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2 January 2024

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

Dear Ms Morina,

**DM/23/01661/FPA Rowanwood Clay Lane Durham DH1 4QL**

*Demolition of existing buildings and construction of 9 small House in Multiple Occupation (HMO) dwellings (use class C4) and 1 large HMO (use class sui generis) in three blocks.*

The Trust objects to this application based on poor design and negative impact on the character of the Conservation Area. It considers that adding the equivalent of a 65 bedroom PBSA as both inappropriate and unnecessary; the increase in student numbers fails against CDP Policy 16. It also objects on the basis of access because of the anticipated level of increased vehicle usage of Clay Lane and its Margery Lane junction.

The City of Durham Trust asks you to refuse it for the reasons set out below.

**HMO – Failure against County Durham Plan Policy 16**

Paragraph 3.4 of the Planning and Heritage Statement refers to a pre-application enquiry which took place in July 2015, which stated that “the principle of development is acceptable”. This advice would have been in the context of an earlier local development framework, the City of Durham Local Plan, which was superseded when the County Durham Plan was adopted in September 2020. It also pre-dates the adoption of the City of Durham Neighbourhood Plan on 7 July 2021 and several revisions to the National Planning Policy Framework. Consequently, this advice, which was doubtless appropriate in 2015, can carry no weight 8½ years later when assessing this application.

The applicant has asked that his proposal be assessed as a group of HMOs, and we agree with that approach. While this is accommodation that would be built with the specific intent of being occupied by students, these dwellings would be licensable as an HMO and so would not fit the definition of a PBSA as at out in paragraph 5.136 of the County Durham Plan. This application should therefore be assessed against part 3 of CDP Policy 16.

That Policy states that:

*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), [...] will not be permitted if:*

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*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); [...]*

*(c) less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.*

As confirmed by the HMO data on the planning portal, of the 31 properties, including Rowanwood, within 100 metres of Rowanwood six are Class N exempt. The HMO percentage, at 22.6% substantially exceeds the limit of 10% set in criterion (a). Furthermore, the occupants of the Ustinov College PBSA at the top of Clay Lane use this as a route to get into the city centre and to the University's Palatine Centre, which means that the proposal is also caught by criterion (c). Consequently, the application should be refused.

## **Heritage and Design Impact**

Rowanwood and the adjacent large property have significant grounds, much of them being woodland. This merges into the open spaces and woodland of St Margaret's School and Durham School, linking through to Observatory Hill. It forms an important part of the Conservation Area setting, buffering the historic core against surrounding development. The character of the immediate area is of buildings set in a significantly generous landscape setting creating a semi-rural appearance essential to the character of the City.

Clay Lane is designated as a Local Green Space in the Durham City Neighbourhood Plan. As noted in para. 4.102 of the plan, it "has been an important pedestrian route into Durham since the medieval period and continues to serve as a major pedestrian artery into the City centre." It is a Public Footpath (Durham City FP15). Near the junction with Margery Lane, a short section, unadopted as a public highway, has been made passable by motor vehicles giving access to Rowanwood, Spring Cottage, and the Durham Archery Tennis Club. Nearby, Blind Lane and Margery Lane are deeply cut into the rising landform, typical of historic routes. Together with Pimlico, they help create a semi-rural quality, in contrast to the closely developed streets of the City core. These links help to unify the woodland and greenspace across this part of the Conservation Area and attach it to the woodland of the gorge surrounding the Peninsula. The point made in stressing this is that this area is a remnant of the once extensive greenspace that surrounded the historic city core and that has been lost in much of the rest of the conservation area. This is fully recognised in the Neighbourhood Plan in identifying Clay Lane as Local Open Space, backed up by its further inclusion as part of Observatory Hill grouping in the Emerald Network proposals. The relatively low building density plays a significant role in preserving that character.

The proposal increases the built footprint very substantially from the current house with its minimal driveway. The accommodation blocks, associated access and parking will occupy very nearly all of the open space between the trees and more because of the felling of trees. The height of the main block is not shown against the current building height or analysed against the surrounding woodland – it may intrude further into the skyline. The size of the blocks, and

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their impingement on Clay Lane and Blind Lane are very destructive of local character and contrary to the policies of both County Durham and Durham City Neighbourhood Plans.

The Design and Access Statement and Heritage Statement fail conspicuously to identify the site's true significance and character. A false design narrative is adopted in using the copied traditional detailing of the blocks. This is taken from developments such as Highgate in the City centre. This was appropriate for the density of development needed in that central location, it is wholly at odds with this site and the surrounding low density of built development. It is a very discordant approach. Equally flawed in its approach is the attempt to mask what in essence are large three blocks of student accommodation by breaking them into 'house' sized units – the large central block being very strangely divided into tall narrow units with large flights of steps causing access difficulties. The stepped access does not “meet the travel needs of people with mobility impairments” and is contrary to Policy T1 of the Durham City Neighbourhood Plan.

