



**CITY OF DURHAM
PARISH COUNCIL**

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10 December 2019

Dear Jennifer,

**DM/19/03313/FPA: Temporary change of use until end of June 2020 from C3 to C4,
3 The Bowers Durham DH1 4EH**

The City of Durham Parish Council's Planning Committee considered this application at its meeting on 6 December 2019 and agreed to object.

The proposal is for a temporary change of use until end of June 2020 from C3 to C4. The property in question was built for C3 residential use as part of a development approved six years ago for 19 dwellings expressly aimed for family use. Covenants were attached to all 19 homes to ensure that they could not be used as C4 HMOs. At the time of planning approval the Highways Authority remained concerned with regards to the larger square in the centre of the site and that areas would be used for additional parking resulting in excessive parking within the site.

The Parish Council is aware that the Submitted County Durham Plan policy for HMOs seeks to amend the adopted Interim Policy for Student Accommodation, but the County Council itself formally considers that the Submitted County Durham Plan carries no weight as yet. Accordingly, the application must be determined by the Interim Policy and by Saved Policies of the City of Durham Local Plan 2004.

The County Council's Interim Policy on Student Accommodation states in the relevant section:

"HMO: In order to promote the creation of sustainable, inclusive and mixed communities and maintain an appropriate housing mix, applications for new build Houses in Multiple Occupation (both C4 and sui generis), extensions that result in additional bed-spaces, 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 more than 10% of the total number of properties within

100 metres of the application site are already in use as HMOs or student accommodation exempt from council tax charges.....”

In the case of 3 The Bowers, within a 100 metre radius some 60% of properties are student HMO properties. In addition there are the two large PBSAs at Rushford Court and at City Block with 363 and 223 student beds respectively. Clearly there are already well in excess of the 10% proportion of student HMO properties allowed under the Interim Policy, and therefore the application is contrary to the Interim Policy.

The applicants have not submitted a planning case for allowing their property to be a temporary C4 HMO. However, the application form records them seeking pre-planning advice, asking *“how to keep tenants in the building until the tenancy agreement ends in JUNE 2020 END due to misinterpretation of clause”*. There is no note of any planning officer response to this query. The Parish Council finds it difficult to understand how the covenant could be misunderstood, especially as the Letting Agency is Durham City-based and must be fully aware of the terms of such covenants and indeed of the strict planning controls in the City over creating additional HMOs. In any case, the purchase of this property by the applicants must have involved proper legal advice as to covenants and encumbrances on the property.

Saved Policy H9 of the City of Durham Local Plan 2004 states that:

“The sub-division or conversion of houses for flats, bedsits or for multiple occupation, or proposals to extend or alter properties already in such use will be permitted provided that:

- 1. Adequate parking (in accordance with policy T10), privacy and amenity areas are provided or are already in existence;**
- 2. It will not adversely affect the amenities of nearby residents; and.....”**

As regards the first clause, the Highway Authority will need to consider whether an HMO here might lead to additional car parking that was a concern to it at the time the development was approved.

As for the second clause, the residents of The Bowers bought their family homes with the assurance that they will not have their amenity affected by any of the homes becoming an HMO. The property in question has been let as an HMO without planning permission on what the applicant claims to have been a misunderstanding. The residents are entitled to expect the Planning Authority to uphold clear planning policies and protect the amenity of their immediate locality. Indeed, there is already an objection from one resident, who adds that he has spoken to other residents who share his objection.

In conclusion, the Parish Planning Committee urges that this application should be refused as contrary to the Interim Policy for Student Accommodation and to Saved Policy H9. If the officer recommendation is approval then the Parish Council would wish this application to be called to Committee so that it can put its case to Members.

Yours sincerely,

ADAM SHANLEY
Clerk to the City of Durham Parish Council