



**CITY OF DURHAM
PARISH COUNCIL**

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10 January 2020

Email: north1@planninginspectorate.gov.uk

Your ref: APP/X1355/W/19/3241732
My ref: AS/JA/19-02853

Dear Mr Patch

**TOWN AND COUNTRY PLANNING ACT 1990 (as amended) SECTION 78 –
NOTIFICATION OF PLANNING APPEAL
Application reference: DM/19/02853/FPA
Appeal reference: APP/X1355/W/19/3241732
Name of appellant: Mr and Ms Hughes and Pinan
Site: 27 May Street Durham DH1 4EN
Proposed development: The change of use from a dwelling (Use Class C3)
to a small house in multiple occupation (Use Class C4).
Appeal Start Date: 20 December 2019**

STATEMENT BY THE CITY OF DURHAM PARISH COUNCIL

1. The City of Durham Parish Council considered planning application DM/19/02853/FPA at its meeting held on 27 September 2019 and after due consideration resolved to object on the grounds that the proposal breached the Interim Policy on Student Accommodation and should therefore be refused. The following statement is made in support of the Local Planning Authority's decision to refuse the application.
2. The Parish Council fully supports the refusal by Durham County Council and makes the additional points below in response to the appellant's Full Statement of Case (FSOC).
3. The appellants address throughout the FSOC issues relating to residential amenity. In particular, paragraphs 13.1-13.4 assert that amenity issues could be protected through imposition of a

condition for a management plan, which it is said would sufficiently deal with any problems neighbouring residents may experience as a result of the creation of a new HMO. Paragraph 13.5 further states that the appellants believe that the Council should undertake a 'U' turn in its HMO policy as they disagree with it in principle. The appellants consider that instead of trying to stop the development of HMOs the Council should be ensuring that HMOs are properly controlled by all stakeholders by having effective mechanisms in place to address HMO occupation causing concern.

4. The Parish Council considers that the appellants miss the point by suggesting that improved mechanisms of control over HMO occupation would address the problems of HMOs within the Durham City area. This offers no acknowledgement of the problems associated with the loss of permanent full time residents within the Durham City area and the negative impacts this creates on the maintenance of sustainable communities. A condition for management and maintenance of the property along with noise insulation measures does not address the problems of proliferation of HMOs within an area that creates significant problems of community imbalance, nor other identified problems of unoccupied properties out of term time and negative impacts on community spirit and support amongst remaining permanent residents, particularly given the transience of the student population. In any case, tenants at student properties change frequently and any action taken in relation to specific tenants cannot guarantee that future problems would not re- occur when new tenants move into the property. Full time residents have to deal with a yearly cycle of potential problems every time a new tenancy is set up at a HMO property. The Parish Council is very well aware that management plans are far less effective at maintaining community harmony than preventing the cause of the problems in the first place, that is by controlling the proportion of HMOs in any given area.
5. HMO accommodation is heavily associated with typically younger tenants, higher density occupation and activities that are less structured than that of typical families and working individuals and this creates noise and disturbance that impacts on the quality of life of neighbouring residents. The comings and goings of each tenant, with their own friends, lifestyles and patterns and times of movements, would be far greater than that of a single-family household. These kinds of activities are to be expected with HMO tenants. As such, in recognition of these range of impacts on existing permanent residents, a threshold was considered necessary by the Local Planning Authority and the local residents' associations to be applied to the proportion of HMOs within a residential area in order to ensure the extent of these activities does not unduly harm neighbouring amenity.
6. In paragraphs 19.1-19.4 of the FSoC the appellants discuss the LPA's Interim Policy on Student Accommodation and the 10 per cent threshold, commenting that "*the 10% figure is entirely arbitrary, wherever it originated from, and in isolation is meaningless.*" The Parish Council refutes this statement. The Interim Policy was developed between the LPA, the residents' associations and Durham University based squarely on the approved policies in other University cities and specifically from the National HMO Lobby document entitled 'Balanced

Communities and Studentification Problems and Solutions' published in 2008. The 10 per cent threshold is identified within that document as the tipping point whereby a community tips from balance to imbalance due to a departure from what is deemed an expected normal ratio of family homes to HMOs, based on census statistics on housing tenure and household type. The use of the 10 per cent threshold in the Interim Policy was subject to public consultation between 17 September and 20 October 2015 and included publication on the website and 'drop in' events around the city, with representations received carefully considered to inform an updated version of the Interim Policy that was finally adopted by the County Council in April 2016 in association with an Article 4 Direction that came into force on 17 September 2016 .

