

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

23 August 2024

Ms Michelle Hurton
Planning
PO Box 274
Durham County Council
Stanley
County Durham DH8 1HG

Dear Ms Hurton,

**DM/24/01551/FPA: Conversion of part of the lower ground floor from retail (E)
to form 1no small HMO (C4), 37 Silver Street, Durham DH1 3RD**

The City of Durham Trust objects to this planning application because it fails County Durham Plan policies, particularly with regard to the Nationally Prescribed Space Standard, and also fails to provide the information necessary for reliable assessments to be made.

The submitted drawings display no scale bar but say that the scale for the floor plan is 1:50. It is in fact 1:100. This is important due to the standard condition to build strictly in accordance with the approved plans.

The applicant's Planning Statement sets out what it regards as relevant NPPF, County Durham Plan and City of Durham Neighbourhood Plan Policies. Remarkably for an application for C4 student accommodation replacing retail space, neither CDP Policy 16 on student accommodation nor DCNP Policy E3 on residential accommodation in retail units are even mentioned.

County Durham Plan Policy 16.3 is an essential policy for assessing planning applications for Houses in Multiple Occupation (HMOs). The policy does not permit new or extended HMOs if more than 10% of the total number of residential properties within 100 metres of the application site are exempt from Council Tax charges (Class N Student Exemption). The Planning Portal now shows that 67.8% of residential properties within 100 metres of the application site are exempt from Council Tax charges. This would normally rule out any possibility of approving the proposed new HMO. However, part (l) of Policy 16.3 allows that the creation of an HMO in an area where there is a high percentage of Council Tax exempt residential properties will not be resisted on the basis that commercial uses are predominant within the 100 metre area. This applies in the current case, and the Trust therefore does not oppose a new HMO here in principle, but considers that the applicant's Planning Statement is seriously deficient in simply ignoring Policy 16.3.

County Durham Plan Policy 9 and Durham City Neighbourhood Plan Policy E3 accept and support residential uses in town centres, with the Neighbourhood Plan identifying upper floors as acceptable and provided there is no negative impact on retail, commercial and tourist activities

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and the general amenity of neighbouring properties including noise impact. Whilst the current proposal is for an HMO below the ground floor of the premises, the Trust considers that this is, in principle, acceptable under both policies.

County Durham Plan Policy 29 requires all new residential development to comply with the Nationally Described Space Standard (NDSS). This is new residential development, described in the Design and Access Statement as *“The proposal seeks to change the lower ground floor to class use C4, student accommodation.”*

The NDSS requires at paragraph 10b that *“a dwelling with two or more bedspaces has at least one double (or twin) bedroom.”* This requirement is not met, for the following reasons.

- Bedroom 1 has a maximum width of 2.50m. Other parts of the room are narrower. The Design and Access Statement describes bedroom 1 as a two person bedspace. NDSS paragraph 10e requires *“one double (or twin bedroom) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide.”* So bedroom 1 is too small to be a double or twin bedroom.
- Without prejudice to that, the claimed area is 11.6m² and the window is 910x1200mm which is an area of 1.092m² which is only 9.4% of the total floor area. A minimum of 10% is required in the HMO standards.
- Regarding bedrooms 2 and 3, the NDSS requires at paragraph 10c *“in order to provide one bedspace, a single bedroom has a floor area of at least 7.5m² and is at least 2.15m wide.”* Proposed bedrooms 2 and 3 incorporate a 1 metre wide access corridor leading to a rectangular area (no further door) where the bed is located. The Trust considers that it would only be acceptable to count that part of the room that meets the minimum width, thus leaving bedrooms 2 and 3 with usable areas of 8.83m² and 8.65m² respectively. Accordingly, whether or not that point is accepted, neither bedroom 2 nor bedroom 3 can represent the required double or twin bedroom, despite the drawings showing each as having a double bed. Should the Council be minded to approve the application, a condition must be included limiting the number of occupants appropriately.
- The living area/ kitchen is one large room and has an area of around 42m². There is one window of 910x910mm and two smaller windows where the glazed area is 300x910mm giving a total area of 1.37m² which is only 3.3% of the floor area. The HMO Standards say under Lighting: *All habitable rooms shall be provided with an area of clear glazing equivalent in total area to at least 1/10th of the floor area of the room and some part of the window should normally be at least 1.75m above floor level.* The window area is one third of that required by the HMO standards. These standards are not part of the County Durham Plan but do provide guidance. A living space with very little natural lighting would not meet Policy 29(e) which requires high standards of amenity. Supporting paragraph 5.303 refers to natural lighting and ventilation. Policy 31 with its reference to loss of light must also be impacted.
- Additionally, the Environmental Health consultee has pointed out that all habitable rooms must have ventilation openings equivalent to at least 1/20th of the floor area of the room. The combined living area/kitchen fails to meet this statutory requirement since the openable area of the windows is at most 1.15m² equivalent to only 2.7% (at most since only some 0.6 m² of the 910x910mm window is openable and the extent to which the two smaller windows are openable is unclear). This is approximately half of the required area.
- The proposed Plans and Elevations drawing shows a double bed in all three rooms. This proposal is clearly incapable of providing three double or twin bedrooms and in any case the planning application is for accommodation for 4 persons.

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The Trust concludes that the proposal demonstrably fails CDP Policy 29 on space standards.

CDP Policy 29 not only requires NDSS space standards are met and high standards of amenity and privacy under part (e), part (f) expects consideration of the health impact of developments and the needs of existing and future users. The Design and Access Statement declares that “*all rooms have high levels of daylight*”. This is clearly not the case given the severely limited size of each window.

There is also concern that Bedroom 3’s escape window may be too small. The overall dimensions of the window are stated as being 1135 x 1200mm, but only half of it is openable and the thickness of 3 frames must also be deducted. Consequently, the available escape width might not meet the required clear dimension of 450mm, and this must be checked.

Conclusions

The City of Durham Trust considers this to be a confused and inadequate application with vital omissions. It should be refused on the above policy grounds; any subsequent application that merited approval would need to be conditioned to no more than three occupants as the spaces involved cannot provide a double or twin bedroom to meet the terms of Policy 29 regarding NDSS requirements.

Yours sincerely

John Lowe

Chair, City of Durham Trust