



**CITY OF DURHAM
PARISH COUNCIL**

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Building for the future.

Ms Lisa Morina
Planning Development Central/East
Room 4/86-102
County Hall
Durham
DH1 5UL

City of Durham Parish Council
Office 3 D4.01d
Clayport Library
8 Millennium Place
Durham City
DH1 1WA

11 June 2021

Dear Ms Morina,

DM/21/01918/FPA | Change of use from C3 (dwellinghouse) to either C3 (dwelling house) or C4 (house of multiple occupation). | 8 Laburnum Avenue Durham DH1 4HA

The City of Durham Parish Council Planning Committee considered the above application at its meeting on 11th June 2021 and agreed to object to this application in its current form.

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 addition, the Durham City Neighbourhood Plan successfully passed Referendum stage on 6th May 2021 with 85.6% in favour and is now expected to be formally adopted by the County Council in July 2021. The Neighbourhood Plan policies are therefore a material planning consideration in so far as they relate to this application.

As the proposal is for the conversion of a C3 dwelling into a C4 HMO, it should be assessed under part 3 of Policy 16 of the County Durham Plan (CDP). This part of the policy seeks to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity. It makes clear that a change of use to a C4 HMO would not be permitted if, including the proposed development, more than 10% of the total number of residential units within 100m of the application site are exempt from council tax charges (Class N Student Exemption).

This is in line with Paragraph 91 of the NPPF, which also seeks to achieve healthy, inclusive and safe places which promote social interaction and community cohesion, with Paragraph 127 seeking to ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users.

Paragraph 5.155 of the supporting text of CDP Policy 16 clearly states that the Council's approach is to seek to maintain and create sustainable, inclusive and mixed communities in Durham City and that residents have expressed concerns that concentrations of student accommodation in HMOs amongst the general housing stock can negatively impact upon residential amenity and change the overall character of an area. In this case, within a 100m radius of, and including 8 Laburnum Avenue, 72% of properties are Class N exempt student properties as defined by Council Tax records. There are 143 properties within 100m of the application site and 102 currently benefit from a Class N exemption. The application site does not currently benefit from this exemption.

Paragraph 5.157 of the supporting text provides further guidance on the use of the 10% figure as it has been derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', which was published in 2008. The policy approach recognises that it is the cumulative impact of HMOs that has an impact upon residential amenity and can change the character of an area over time. Where an area already has exceeded the 10% tipping point, it is considered that there is an existing imbalance between HMOs occupied by students and homes occupied by other non-student residents. Furthermore, Policy 16 defines the upper threshold for when an area is already so unbalanced by student occupied properties that the policy objective of achieving a balance is unlikely to be met as 90%.

Moreover, CDP Policy 16 clearly refers to the 100m criterion when considering proposals for changes of use to HMOs under a). It is noteworthy that a Planning Inspector, at a recent appeal in our parish, fully supported the Council's use of the 100m criterion, considering: *"the 100-metre radius is a more suitable geographical denominator by which to measure the level of C4 properties than use of 'the street' since the latter would turn on the highly variable dimension of the length of the road and the number of dwellings along it, rendering it of limited use."* The Inspector went on to consider the use of the 100m radius to be: *"a sensible way to implement a policy that recognises that a householder's day to day social interaction with others is often dependent upon distance and not just street address"*.

With this specific application, the proportion of Council Tax exempt properties is above 10% and below 90%. Therefore, whilst the local area, as defined by the 100m criterion, is already imbalanced by a high proportion of student properties, this concentration of student properties has not yet reached a level of imbalance that would result in the policy objective of protecting a balance being unlikely to be achieved.

That being the case, paragraph 5.167 of the supporting text of CDP Policy 16 clarifies that a change of use to an HMO would not be resisted in the following circumstances:

“the proportion of existing Class N council tax exempt properties within 100 metres of the application site and their impact upon the character of the area in terms of whether such a concentration might be likely to affect the amenity of normal family life;

there is documented evidence of unsuccessful active marketing of the property as a Class C3 dwelling, with at least one recognised estate agent at local market levels, over a continuous period of at least 12 months;

or other circumstances where the applicant can provide evidence which confirms that the policy restriction is causing severe personal hardship”.

The applicant has provided evidence that active marketing of the property only commenced on 15th April 2021 and whilst the applicant has stated that anti-social behaviour relating to nearby student HMOs has created an intolerable situation, the Parish Council does not believe that evidence has been brought forward to convince the Committee that this sufficiently meets the requirements as set out in policy 16 as *“evidence which confirms that the policy restriction is causing severe personal hardship.”* Although committee recognised that this is an exceptionally difficult situation for the applicant, more evidence is clearly needed with this application, should the applicant wish to make this case as one of exceptional circumstances as defined by paragraph 5.167 of CDP Policy 16.

Taking all of this in the round and considering all of the information before us at present, the Parish Council can only conclude that this application is contrary to CDP Policy 16 and that this application must therefore be refused in its current form. Should further evidence be submitted by the applicant in support of this application, the Parish Council will consider this at that time.

Yours sincerely,

Adam Shanley
Clerk to the City of Durham Parish Council