



**CITY OF DURHAM
PARISH COUNCIL**

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26th July 2021

Dear Ms Morina,

DM/21/02271/FPA | Conversion of upper floors to form 1no. 4-bedroom dwelling (C4 HMO) and change of use to part ground floor to form separate entrance. | 37 - 38 Silver Street Durham DH1 3RD

The City of Durham Parish Council considered these applications on the 26th July 2021 and agreed to respond to this application as follows.

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) and the Durham City Neighbourhood Plan, which was formally adopted by the County Council on 23rd June 2021.

1. Change of upper floors to C4 use

The Parish Council understands that, within a 100m radius of, and including 37-38 Silver Street, 71.4% of properties are currently Class N exempt student properties as defined by Council Tax records. There are 63 properties within 100m of the application site and 44 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 floors 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.

As the development proposes residential use of the upper floors, 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 Policy E3.

2. World Heritage Site and the Conservation Area

The Parish Council notes that no extensions are proposed as part of this development and the conversion works are predominantly internal. The Parish Council is therefore satisfied that this application conforms with County Durham Plan Policies 44 and 45 as well as Durham City Neighbourhood Plan Policies H1 and H2 which seek to protect the important historical environment in which this application site sits.

3. Proposed location of recycling and refuse bins

The Parish Council notes that the applicant is proposing the entrance to this dwelling being directly from Silver Street itself. The Parish Council also notes from the applicant's submitted Design, Access and Heritage Statement that *"provision has been made for refuse and recycling bins at the Silver Street entrance"*.

This is completely unacceptable in this part of Durham City and the Parish Council submits that this aspect of the proposal is contrary to CDP Policy 31. Policy 31 is clear that:

“Development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living and/or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result.

Development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level”.

The onus is clearly on the developer to demonstrate that this issue has been considered and addressed, and that has not been done. It is also clear that the intended occupants are students, so there will be an annual turnover of four tenants. Rubbish disposal and recycling are ongoing problems with many student households living in terraced houses with associated wheelie bins. Experience suggests that this will be even more of a problem in this proposed development unless appropriate steps are taken.

The application site’s proximity to a popular City centre restaurant ‘Uno Momento’ with outdoor seating (as shown in Image 1 below) further adds to the Parish Council’s concerns about bins being left out at Silver Street.

Image 1 – Google Street View of 37 - 38 Silver Street Durham DH1 3RD – August 2018



It should also be noted that the recent (and highly similar) applications for 68 Saddler Street (DM/20/03436/FPA and DM/20/03437/LB) were amended as a result of concerns regarding bin storage and were only granted permission following the applicant's subsequent amendments to the proposed schemes.

Consequently the Parish Council objects to this planning application. If the applicant can come up with a practical solution that recognises the nature of the intended tenants, then we will be happy to reconsider this matter. Otherwise, this application should be refused as it is contrary to Policy 31 in the County Durham Plan.

Yours sincerely,

Adam Shanley
Clerk to the City of Durham Parish Council