



**CITY OF DURHAM
PARISH COUNCIL**

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16 March 2021

Dear Ms Jennings,

DM/21/00104/FPA | Change of use of part of first floor into two small houses in multiple occupation (HMO) (use class C4). | 7 - 8 Silver Street Durham DH1 3RB

The City of Durham Parish Council considered this application at its meeting on Friday 19th February 2021 and agreed to respond to this application as follows.

Description of the proposal

Full planning permission is sought for a change of use to the first floor of the building from Use Class A1 (retail) to two small houses in multiple occupation (HMOs) (Use Class C4).

Alterations to the envelope of the building are proposed to be kept to a minimum, with the opening-up of previously bricked-up windows, one new window opening and one new door opening proposed to the side elevation.

The application site is located on the south-east side of Silver Street within the Durham City Centre Conservation Area. The site sits within the inner townscape setting of Durham Cathedral and Castle World Heritage Site and it is within the setting of many listed heritage assets. Although unlisted itself, the building forms part of one of Durham City's oldest and historically most important streets.

The building is of a mid-20th Century construction and of two-storeys constructed in a mix of brick and stone.

Whilst the front elevation was previously remodelled in the Art-Deco style for *Burton the Tailors*, the upper building façade to Silver Street contributes positively to the street's architectural character and interest.

Planning Policy

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) operates under

a presumption in favour of sustainable development. It states that development proposals, which accord with the development plan, should be approved without delay. The adopted Development Plan where the site is located comprises the planning policies of the County Durham Plan (CDP).

In accordance with paragraph 48 of the NPPF weight may be given to the policies in emerging plans, depending on: the stage of preparation of the plan, the extent to which emerging policy aligns with the NPPF: and the extent of unresolved objections to the emerging plan. The Durham City Neighbourhood Plan has undergone an Independent Examination, a Decision Notice has now been published by the County Council and a referendum date set for 6th May 2021. 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.

Development Plan

The following Policies are considered relevant to this proposal:

County Durham Plan (2020)

Policy 9 – Retail Hierarchy and Town Centre Development

Policy 16 – Durham University development, PBSAs and HMOs

Policy 21 – Delivering Sustainable Transport

Policy 44 – Historic Environment

Emerging Policy

Durham City Neighbourhood Plan (2021)

Policy E3 – Retail Development

Policy H2 – The Conservation Areas

National Planning Policy Framework (NPPF) and Policy Guidance (NPPG) Context

The revised National Planning Policy Framework 2019 (NPPF) sets out the Government's Planning Policy for England, replacing the previous NPPF (March, 2012). The NPPF is a material consideration and significant weight is given to this Policy Document.

The following elements of the NPPF are considered relevant to this proposal:

NPPF Part 6 Building a Strong, Competitive Economy - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.

NPPF Part 9 Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.

NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

NPPF Part 16 Conserving and Enhancing the Historic Environment - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

Appraisal

The Parish Council understands that, within a 100m radius of, and including 7-8 Silver Street, 76.1% of properties are Class N exempt student properties as defined by Council Tax records. There are 46 properties within 100m of the application site and 34 currently benefit from a Class N exemption. Whilst this clearly exceeds the 10% threshold included in Policy 16.3 of the County Durham Plan (CDP), the site is nevertheless situated within the commercial heart of the city in an area characterised predominantly by commercial uses. As such, the introduction of residential dwellings to the upper floors of this retail unit is not considered to have any unacceptable or fundamental impact upon the achievement of balanced communities which Policy 16.3 seeks to ensure.

Policy 9 of the CDP also relates to town centre development and is also relevant in the determination of this application. Para 5.64 states: *"In some instances town centres may provide suitable locations for residential uses, contributing to the overall housing supply and also to a centre's vitality and viability, whilst also increasing footfall. Residential uses will be encouraged within Sub Regional, Large and Small-Town Centres, where it complies with relevant policies in the Plan."* The Parish Council believes that the use of the upper floor of this site for residential purposes would not give rise to conflict with existing uses in the area and is therefore consistent with the aims of Policy 9. Added to this, the Parish Council welcomes the fact that this proposal does not involve significant extensions or alterations to the exterior which would unacceptably alter the character or scale of the original building.

