmental Protection Act 1990 **or where the noise impacts, although not sufficient to constitute a Statutory Nuisance, would nonetheless have an unreasonable adverse effect on amenity.** [our emphasis]

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The Inspector's report, quoted above, concluded that turning 24 Nevilledale Terrace into a student residence, would indeed have an unreasonable adverse effect on the neighbours.

The garage at 24 Nevilledale Terrace is generously proportioned and we consider that criterion (h) has been met (paragraph 4.28 refers).

We have no reason to doubt that the safety and security standards required by criterion (l) will be met (paragraph 4.30).

We consider that the Other Planning Considerations set out in paragraphs 4.31 and 4.32 have been addressed by our earlier letter and we stand by them.

Conclusion

The applicant has argued that Policy 16.2 of the County Durham Plan applies to this development, and that it meets the criteria set out in the Policy. For the reasons given above, it does not. It also, for reasons set out in our letter of 7 March, 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. For those reasons we ask you to refuse this application.

Yours sincerely,

JOHN LOWE

Chair, The City of Durham Trust