
Appeal Decision

Site visit made on 18 March 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2020

Appeal Ref: APP/X1355/W/19/3242181
22 Allergate, Durham, DH1 4ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss Gabrielle Moore against the decision of Durham County Council.
 - The application Ref DM/19/01673/FPA, dated 16 May 2019, was refused by notice dated 4 November 2019.
 - The development proposed is described as the demolition of existing extension, erection of two-storey extension, minor internal alterations, like of like replacement of bay window and change of use to a house in multiple occupation (sui generis).
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Decision

1. The appeal is dismissed.

Main Issue

2. The appeal property is grade II listed and is located within the designated Durham City Conservation Area (CA). The Council has refused planning permission on the basis that the development has a harmful effect upon the range and variety of the local housing mix and would be likely to increase the fear of crime and undermine community cohesion. The Council has not refused planning permission on the ground that the development harms the listed building or the CA, and I have no reason to take a different approach. In that context, the main issue is whether the proposal would lead to a concentration of student housing which would adversely affect the living conditions of residents or be detrimental to the mix of the housing stock.

Reasons

3. The appeal property is a two-storey terraced dwelling, situated on Allergate in a predominantly residential area.
4. Saved Policy H9 of the City of Durham Local Plan - May 2004 (the LP) relates to houses in multiple occupation, student households and specifically to the conversion of properties to HMO use. The policy states that the conversion of houses for multiple occupation will be permitted provided that, amongst other matters, the development will not adversely affect nearby residents, be in scale and character with its surrounding and it will not result in concentrations of sub-divided dwellings to the detriment of the range and variety of the local housing stock.

5. Furthermore, the Council has adopted an Interim Policy on Student Accommodation (the IPSA). This is not part of the development plan and I regard it as being broadly equivalent in status to supplementary planning guidance.
6. IPSA Part A states that in such circumstances proposals will not be permitted if more than 10% of the total number of properties within 100 metres of the appeal site are already in use as HMOs or student accommodation. In all instances, IPSA Part A states that proposals will only be permitted where the proposal accords with the requirements of points (a) to (d). However, it goes on to note at (e) that 'such changes would not be resisted' where an area already has such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm.
7. The Council Officer's report details that the current up to date percentage of HMO or council tax exempt properties within 100m of the appeal site is 54.1%. That the 10% figure in the IPSA is exceeded is not disputed by the appellant. Therefore, on the basis of the evidence provided by both parties it is clear that the 10% figure is exceeded and as such, unless the appeal proposal benefits from the exemption allowed by point e) of the IPSA, the proposal would be contrary to the IPSA.
8. I note the appellant's comments with regards the area already exceeding the IPSA 10% figure and that the addition of the appeal scheme would not significantly change the figure referred to by the Council. However, with regards the latter matter, such would always be the case for applications relating to single dwellings.
9. Nonetheless, it is clear that the area accommodates a high proportion of students. However, I do not find that the evidence before me demonstrates that the area around the appeal site already has such a high concentration of, specifically, HMOs that the conversion of the appeal property would not cause further harm. Therefore, I find the appeal proposal does not benefit from point e) and is contrary to the provisions of the IPSA.
10. Turning to Saved Policy H9 of the LP, it has previously been established that HMOs make up a proportion of the properties in the area. However, the appeal scheme would result in the loss of a dwelling house and on the basis of the evidence before me I find that it has not been demonstrated that the appeal proposal would not be detrimental to the range and variety of the local housing stock.
11. The appellant does not dispute that some disturbance of the living conditions of the occupiers of neighbouring properties could occur as a result of the proposed development and this is clearly a concern of the Council. The appellant suggests that conditions could be attached to any permission resulting from this appeal requiring the submission of a noise attenuation scheme and a management scheme specifically to address concerns relating to anti-social behaviour and impacts of the appeal scheme on neighbouring occupiers. I have been provided with details of a Property Management Plan but few details of the noise attenuation scheme. This is a material consideration and I therefore, I attach some weight to these schemes, but they do not sufficiently mitigate the harm that I have previously identified.

12. I therefore find that the proposal would be detrimental to the living conditions of residents and the mix of the housing stock, therefore the appeal scheme is contrary to Saved Policy H9 of the LP, and the provisions of the IPSA.

Other Matters

13. The appellant has referred to a number of other appeal decisions¹. However, I do not have full details of the circumstances that led to these proposals being accepted and, in any case, I have determined the appeal on its own merits.
14. The appellant states that a fall-back position exists as a result of a previous planning permission² that would result in the property being converted into two residential flats, comprising of a total of 4 bedrooms. While I have not been provided with all of the details of this planning permission, on the basis of the evidence before me I am satisfied that there is a greater than theoretical possibility that the flat scheme could be brought forwards, but it is not been demonstrated that this 4 bedroom development would have similar or greater impact on the living conditions of residents and the mix of the housing stock in the area. Consequently, I find that this fall-back position does not outweigh the harm I have previously identified.

Conclusion

15. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Mark Brooker

INSPECTOR

¹ APP/X1355/W/19/3239631 - 27 February 2020; Appeal Ref: APP/X1355/W/17/3168117 - 09 August 2017

² DM/19/00442/FPA and DM/19/01674/LB