

THE CITY OF DURHAM TRUST

c/o Blackett, Hart & Pratt, LLP
Aire House
Mandale Business Park
Belmont
Durham, DH1 1TH
15 January 2024

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

Lisa Morina
Durham County Council Planning Development
County Hall
Durham DH1 5UL

Dear Ms Morina,

DM/23/03752/FPA | Change of use from a dwellinghouse (use class C3) to a large house in multiple occupation (sui generis). | Cross View House Cross View Lane Nevilles Cross Durham DH1 4PJ

The City of Durham Trust objects to this proposal for a change of use from C3 to *sui generis* on the grounds that it does not meet the criteria set out in County Durham Plan Policy 16.3(a), and none of the exemptions listed in Policy 16.3 apply to it. The proposals would therefore result in further imbalance in the community and have a detrimental impact on quality of life and community cohesion for surrounding residents in contravention of Policies 16, 29 and 31 of the County Durham Plan and paragraphs 96 and 135 of the National Planning Policy Framework (December 2023 revision).

This application is virtually the same as DM/22/00664/FPA, which was submitted by the present applicant's father and refused on 29 April 2022. Nevertheless, the arguments must be made again as this is a fresh application. The case made by the applicant's agent is contained in his *Design & Access Heritage Statement* and it is to these that the following remarks relate.

Planning History

Paragraphs 2 to 17 explain why he considers that the refusal of application DM/22/00664/FPA was the wrong decision. However, this is now decided and the decision was not appealed. There are references to documents contained in the earlier application, for example paragraph 17 "as evidenced by his father in his application". These are not before you and they certainly will not be before an Inspector should this go to appeal. They can be given no weight.

It is claimed that appeal decision APP/X1355/W/21/3284723 sets a precedent. It does not. We have attached a copy of the decision as a separate document. There were several material considerations that led the Inspector to decide that a departure could be made from the development plan. None of them apply in this case:

- The percentage of HMOs at 72.7% was "towards the upper end of the range within which the policy seeks to resist further conversions." Furthermore the presence of Byland Close within the 100m radius was considered to depress the percentage. This percentage is in the upper quartile of the 10% - 90% range where a change of use to an HMO is not permitted by Policy 16.3.

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- On the other hand, the current HMO percentage as quoted by HMO Data is 27.8% which is in the lowest quartile. The resident in the appeal case had 102 HMOs within 100m of his house. There are 24 HMOs within 100m of Cross View House.
- In the appeal case, evidence was submitted that led the Inspector to conclude (paragraph 12) that “that the anti-social behaviour and disturbance which the appellant experiences regularly is beyond that which should be considered acceptable in a residential neighbourhood and amounts to severe personal hardship on the appellant”. There is no such evidence in this case. The proximity of Ward Court is noted but there is no evidence of any anti-social behaviour by any of its residents.
- In the appeal case evidence was produced as to the health impact of the anti-social behaviour on the appellant and his family. There is no such evidence in the current case.

Paragraph 10 refers to the “active marketing of the property over nearly three years” and a letter in support of this from a local estate agent was attached. However this letter is very nearly two years old and the property is not currently listed by that estate agent. There is no evidence of recent marketing. The adjacent property has been sold, subject to contract, by Bradley Hall. In any case the evidence would only be relevant if the localised community were already so imbalanced that the policy objective of protecting a balance was unlikely to be achieved.

Proposal

Paragraph 19 says “There is compelling evidence that the city may have an insufficient supply of HMO accommodation”. If such a statement is made it is incumbent on the applicant to provide that evidence. This has not been done, and in fact the opposite is the case. We refer you to Appendix 1. This confirms that the number of students accepted by the University was reduced in 2022 and going forward student numbers will not increase significantly, with more students being in University accommodation.

To spell this out in more detail, the University planned to grow to 21,500 students in the year 2026/27 but the unexpectedly high A-level grades around Covid led to offers having to be honoured that resulted in 22,220 students in 2021/22. The figure for 2023/24 is 620 lower at 21,600 students as a result of determined work by the University, This information is in the public domain and demonstrates that the University is working very effectively to stabilise at around 21,500 and that the claim of “insufficient supply of HMO accommodation” is not correct.

