



**CITY OF DURHAM
PARISH COUNCIL**

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10 March 2021

Dear Mr Spurgeon,

Planning application DM/21/00562/FPA | Change of Use from C3 to C4 (small HMO) | 18 Mavin Street Durham DH1 3AU

The Parish Planning Committee considered this application at its meeting held virtually on 5 March 2021 and decided to ask you to refuse this application for the reasons set out below.

This is a resubmission of application DM/19/03176/FPA which was refused by the Council on 5 December 2019, and a subsequent appeal was refused on 22 July 2020. The *Existing and Proposed Plans* submitted with both applications are identical. The earlier application was accompanied by a *Design and Access Statement*, but the current one does not have any text to explain why the applicant considers that circumstances have changed such that this application should be granted.

What has changed is that the County Durham Plan (CDP) was adopted on 21 October 2020 and became the Development Plan for the County. The City of Durham Neighbourhood Plan has been examined by an Independent Examiner who has judged it sound when his amendments are made and confirmed that it can proceed to a referendum. The County Council issued its Regulation 18 Decision Notice on 30 July 2020, all of the required amendments have been made, and the referendum has been set for Thursday 6 May. Consequently, in accordance with the Coronavirus regulations, the Neighbourhood Plan can be given significant weight in decision-making, so far as the plan is material to the application.

The County Durham Plan

CDP Policy 16.3 is relevant in determining this application. This has been developed from the Interim Policy on Accommodation, which was used in determining the earlier application, but has significant changes, including:

- The IPSA had a status less than the Development Plan itself, being considered by several Planning Inspectors as being akin to a Supplementary Planning Document.

- The IPSA contained an exception clause that applied where there was already a high concentration of student lets, but did not quantify where it took effect. This led to much debate, including in the earlier application. Policy 16.3(h) quantifies the threshold as being 90%.

The percentage of student lets within a 100 metre radius was 46.9% in late 2019. This equates to 38 out of 81 properties within 100m. While this has probably changed, it is inconceivable that the percentage will now be below 10% or above 90%. We await the actual figures, but it is clear that this application meets the criteria in Policy 16.3:

In order to promote create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and sui generis), extensions that result in specified or potential additional bedspaces 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:***
 - a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);***
 - b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area; [...]***

As 18 Mavin Street is in the Article 4 area, planning permission is required and should be refused.

We note that question 17 on the application form has been answered incorrectly. The answer should have been Yes not No:

Does your proposal involve the loss, gain or change of use of non-residential floorspace?

Note that 'non-residential' in this context covers all uses except Use Class C3 Dwellinghouses.

The proposal is for a gain of 22.66m² of non-residential (C4) floorspace.

Sustainable Design

Furthermore, although this planning application is described as a change of use, changes are proposed to the fabric of the building both internally and externally.

As Ms Walia Kani has pointed out in her submission,

Mavin Street is a rare example of a terrace built for skilled tradesmen in 1878. Many others, were demolished mid 20th century.

One attractive feature of such terraces is designed symmetry. Adding an extra window aperture for the proposed bathroom will not be in keeping with Article 4 intentions. The

original facade of the south side of Mavin Street was alternating single and pairs of upstairs windows. Houses overhanging a vennel had two windows, others, like no. 18, had one.

We would point again to CDP Policy 16.3:

a proposal to extend an existing House in Multiple Occupation to accommodate additional bed space(s) will only be permitted where [...]

(f) the design of the building or any extension would be appropriate in terms of the property itself and the character of the area.

We also consider that the extra window does not meet the criteria in CDP Policy 29(a),:

All development proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and other local guidance documents where relevant, and:

- a. ***contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities;***

and also the part of Policy 29 dealing with extensions and alterations:

Proposals for alterations and extensions to residential property, and development associated with the incidental enjoyment of a dwelling, should ensure the development is sympathetic to the existing building(s) and the character and appearance of the area in terms of design, scale, layout, roof design and materials.

Finally, we have considered the internal alterations that sub-divide an existing bedroom of 13.27m² into two, stated to be 6.83m² and 6.97m². We note that the area of Bedroom 2 in the existing plan is given as 8.39m² but the identical room in the proposed plan has it as 8.86m². This suggests to us that the stated areas need checking and cannot be relied upon.

The Nationally Described Space Standard (NDSS) requires that a single bedroom has a floor area of at least 7.5 m² and is at least 2.15m wide, and that any area with a headroom of less than 1.5m is not counted within the gross internal area. Both of the new bedrooms fall short of the required area and also the minimum width (which we have measured at 2.087m and 2.073m respectively).

County Durham Plan Policy 29 requires that:

"All new residential development will be required to comply with the Nationally Described Space Standards (NDSS). In order to allow for an appropriate transition period, the NDSS will only be applied to outline or full applications approved one year after the Plan is adopted."

Although the transition period has six months to run, this does not remove the need to comply with the opening section of Policy 29, which states:

"All development proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and other local guidance documents where relevant, and: [...]

- e. ***provide high standards of amenity and privacy, and minimise the impact of development upon the occupants of existing adjacent and nearby properties;..."***

Furthermore, the County Council's Spatial Policy Team, when commenting recently on a proposal, advised "*we would encourage developers to use these standards as a reasonable benchmark when bringing forward applications during this transition period.*"

The developer here has taken a decent sized bedroom and bathroom and replaced them with two bedrooms that would fall short of the NDSS, and a cramped shower room that is 60% of the size of the current bathroom. The clear intention of Policy 29 is that the direction of travel should be towards improving standards not reducing them.

The Durham City Neighbourhood Plan

Neighbourhood Plan Policy D4 requires that

All new housing, and extensions and other alterations to existing housing, should be of high quality design relating to:

a. the character and appearance of the local area; and

b. aesthetic qualities; and

c. external and internal form and layout; [...]

The proposed new window fails criteria (a) and (b), and the revised internal layout fails criterion (c).

Conclusions

This proposal should be refused primarily because it does not meet the requirements of Policy 16.3 of the CDP and none of the exceptions to that Policy apply.

It should also be refused because it fails the tests of good design required by CDP Policy 29 and Neighbourhood Plan Policy D4.

Should you be minded to approve this application, we would ask that it be considered by the relevant Planning Committee so that we may put these arguments to members.

Yours sincerely,

Adam Shanley

Clerk to the City of Durham Parish Council