

THE CITY OF DURHAM TRUST

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

c/o Blakett, Hart & Pratt, LLP
Mandale Business Park
Belmont
Durham, DH1 1TH

30 October 2024

The Planning Inspectorate
3D Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Sirs,

APP/X1355/W/24/3352991 - 27 Annand Road, Gilesgate, Durham, DH1 1PW.

Removal of condition 8 of planning permission DM/23/01690/FPA

Having reviewed the appellant's grounds for appeal, the City of Durham Trust writes to confirm its objection to the removal of condition 8 from planning permission DM/23/01690/FPA (as set out in its letter of 22 February 2024 to Durham County Council) and to support wholeheartedly the LPA's refusal on 17 July 2024 to permit the application.

The Trust therefore re-iterates and updates the main points it made previously:

- at its narrowest point, Bedroom 4 measures less than the minimum width of 2.15m required by the Nationally Described Space Standard (NDSS). Now that detailed plans to scale are available, this dimension can be measured accurately as being only 1.89m;
- the NDSS requires a dwelling with two or more bedspaces to have at least one double (or twin) bedroom with an area of at least 11.5m². None of the proposed bedrooms provides this minimum area; and
- for a two-storey dwelling, the NDSS requires a gross internal floor area of 110m² for a 5b6p property or 123m² for a 6b7p property. The appellant confirms in section 2.8 of the Grounds of Appeal that the overall floor space is only 92m². The resulting shortfall of between 20-30m² is significant, representing a deficiency of between 16-25%.

The appellant now states in paragraphs 2.9 and 2.10 of the Grounds of Appeal that “*the established lawful use of the appeal property is Class C3*” and “*C3(c) allows for groups of people (up to six) living together as a single household*”, arguing that this identifies a fallback position that makes it inappropriate for the NDSS to be applied rigidly.

The established lawful use of the property has in fact been C4 following approval of DM/23/01690/FPA on 23 August 2023 and occupation as an HMO since, evidence of which is attached.

Nevertheless, a change of use back to C3 would be permitted development, but this does not mean that standards possibly appropriate for a C3 use are also appropriate for a C4 property. For example, a single household would need a double bedroom of at least 11.5m² to comply with the NDSS. More significantly, a single household will have developed over a number of years, quite possibly a lifetime for the younger members. The members of the household will have lower expectations of privacy and will be intermingling as a family.

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The C4 house, on the other hand, would have six different households who quite probably will not have lived together until they moved in. They will expect more privacy and more space to themselves, and will be living separate lives. These differences explain why it is proper that there are two use classes, C3 and C4.

It is worth noting in passing that the plans approved in DM/23/01690/FPA would allow a C3 occupancy of no more than 4 persons, and certainly not the 6 persons suggested by the appellant.

Regardless of these arguments, neither the Trust nor the LPA is insisting that the NDSS is applied rigidly - but the new proposal falls so far short of NDSS space requirements that it undoubtedly fails CDP Policy 29.

By the same token, CDP Policy 31 - which requires that "*The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living and/or working conditions*" - is similarly failed. Policy 31 additionally requires that the development will not have an unacceptable impact on the health or living conditions of nearby residents. The proposed increase from 3 to 6 occupants is likely to cause proportionately more noise and late night disturbance affecting neighbours, resulting in Policy 31 being failed once again.

There is a further measure by which the failure of these policies might be evaluated. Given that the floor areas of the key rooms specified by the NDSS comply with its requirements, it follows that the shortfall in overall area must arise to some extent from a deficiency in shared facilities and amenities.

Policy 29 requires all developments "*to achieve well designed buildings having regard to supplementary planning documents and other local guidance documents*". In that respect, the County Council's adopted *Standards for Housing In Multiple Occupation - "Shared Houses"* are relevant in terms of quantifying the required provision for shared amenities. Indeed, the appellant refers to them in section 2.5 of the Grounds of Appeal, claiming that "*the proposed HMO will meet the requirements... and provide good quality living accommodation for future occupants through compliance with the HMO standards*".

The proposed development would not, in fact, comply with these mandatory Standards, derived as they are from Regulation 8 and Schedule 3 of the *Licensing & Management of HMOs and Other Houses (Miscellaneous Provisions) (England) Regulations 2006*. Both of these documents are attached for reference.

Part 2, Paragraph 6.a. of the Standards states that 2 bathrooms or shower rooms must be provided for 6-10 persons, while paragraph 7.b. states that 2 water closets must be provided for 6-10 persons. Significantly, however, paragraph 7.c. additionally states that each shared water closet shall be situated in a room separate from the bathroom or shower room, except in exceptional circumstances. Given that there are no exceptional circumstances to consider, the requirement to have the W.C.s in separate rooms must stand. The proposed development, however, provides just two rooms in total each containing both a shower and a W.C. - a significant shortfall of amenity provision.

Consequently, the application further fails to comply with both Policy 29 and Policy 31 in terms of requirements other than those of the NDSS.

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In summary, the Trust submits that the requested removal of Condition 8 would result in a significantly overcrowded HMO with inadequate amenities that would fail to comply with both Policy 29 and Policy 31 on several counts. These Policies, in conjunction with the NDSS and the HMO standards, fundamentally exist to provide those renting with essential and decent housing amenities, sadly often lacking in Durham's commercially rented HMOs.

Consequently, for the reasons given above, the Trust requests that the Appeal be dismissed.

Yours faithfully,

JOHN LOWE

Chair

Attachments:

- Standards for Houses in Multiple Occupation - "Shared Houses", Durham County Council
- Licensing & Management of HMOs and Other Houses (Miscellaneous Provisions) (England) Regulations 2006
- Photographs taken on 27/10/24 showing the property to be let currently as a student HMO
- Screenshot of Harringtons (Student Lettings) website advertising the property 2025/26