As the development proposes residential use of the first floor, it can draw some support from Policy 9, subject to the proper consideration of the impact of the development upon the character of the area and the amenity of nearby occupiers.

With regard to the impact upon the vitality and viability of the city centre, it is noted that Policy 9 of the CDP seeks to protect and promote the vitality and viability of the city centre and that this

approach displays a broad level of accord with the aims of the NPPF which require local plan policies to recognise town centres as the heart of their communities and Local Planning Authorities (LPAs) to pursue policies to support their vitality and viability.

It should also be noted that the decline of the retail offer now features a proliferation of retail voids along Silver Street. It is the Parish Council's view that any proposal which seeks to retain and support the continued retail use of this area ought to be supported. Such an approach also displays a broad level of accord with the aims of Parts 6 and 11 of the NPPF.

More crucially however, Policy E3 of the emerging Durham City Neighbourhood Plan deals with retail development and is clear that: *"Development proposals that provide residential accommodation in upper floors of commercial properties will be supported, as long as they do not have a negative impact on retail, commercial and tourism activities and the general amenity of neighbouring properties and residential amenity including noise impact"*. It is the Parish Council's view that this proposal conforms with the requirements of this Policy. Furthermore, the Parish Council particularly welcomes the method of refuse removal outlined in this application as a means of avoiding street clutter.

The application site sits within the Durham City Conservation Area and within close proximity of the World Heritage Site boundary. As such, part 16 of the NPPF is relevant which requires the Local Planning Authority, when considering the impact of a proposed development on the significance of a designated heritage asset, to give great weight to the asset's conservation. The more important an asset, the greater the weight should be. In instances where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefit of the proposal, including securing its optimum viable use.

Policy 44 of the County Durham Plan is also relevant to this proposal. This Policy deals with the Historic Environment and is clear in giving *"great weight to the conservation of all designated heritage assets and their settings in a manner appropriate to their significance, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance"*. The Parish Council concurs with the assessment of the County Conservation Officer that this proposal would cause no harm thereby sustaining and conserving the significance of the designated heritage assets and their settings in accordance with this policy.

Policy H2 of the Durham City Neighbourhood Plan is also relevant to this proposal. This Policy deals with the Conservation Areas and expects *"development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness"*.

The Parish Council notes the additional information and the amended plans, as submitted by the applicant on 1st March 2021. In response to the representations made by the Design and Conservation Officer and the City of Durham Trust, the Parish Council very much welcomes the applicant's commitment to request that their main contractor, during the course of the construction works, carries out an intrusive inspection to see what is behind the existing timber fascias and to allow a decision to be made whether it is to be exposed. The ground floor of this site has been altered haphazardly over the years and, in allowing for the original frontage to be exposed, the Parish Council believes that this would lend the opportunity to provide a more interesting retail frontage as and when this unit is re-occupied.

Policy 21 of the County Durham Plan deals with delivering sustainable transport. The County Council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety and/or have a significant impact on the amenity of surrounding occupiers. This approach displays a broad level of accord with the NPPF which requires that plans and decisions ensure developments which generate significant vehicle movements are located where the need to travel will be minimised and the use of sustainable transport modes maximised. The building is located within the commercial centre of Durham City and is therefore well served by public transport, several city centre car parks and the Council's Park and Ride scheme. As such, the application is considered to accord with the requirements of policy 21 of the CDP and Part 4 of the NPPF.

Highways has been consulted on this application and the Parish Council notes their request that there also be provision made for cycle parking with this development. The Parish Council very much welcomes the Highways department's commitment to ensuring that all schemes also include opportunities for sustainable, carbon-free transport means and would always encourage Highways to apply this test to all applicable schemes across the County. That being the case, the Parish Council does appreciate the difficulties with this requirement in this particular case, given that the dwellings are first floor only and have no practical cycle parking spaces to the ground floor. As such, the Parish Council does not feel that this ought to be a requirement for this particular development.

The main planning considerations in determining this application have been set out and considered above stating accord with relevant Development Plan Policies. The application has also been considered against the relevant sections within the NPPF and there is not considered to be any conflict between the local policies and the NPPF on the matters of relevance in this case.

This application should therefore be granted without delay.

Yours sincerely,

Adam Shanley
Clerk to the City of Durham Parish Council