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Planning Development  
County Hall  
Durham  
DH1 5UL

City of Durham Parish Council  
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23 July 2019

Dear Ms Jennings,

**Planning application DM/19/01418/FPA | The change of use of a six-bedroom dwelling (Class C3) to a small House in Multiple Occupation (Class C4) or a six-bed dwelling (C3) | 24 Nevilledale Terrace Durham DH1 4QG**

The above planning application was considered by the Parish Planning Committee at its meeting on 19 July 2019, and it was resolved to oppose the application for the reasons set out below. We hope you will be persuaded by these arguments, but **if you are minded to approve we would exercise our right to have this considered by the appropriate planning committee** so we can put our case.

There is a mismatch between the description of the proposal as set out in box 5 of the application form, "The change of use of a six-bedroom dwelling (Class C3) to a small House in Multiple Occupation (Class C4) or 6 bed dwelling (C3)." and the Design and Access statement which at page 1 describes the proposal as "The change of use of the dwelling (Use Class C3) to a dual use as a small House in Multiple Occupation (use Class C4) or a sui Generis HMO providing seven bed spaces." Paragraph 33.5 goes on to explain that the downstairs front room will be either a Living room or a bedroom depending on whether the property is respectively a C4 or a *sui generis* HMO. Our comments relate to the proposed use as an HMO.

**The Interim Policy on Student Accommodation**

The proposal is not in accordance with the Interim Policy on Student Accommodation. The Council's specialist reports that within a 100m radius of 24 Nevilledale Terrace, 30% of properties are student properties as defined by Council Tax records. We accept this figure, which is both well above the 10% lower threshold and well below the point at which an area already has such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm.

The applicant's agent has mentioned a number of cases, all of which bar one relate to properties where the concentration of HMOs already exceeded 60%. Without conceding that 60% represents a "high concentration" it is more than double the concentration within 100m of the application site. The one case APP/X1355/W/17/3168117 cited at paragraph 20.9 of the Design and Access statement where the concentration was comparable to the application site related to a new build and the Inspector was at pains to distinguish it from other cases, saying specifically "notably without any resultant loss of an existing Class C3 dwelling" (paragraph 10). This is therefore not a comparable case.

In paragraph 20.17 the applicant's agent argues that this would only be a small increase. But this is going to be the case in any application and it was to stop this creeping conversion of family homes to HMOs that the Interim Policy was put in place.

The central aspects of the Interim Policy, the 10% threshold and the exemption when there is a high concentration, have both been carried forward into the County Durham Plan as Policy 16, the Submission Draft of which has now been submitted to the Secretary of State. While there are objections to this Policy<sup>1</sup>, these do not challenge this aspect of it. Consequently, it may be that some weight may be given to it, in accordance with Paragraph 48 of the NPPF.

The applicant's agent contends at paragraphs 3.3, 13.2 and 25.2 that the proposal exceeds the standards for HMOs. We anticipate that you will be receiving a submission from an Environmental Health Officer setting out the required standards for an HMO. We would point out that the area of Bedroom 4 (as measured using the online tool) is 6.09m<sup>2</sup>. Since each bedroom/study is required to be a minimum of 6.51m<sup>2</sup> this falls below the allowable standard.

### **Local Plan Policy H9**

At paragraph 11.1 the applicant's agent cites appeal case reference PP/X1355/W/16/3160444. This relates to 40 Hawthorn Terrace where an extension was being proposed to an existing C4 house, consequently and unlike the present case there was no change of use and so no increase in the percentage of HMOs. That percentage was 71.4% which puts it in a different class to the current application. And finally the remarks by the Inspector that Policy H9 was "more permissive" were in reference to extending existing HMOs and are not relevant here.

### **Local Plan Policy H13**

The applicant's agent again states at paragraph 13.2 that the space standards for HMOs are exceeded but bedroom 4 is 0.5m<sup>2</sup> below the required 6.51m<sup>2</sup>.

While reference is made to the immediately adjoining properties, the earlier unauthorised use of this property as an HMO led to enforcement action and an eventual appeal reference APP/X1355/C/17/3169798 where it should be noted that three neighbours in this terrace gave telling evidence. Plainly they felt there was an adverse effect on them. The appeal was lost.

### **National Policy**

The applicant's agent refers to paragraph 61 of the NPPF. So do we. The Interim Policy has assessed the needs of the different groups in the community and concludes that in this part of Durham conversion of family homes into HMOs needs to be limited in order to meet the needs of residents other than students. We would point out that the recently constructed PBSAs are not full, and the 473-bed Student Castle on Claypath opens for the new academic year. Consequently paragraph 61 indicates that this property should remain a family (C3) home.

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1 See County Durham Plan Statement of Consultation, Appendix 8 at <http://durhamcc-consult.limehouse.co.uk/file/5423623>

**Conclusion**

For all the reasons set out above, this application should be refused due to non-conformity with the Interim Policy on Student Accommodation, the emerging County Durham Plan, and saved policies H9 and H13 of the City of Durham Local Plan 2004.

Yours sincerely

ADAM SHANLEY

Parish Clerk