7. Paragraphs 19.4 and 19.5 of the FCoC remark that, according to the County Council, as of 1 March 2019 55.2% of the properties within a 100 metres were Council Tax exempted properties, and that the County Council claims that within a 100m radius of the property as of 1 October 2019 47.3% of properties are student properties as defined by Council Tax records. This is said to suggest that there has been a period of decline in the percentage of student exemption properties in the vicinity of the appeal site. It is far more likely that at 1 October 2019, a week before the new Academic Year had started, not all student HMOs had yet registered for Class N Council Tax exemption. In any case, disputing the percentages does not assist in the material point; the application property is in an area where evidently and indisputedly far more than 10% of the properties within 100 metres are already HMOs. The proposed conversion of number 27 May Street from C3 to C4 HMO use is therefore contrary to the Interim Policy on Student Accommodation; it would further unbalance the housing stock in the area, contrary to the intentions of the NPPF.
8. The applicants are therefore dependent upon Clauses (d) and (e) of the Interim Policy, which would permit a new HMO where an area already has such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm; or where the remaining C3 dwellings would be unappealing and effectively unsuitable for family occupation. The term 'high concentration' is not defined in the Interim Policy or its accompanying text, and so Appeal Inspectors have been obliged to make individual interpretations. This is, and indeed always should be, a judgement in the particular context and circumstances of the individual case. By and large what has been established is that if an area already has such a high proportion of HMOs then it might as well be allowed to continue to be an overwhelmingly 'studentified' area. The Parish Council does not take this 'counsel of despair' approach, but in the case at hand the percentage of 'normal' year-round residential properties is somewhere between 45% and 53% and so the area cannot be described as too far gone to not be worth trying to uphold the principles of the NPPF and of the Interim Policy.
9. The Parish Council further notes that the FSoC remarks in paragraph 19.19 that the proposed new HMO would result in only a 1.1% change in the local housing stock. This argument is deeply flawed; if the threshold of 10% is set aside because a particular planning application for change of use from C3 to C4 would "only" represent a 1% loss of the stock of year-round

homes, then the same is true of the next such application, and the next, and so on, rendering the 10% threshold policy null and void and continuing until 100% of properties in the area are HMOs, completely at odds with the NPPF's aims of mixed, balanced and sustainable communities.

10. Paragraph 26.5 of the FSoC puts forward the case the applicants would be financially disadvantaged selling the property as a C3 dwelling as opposed to a class C4 small HMO. That is appreciated by the Parish Council as the consequence of planning policy across the board - the town and country planning system in the UK sets out planning policies for the appropriate classes of use on parcels of land; some of those classes cause a huge uplift in the market value of that land, and other classes will diminish the value of that land. It is the duty of planning authorities to consider all material planning matters on behalf of the wider community, and the NPPF repeatedly enjoins Local Planning Authorities to seek to safeguard the well-being of the community. Inevitably, a refusal to grant planning permission will have significant financial consequences for the applicant. It is not a reason for approving an unsatisfactory development.
11. Paragraphs 30.1- 30.5 of the FSoC refer to the need for HMO accommodation, quoting from the County Durham Strategic Housing Market Assessment. The quote refers to young people only being able to afford shared housing, further increasing demand for housing such as HMOs. These quotes refer to housing demand within the whole of County Durham; the circumstances within the Durham City area are very distinct, as this part of the County has an extensive quantity of HMOs, most of which are rented by Durham University students. There are many areas of the city where the percentage of HMO properties is well below 10% and therefore have capacity for additional HMOs to be approved.
12. The operative Development Plan for the area continues to be the City of Durham Local Plan 2004 so far as those policies have been 'Saved' and are consistent with NPPF and Guidance and are not out-of-date. Policy H9 is the statutory Development Plan policy specifically concerned with Houses in Multiple Occupation and permits them if they do not adversely affect the character of the area, the amenity of nearby residents and the concentration of sub-divided dwellings to the detriment of the range and variety of the local housing stock. The policy sets these requirements on proposals to sub-divide or convert houses for multiple occupation. The proposal for 27 May Street to be converted into a C4 HMO would adversely affect the amenity of nearby residents and would increase the concentration of sub-divided dwellings to the detriment of the range and variety of the local housing stock, and is therefore contrary to Saved Policy H9.
- 13 The City of Durham Parish Council wholeheartedly endorses the NPPF requirement that the planning system should support strong, vibrant and healthy communities. The proposal to convert 27 May Street from C3 use to C4 HMO use goes against that intention and against the Interim Policy for Student Accommodation adopted by Durham County Council to address the particular circumstances in Durham City. Based on this, The City of Durham Parish Council contends that the assessment, conclusions and decision of Durham County Council as Local

Planning Authority are correct in the local and national planning policy context, and requests the Planning Inspector dismiss this appeal.

Yours sincerely,

ADAM SHANLEY

Clerk to the City of Durham Parish Council