



Appeal Decision

Site visit made on 31 July 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2020

Appeal Ref: APP/X1355/W/20/3249388

17 Providence Row, Durham DH1 1RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr N Swift against the decision of Durham County Council.
 - The application Ref DM/19/03459/FPA, dated 28 October 2019, was refused by notice dated 17 January 2020.
 - The development proposed is described as the alterations to existing student C4 HMO including demolition of existing rear extension and replacement with new two storey extension, new rear dormer window and internal alteration to provide 6 bedrooms.
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Decision

1. I dismiss this appeal.

Application for costs

2. An application for costs was made by Mr Swift against Durham County Council in connection with this appeal. That application is the subject of a separate Decision.

Procedural Matter

3. The appeal dwelling is located within the Durham City Centre Conservation Area. In making my determination I have had regard to the statutory duty under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
4. The proposal is described as including a new rear dormer window. For the avoidance of doubt, the plans show 2 new rear dormer windows.

Main Issues

5. The main issues are the effect of the proposed development upon:
 - the balance of Use Class C3 family housing (C3) and Use Class C4 houses in multiple occupation (HMO dwellings) (C4) within the area.
 - the living conditions of the occupants of nearby dwellings and the occupants of the host dwelling; and
 - the availability of on-street parking and highway safety within the immediate vicinity.

Reasons

Balance Between C3 and C4 Dwellings

6. The appeal property is a traditional terraced dwelling located on Providence Row close to Durham city centre. The proposed development involves the demolition of the existing single storey rear extension, the erection of a 2-storey rear extension, 2 new rear dormer windows and the internal reconfiguration to provide 1 extra bedroom. The dwelling is a HMO – use class C4 – and occupied by students.
7. Saved Policy H9 of the City of Durham Local Plan 2004 (LP) permits the extension of an existing HMO only where, amongst other things, the development would not result in concentrations of sub-divided dwellings to the detriment of the range and variety of the local housing stock.
8. The Council's Interim Policy on Student Accommodation 2016 (Interim Policy) seeks to give effect to Policy H9 of the LP. It was adopted following public consultation and amendment. Consequently, although not part of the Development Plan, I attach considerable weight to this policy document.
9. The Interim Policy states that extensions to C4 dwellings will not be permitted where more than 10% of the properties within 100 metres of the application site are already HMOs or used as student accommodation and exempt from council tax. However, the Interim Policy goes on to state at Part E that changes of use will not be resisted if the area has such a high concentration of C4 HMOs that the conversions of the remaining C3 dwellings would not cause detrimental harm.
10. There is no dispute between the parties that the level of HMO dwellings within the area significantly exceeds 10%. Within the postcode areas of Providence Row and the adjacent Wanless Terrace on the Council's Durham City Threshold Map (April 2020) the levels of HMO dwellings are 70% and 68.8% respectively. At such levels the addition of 1 extra bedroom might be regarded as being so incremental as to cause no detrimental harm.
11. However, the policy is not expressed in terms of a predefined, discrete geographical postcode area but instead as a 100-metre threshold specific to the relevant property. Only 37.3% of properties within 100 metres of No 17 are HMOs indicating that there are C3 dwellings elsewhere within the neighbourhood, diluting the high concentration of C4 dwellings in Providence Row and Wanless Terrace. At this lower level of concentration, it appears that the policy of seeking to maintain a stock of C3 family housing is effective and thus continues to serve its intended purpose.
12. I have been provided with an appendix summarising the outcome of several decisions on applications and appeals in relation to proposals for additional bedroom accommodation in dwellings occupied by students in Durham. In each case these show that the addition of one or more extra bedrooms was considered to have no more than a negligible effect on the balance of C3/C4 housing stock in the area.
13. However, the summaries did not include any details concerning the C4 concentrations and thus whether they were already at a level at which additional bedroom space would not cause detrimental harm. Consequently, I am unable to assess the relevance of these decisions to the appeal before me.

Furthermore, each appeal is based upon its individual merits and thus the outcomes of other cases is not binding on the current proposal.

14. The appellant states that, as a fall-back, he could invoke his permitted development rights and extend the existing single storey component to achieve a 6-bedroom dwelling. Architectural plans show how this could be achieved. However, there is nothing before me to indicate the likelihood of the claimed permitted development operations being carried out. In any event, the appeal proposal and the changes suggested by the appellant under permitted development, if feasible, would be equally harmful to Policy H9. In which case, I give limited weight to the claimed fallback position as a justification for approving a proposal that would cause significant harm.
15. For the reasons set out above, the development proposal would harm the balance between C3 family housing and C4 HMO dwellings within the relevant area. Thus, it would fail to accord with Policy H9 of the LP which seeks to prevent extensions to HMO dwellings where this would lead to concentrations of sub-divided dwellings detrimental to the range and variety of housing stock. Moreover, it would also fail to accord with the advice set out in the Interim Policy that extensions to existing HMO dwellings should not be granted where more than 10% of the dwellings within 100 metres are in the C4 use class.

Living Conditions of Host and Neighbouring Occupants

16. The proposed 2-storey rear extension would occupy a footprint slightly larger than the existing single storey extension. Thus, it would not lead to any significant reduction in the amount of outdoor space in the rear yard area. However, by virtue of accommodating an extra person there would be less space per occupant. It is also possible that there would be a need for an extra dustbin, and this would occupy additional, albeit very limited, space.
17. Given that the desire to sit outside is likely to be greatest in the summer months when the dwelling is less likely to be occupied, any reduced level of outdoor space is unlikely to result in any harm to the living conditions of the prospective occupants.
18. The property is quite close to dwellings that are accessed from a narrow lane leading off Wanless Terrace as well as No 18 next door. An additional person within the appeal dwelling could lead to increased noise and disturbance. However, on balance, any such effect is likely to be very negligible.
19. For the above reasons the proposed development would not harm the living conditions of current or future occupants of No 17, nor those of the occupants of neighbouring dwellings. Consequently, it would accord with Policies H9(2) and H13 of the LP which seek to ensure that new development does not significantly adversely affect the living conditions of nearby residents.

On-Street Parking and Highway Safety

20. The proposed development does not incorporate any off-street parking provision. Furthermore, the length of Providence Row to the front to the dwelling is subject to double yellow line parking restrictions. There is metered parking at the Sands close by and permit-holder parking along Wanless Terrace to the rear.

21. An additional occupant might result in an additional car. However, no data has been provided in regard to levels of car ownership amongst students. I consider that it is highly likely that a student would not own a car, thus obviating the issue of the limited availability of on-street parking. If the additional occupant were to own a car then this would exacerbate parking problems within the area but only marginally. It is highly unlikely that it would lead to any highway danger.
22. For the above reasons the proposed development would not result in any significant additional on-street parking problems or to any highway danger. Therefore, it would accord with Policies T1 and H9(1) of the LP which, respectively, seek to ensure that new development would not be detrimental to highway safety or have a significant effect on the availability of parking for neighbours.

Planning Balance and Conclusion

23. The proposed development comports with the Development Plan as regards its effect on the living conditions of future occupants and neighbours, and as regards car parking and highway safety. However, it conflicts with the Development Plan as regards ensuring that the area maintains a balance between C3 family housing and C4 HMO provision.
24. I consider that the conflict with the Development Plan, taken as a whole, is so serious that the appeal should be dismissed.

William Walton

INSPECTOR