At paragraph 27 the applicant appears to be referring to County Durham Plan Policy 16.3(c) but misunderstands it. The Council is not advancing “the argument that the property is unsuitable for family occupation”. As paragraph 5.164 of the County Durham Plan makes clear, the purpose of this clause is to mitigate the potential cumulative impact on remaining permanent residents of passing foot traffic from PBSAs and a house converted to an HMO.

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Planning Policy

In this section of the *Design & Access Heritage Statement* the applicant is advancing the extraordinary argument that the Development Plan, in this case the County Durham Plan, is out of date even though it was only approved on 21 October 2020. The Plan was extensively consulted on, culminating in an Examination in Public. Student accommodation was discussed on Thursday 14 November 2019. An outcome was that the upper limit in Policy 16.3(h) was changed from “high concentration” to “90%”. The applicant is trying to reverse that Inspector’s decision, which was made “in order to provide clarity and consistency such that the policy is effective”. The reference is PINS/X1355/429/4 *Report on the Examination of the County Durham Plan* paragraph 257.

Of course the Plan needs to be kept up-to-date with periodic reviews. Preliminary work has already started and some Trustees attended a meeting at Merryoaks Community Hall on 23 October 2023 where Mike Allum, Head of Spatial Policy, spoke and took questions. There will be a formal consultation and we would encourage the applicant and his agent to participate in that. The way to achieve changes to the County Durham Plan is via this review process and not by proposing them in individual planning applications.

Paragraph 53 is irrelevant because individual postcode percentages are quoted and only the percentage of individual properties within 100 metres counts. Also, the percentage figures conceal wildly different actual numbers of properties. The two specific postcodes quoted by the applicant are both more than 100 metres from Cross View House. DH1 4FY is Duresme Court which has 275 properties. DH1 4JY covers the 14 properties in Cross View Terrace, all more than 160 metres from Cross View House.

Paragraph 61 refers to Police Crime Reports which are “summarised” over seven pages in Appendix 1. Over the 18 month period April 2022 to September 2023 there were 13 crimes of all types committed on streets within 100 metres of Cross View House:

Month	Location	Crime type	Last outcome category
2022-04	On or near Crossgate Peth	Anti-social behaviour	
2022-05	On or near George Street	Violence and sexual offences	Investigation complete; no suspect identified
2022-06	On or near Crossgate Peth	Anti-social behaviour	
2022-09	On or near Cross View Lane	Public order	Awaiting court outcome
2022-10	On or near Crossgate Peth	Anti-social behaviour	
2023-02	On or near George Street	Other theft	Investigation complete; no suspect identified
2023-02	On or near George Street	Public order	Investigation complete; no suspect identified
2023-03	On or near Crossgate Peth	Burglary	Court result unavailable
2023-03	On or near George Street	Burglary	Unable to prosecute suspect
2023-04	On or near George Street	Violence and sexual offences	Unable to prosecute suspect
2023-06	On or near Cross View Lane	Violence and sexual offences	Investigation complete; no suspect identified
2023-06	On or near Crossgate Peth	Anti-social behaviour	
2023-09	On or near George Street	Violence and sexual offences	Under investigation

These are taken from the detailed information on the data.police.uk website which is linked from the pages shown, by following the link [Download area crime data](#). Ward Court is included within the data for Cross View Lane. There was one public order offence and one of violence and/or sexual offence in Cross View Lane. We would argue that these are more serious than

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anti-social behaviour. Nevertheless, this is a low level of crime unlikely to deter a potential buyer.

We fail to see the relevance of paragraphs 62 to 85, given that Policy 16.3(h) of the County Durham Plan is not engaged. There was a case to be made for a degree of hardship for the applicant's parents, but none for the applicant himself.

The arguments regarding StuRents presented in paragraphs 87 to 96 is second hand as the applicant cannot produce the report for copyright reasons. Paragraph 96, in particular, does not cite its sources, is based in part on the incorrect assumption that "demand grows in line with the historical trend" and is at odds with the known facts. The information from Durham University, reproduced below in Appendix 1, is authoritative and must be preferred.

Commentary

The arguments advanced in paragraphs 97 to 118 do not relate specifically to this application but are trying to discredit a development plan that is barely three years old. As set out above, these arguments should be reserved for the periodic review of the County Durham Plan, which we understand is due in 2025.

The conclusion reached in paragraph 119 is based on a misunderstanding of the current position. A detailed assessment of the housing market by Durham University, in conjunction with relevant bodies, "shows that there will be enough student accommodation to meet anticipated demand for the 2024/25 academic year". Appendix 1 has more information.