The increases in numbers of site occupants, parking and access will bring substantial increases in the lighting of the site, also causing disruption.

The Trust objects to the loss of otherwise healthy trees and the reduction in greenspace. It should be noted that ecological and biodiversity assessments fail to deal adequately with its loss in this location. Biodiversity gain is only marginally achieved by the use of an off-site location. There is no indication of where this is and how this it might offer long term, secure, real-terms biodiversity gain. The Trust sees the loss as local to the site and offsetting this elsewhere as meaningless.

## **Access**

It is the Trust's contention that student accommodation brings with it higher car ownership rates than often acknowledged. More significantly, it notes the very high rates of food and parcel deliveries common to student properties. This contrasts with the minimal usage generated by the existing large house when occupied. Whether the site enjoys full unfettered access sufficient for the increases proposed is not clear. There is also potential for clashing with traffic accessing the long established Durham Archery Lawn Tennis Club. What is clear is that increased usage will cause more conflict with those using Clay Lane– if it were to require upgrading Clay Lane to adoptable highway standards this would be counter to policy G2 of the Durham City Neighbourhood Plan. This would cause substantial negative impact on the character of Clay Lane.

There is no lighting of the section of Clay Lane between Margery Lane and the site, this will present difficulties for nighttime users of the access and lead to calls for lighting that is inappropriate, also clashing with the designation of Clay Lane as a Local Green Space. Paragraph 4.102 of the Durham City Neighbourhood Plan notes that Clay Lane provides an important dark corridor for wildlife. Increasing the numbers of vehicles using the junction with Margery Lane with its obscured approaches to the right angle bend, cannot be considered desirable.

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The Planning Statement (para. 4.5) states that the proposal has regard to the Parking and Accessibility SPD. The development appears to provide only 11 secured cycle parking spaces. If assessed as a PBSA, the SPD would require one space per bedroom, i.e. 65. If assessed as houses without garages, each of the ten dwellings should be provided with storage space sufficient for four cycles (see para. 4.17 of the SPD), i.e. a total of 40 spaces. Note that the SPD would expect the secure storage to be private to each dwelling. The development instead proposes a single communal storage area which is as far as possible from the entry to the site and is highly inconvenient for the majority of potential users. Moreover, Policy T3 of the Neighbourhood Plan states that electric power should be available in the storage to allow recharging of powered mobility aids and e-bikes. There is no evidence that this has been included.

As for car parking, if the dwellings are assessed as a PBSA, no student car parking spaces would be required within the Controlled Parking Zone, but Clay Lane is not currently subject to controlled parking. Outside the CPZ, one space would be required per 15 students, making a total requirement of four. If the development is assessed as houses, however, 3 parking spaces per dwelling would be required for the 5 bedroom units, and 4 spaces for each of the larger units. A total of 37 car parking spaces would therefore be expected, rather than the 15 provided. The application does not indicate that council officers have determined that a lower parking requirement would be appropriate (as allowed in the SPD para. 1.8).

In fact, the Trust regards the Parking and Accessibility SPD's requirements as excessive for Durham City and would be supportive of a greatly reduced number of car parking spaces providing the developer can convincingly demonstrate that this would not cause overspill of student parking into nearby residential streets. The risk here would be that a student might keep a car on Archery Rise, which is accessible via Clay Lane but is outside the Controlled Parking Zones of the city. There are hints in the Transport Statement that car ownership would be restricted (see para. 6.3.7) but these are vague and not backed up by any enforceable commitments. Were the development to be approved in any form, in order to minimise the traffic impacts, the Trust would support prohibiting student tenants from keeping a car except in cases of disability: this would help to reduce student car use in Durham in support of the University's Sustainable Travel Plan. But this would need to be secured via appropriate planning conditions in perpetuity and enforced.

There are a number of flaws with the Transport Statement. The sites selected from the TRICS database are inappropriate: the Durham site (Chapel Heights) is a long way from the main campus, and the site in Bath is in the town centre while the main Bath campus is out of town. It is unsurprising therefore that the TRICS estimates in para. 6.3.4 suggest almost a third of occupants would use public transport and hardly any would cycle. In reality, the Trust would expect far higher pedestrian rates, a somewhat higher cycling estimate of around 10%, and almost no public transport use, considering the nearest services, on Crossgate Peth, would not be convenient for typical student travel destinations.

The Trust also takes issue with the applicant's claim (Transport Statement para. 5.3.2) that "footways within the vicinity of the site are to a suitable standard in terms of width,

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construction and street lighting.” The majority of access to and from the site will be via Margery Lane and Quarryheads Lane, each of which have adopted footways on only one side for the greater part of their length. These footways are very narrow in places and are already extremely congested at peak times with those going against the flow having to resort to using the carriageway to pass. The drainage of Quarryheads Lane is also very poor, and pedestrians are often at risk of being drenched by passing road traffic during heavy rain. The end of Clay Lane is also regularly flooded in storms, and there are no dropped kerbs to allow wheelchair access to the footway on Margery Lane.

Margery Lane and Quarryheads Lane are designated primary routes for pedestrian and cycle improvements in the Durham City LCWIP. Policy 21 requires development to contribute, where possible, to the LCWIP routes, but this application does not do so, and is likely to make the situation for pedestrians and cyclists worse. Section 7.2 of the Transport Statement headed “Infrastructure Improvements” actually offers no infrastructure improvements beyond the existing access to Rowanwood.

## **Conclusion**

The Trust’s conclusion is therefore that the application should be refused on the multiple and comprehensive grounds set out above.

*(The policies the proposal fails against are listed in the following appendix.)*

Yours sincerely,

John Lowe,  
Chair, City of Durham Trust

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## Appendix - Policies

The Trust considers that the proposals fail against the following planning policies:

### County Durham Plan

#### Policy 16 Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation

##### 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)
- c. less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.

#### Policy 21: Delivering Sustainable Transport

If Clay Lane were to be upgraded to adoptable highway standards, this would “cause unacceptable harm to the natural, built or historic environment” contrary to 21(d).

The development does not “contribute to the development of a safe strategic cycling and walking network and in particular the routes set out in Local Cycling and Walking Infrastructure Plan.”

The development does not have regard to the Parking and Accessibility SPD in relation to the number of cycle parking spaces required.

#### Policy 29 Sustainable Design

- a. The proposals fail to contribute positively to an area’s heritage significance and townscape.

#### Policy 44 Historic Environment

##### Conservation Areas

- f. The proposals fail to demonstrate understanding of the significance, character, appearance and setting of the conservation area and how this has informed proposals to achieve high quality sustainable development, which is respectful of historic interest, local distinctiveness and the conservation or enhancement heritage assets.
- h. The proposal fails to show respect for, and reinforcement of, the established, positive characteristics of the area in terms of appropriate design (including, features, materials, and detailing).

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## Durham City Neighbourhood Plan

### **Policy S1: Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions**

The proposal fails because it does not:

- c) Harmonise with its context in terms of scale, materials, and soft landscaping.
- d) Conserve the significance of the setting, character, local distinctiveness, and the contribution made to the sense of place by Our Neighbourhood's designated and non-designated heritage assets.

### **Policy G2: Designation of Local Green Spaces**

Access to Rowanwood is via Clay Lane, which is designated as a Local Green Space where inappropriate development should not be approved except in very special circumstances. The proposal will substantially increase the motor vehicle traffic on Clay Lane and increase conflict with pedestrian users of the public footpath. Upgrading the lane to adoptable highway standards to mitigate this impact would conflict with this policy: the applicant has not proposed any mitigations and would have to demonstrate very special circumstances to justify any such proposals.

### **Policy H2: The Conservation Areas, Durham City Conservation Area**

The development proposals negatively affect the Durham City Conservation Area by not taking into account, and meeting, the following requirements:

- a) Sustaining and enhancing the historic and architectural qualities of buildings; and
- g) protecting important views of the Durham City Conservation Area from viewpoints within the Conservation Area; and
- j) Having, materials and detailing appropriate to the vernacular, context, and setting; and
- k) Using high quality design sympathetic to the character and context of the local area and its significance and distinctiveness.

### **Policy T1: Sustainable Transport Accessibility and Design**

The development includes several dwellings accessed via large numbers of steps. These do not "meet the travel needs of people with mobility impairments." Adverse transport impacts on Clay Lane and the junction with Margery Lane have not been avoided or mitigated. There are no proposals to improve access by walking, cycling and public transport in the area. The development does not include "measures to minimise car traffic."

### **Policy T3: Residential Storage for Cycles and Mobility Aids**

The development fails to provide sufficient cycle storage in line with the Parking and Accessibility SPD. The applicant has not demonstrated that the storage would be adaptable to storing other mobility aids, and the application is silent on the provision of electric power for charging e-bikes and powered mobility aids.