Criteria (d) through (g) of the policy

These criteria are contingent on criteria (a) through (c) having been met and the arguments in paragraphs 120 to 148 are therefore irrelevant since these pre-requisites have not been met.

We would however point out that the site is within CPZ zone P, not zone F. This error was pointed out in the Trust's representation on the previous application. And as we pointed out then, no parking permits should be issued to the residents of Cross View House due to the availability of the double garage and private parking in the unadopted Cross View Lane.

National Policy

It is difficult to follow the detail of the arguments advanced here as paragraphs 149 to 157 appear to be referring to a superseded version of the NPPF. The extract quoted in paragraph 152 is now at paragraph 63 of the NPPF and Part 8, *Promoting healthy and safe communities* now starts at paragraph 96.

Nevertheless, the County Durham Plan was judged at Examination to be consistent with the NPPF and nothing has changed in the intervening three years to change that.

Conclusion

Paragraph 158 claims that the breach of policy 16.3 of the County Durham Plan is only "technical" in nature. It is in fact a clear breach. The percentage of Class N exemptions within 100 metres is 27.8%. Arguments trying to discredit the 90% figure in policy 16.3(h) are simply irrelevant in this context.

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The following paragraphs 159 to 167 are simply summarising earlier paragraphs, and we have already shown that these are fallacious.

Residential amenity

The high concentration of students and student properties within the area is already likely to have some impact on the amenity of the families living in the vicinity of the application site. In addition, the primary route from the Duresme Court PBSA to the City Centre passes the site. This area is already unbalanced by a high proportion of students and adding a further large HMO can only worsen the existing situation, so further adversely affecting the amenity of neighbouring residents.

Criterion (e) of CDP Policy 29 states that all development proposals will be required to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties. Policy 31 states that 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. It has not been demonstrated that there will be no unacceptable impact.

Consequently

As stated in our opening paragraph, this application should be refused because it does not meet the criteria set out in County Durham Plan Policy 16.3(a), and none of the exemptions listed in Policy 16.3 apply to it. The proposals would therefore result in further imbalance in the community and have a detrimental impact on quality of life and community cohesion for surrounding residents in contravention of Policies 16, 29 and 31 of the County Durham Plan and paragraphs 96 and 135 of the National Planning Policy Framework (December 2023 revision).

Yours sincerely

JOHN LOWE

Chair, City of Durham Trust

Appendix 1

Source: <https://www.durham.ac.uk/news-events/latest-news/2023/10/campaign-launched-to-reassure-students-on-housing-supply/> retrieved 3 January 2024.

Campaign launched to reassure students on accommodation

5 October 2023



We're reassuring students that there is enough student housing to meet anticipated demand in Durham for the next academic year, and we're supporting them to take their time in choosing accommodation.

We've launched an information campaign for students reassuring them that a detailed assessment of the housing market shows that there will be enough student accommodation to meet anticipated demand for the 2024/25 academic year.

As part of the campaign, we've launched an online Housing Hub, with information and resources to support students through the house hunting process.

Working together

Aware that in previous years students have felt pressure to sign increasingly early, over the past year we've worked with City of Durham MP Mary Kelly Foy, Durham Students' Union, letting agents, landlords, City of Durham Parish Council and Durham County Council with the aim of ensuring a student housing market that works for everyone in Durham.

A multi-agency Housing Group has also developed a Student Lettings Code of Practice for landlords and letting agents.

This enables responsible agents and landlords to demonstrate their commitment to putting student welfare at the heart of their practices.

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Student numbers

In the period to 2019, we grew our student numbers, in a carefully planned and managed way, focusing on certain key departments.

Our intake was higher than anticipated in 2020 and 2021 due to unexpected shifts in A-level grading, but we responded by reducing our intake for 2022.

Earlier this year we undertook a refresh of our ten-year Strategy.

This reaffirmed that we would manage student intake and accommodation mindful of its impact on Durham City.

In coming years, we will not grow our student numbers significantly, but will diversify its social and international mix.

We remain committed to our collegiate model under which most first-year undergraduates live in University accommodation, and we're aiming that 40-45% of our students will live in University-owned or -managed accommodation by 2027.

Find out more

- More information on the University Strategy Refresh is available [here](#)
- Browse our Housing Hub [webpages](#)
- Learn more about the [Student Lettings Code of Practice](#)