



Appeal Decision

Site Visit made on 28 October 2021

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th November 2021

Appeal Ref: APP/X1355/D/21/3283300

8 High Wood View, DURHAM, DH1 3DT

- 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 Aztec North Limited against the decision of Durham County Council.
 - The application Ref DM/21/02038/FPA, dated 4 June 2021, was refused by notice dated 3 August 2021.
 - The development proposed is the construction of double dormer window to rear and conservation roof light to front to allow loft conversion.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Aztec North Limited against Durham County Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - i. 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.
 - ii. The living conditions for future occupiers with particular regard to outdoor space
 - iii. The character and appearance of the area, including the Durham (City Centre) Conservation Area (the DCA)

Reasons

Living conditions of residents

4. The Council contends that the proposed increase in bedrooms would result in an intensification of students within the property, which would have an adverse impact on the living conditions of nearby residents in relation to noise and disturbance.
 5. The proposal would increase the level of accommodation in the property and therefore the intensity of occupation. The appellant's statement clearly makes reference to the occupation of the property by students.
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6. Policy 16 of the County Durham Plan (the CDP) concerns HMOs and Part 3 confirms that, in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity applications for "extensions that result in specified or potential additional bedspace" will not be permitted if: (a) including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption).
7. The Council states that 79.3% of the properties within a 100 metre radius of the appeal site are currently exempt from Council Tax charges. I have not been provided with any substantive evidence to the contrary or an alternative figure by the appellant. As such, the appeal scheme is contrary to Policy 16 Part 3 (a).
8. Furthermore, Policy 16 Part 3 (h) states "where an area already has a concentration in excess of 90% of council tax exempt properties (Class N), that this is having an unreasonable impact on current occupiers and that the conversion of remaining C3 dwellings will not cause further detrimental harm to the residential amenity of surrounding occupants".
9. While figure 2.1 of the appellant's statement of case illustrates a high concentration of student properties in the vicinity of the appeal site, on the basis of the evidence before me it has not been demonstrated that, for the purposes of Policy 16, the area already has a concentration in excess of 90% and that this is having an unreasonable impact on current occupiers. As such it has not been demonstrated that the appeal scheme benefits from the exception set out in Policy 16 Part 3 (h).
10. I acknowledge that the appeal scheme would provide two additional student bedspaces in an area of existing student accommodation close to University facilities, but this does not outweigh the conflict with the adopted policies identified previously.
11. The appellant has referred to an appeal decision¹ as setting a precedent relevant to the development proposed here. In that instance a fallback position was considered a material consideration to weigh against a conflict with the Development Plan, no such fallback position has been identified relevant to this appeal and I note that the appeal referred to was for a different proposal. Therefore while I afford the appeal decision some weight it does not outweigh the conflict with the adopted policies identified previously.
12. Accordingly, I conclude that the proposal would be contrary to local policy on student accommodation regarding houses in multiple occupation, as it would conflict with Part 3 (a) of Policy 16 of the CDP and it has not been demonstrated that the appeal scheme would meet the criterion of the exception set out in Part 3 (h) of Policy 16 of the CDP, as referred to above.

Living conditions

13. The appeal property has been subject of a number of planning applications recently including consent for a single storey rear extension², the result of which is to reduce the already small rear yard to a very small space that, as

¹ Appeal Ref: APP/X1355/W/20/3253690, 55 Hawthorn Terrace, Durham DH1 4EQ, 15 February 2021

² DM/21/01971/FPA Erection of a single storey rear extension and minor alterations to a recently established HMO use class C4. Approved 23 July 2021

shown on the submitted plans, appears inadequate to accommodate bins and bikes for the residents.

14. While this extension does not appear to have been completed at the time of the site visit, from the evidence provided by the appellant it is apparent that it remains the intention to implement this planning permission. I note that no condition or legal obligation that could prevent the implementation of the existing planning permission are before me. Even if this were not the case, the rear yard is already small and no plan detailing bike and bin facilities has been provided.
15. One effect of the appeal scheme is to increase the intensification of the occupation of the property through the creation of two additional bedrooms. As such great greater demands would be placed on the existing outdoor amenity space.
16. The appellant notes that the existing rear yard is of a dark and dingy character and is already compromised as a result of its orientation, size and sense of enclosure. Furthermore, the appellant notes that the future residents, likely being students, will generally only occupy the property during term time and notes the availability of public open space in the local area.
17. Nonetheless, it is not unreasonable for future residents to expect a reasonable level of private amenity space and the submitted plans show that the appeal scheme would provide only a very small outside area, while resulting in an intensification of occupation of the appeal site.
18. For the reasons detailed above I find that the appeal scheme would fail to provide adequate living conditions for future occupiers of the appeal scheme contrary to policies policy 16(3e) of the County Durham Plan and paragraph 130 f) of the National Planning Policy Framework.

Character and appearance

19. The appeal property lies within the DCA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The special interest and significance of the DCA is primarily derived from a combination of the quality and architectural coherence of its historic buildings and the preservation of its medieval street pattern along with the dramatic topography of the City.
20. Policy H2 of the Durham City Neighbourhood Plan (DCNP) states that "development proposals within or affecting the setting of the Durham City Conservation Area should sustain and enhance its significance" and sets various considerations to be taken into account by development proposals
21. Policy 44 of the County Durham Plan details that "development will be expected to sustain the significance of designated and non-designated heritage assets."
22. It is the Council's case that the proposed dormer is an "undesirable intervention as the building was not originally designed to have a dormer". The materials, specifically UPVC, are also noted as a concern.
23. At the site visit I saw that dormer windows and roof lights of various sizes and styles were present in the area immediately around the appeal site and that

the proposed roof alterations would not be widely visible in the surrounding area.

24. Furthermore, the submitted plans show that the dormer would be located to the rear of the property and be set in from the sides of the roof, down from the ridge and up from the eaves. I note that other dormers have been introduced to similar terraces also within the conservation area.
25. Turning to the materials proposed, I note that the submitted plans refer to the use of imitation slide and sash UPVc windows and a saw at the site visit that many properties in the area had UPVc windows. The use of white timber fascia boards, roof tiles to match the existing and the use of a 'conservation' style roof light are generally in keeping with the area.
26. Having regard to the detail of the appeal proposal, I consider that it would have a neutral impact on, and would therefore preserve, the character and appearance of the DCA as a whole. As such, it would accord with provisions within the Framework which seek to protect the significance of designated heritage assets.
27. Consequently, while large, the proposed dormer is not out of keeping with the character and appearance of the surrounding area and I do not therefore find conflict with policies 44 of the County Durham Plan, the detailed provisions of Policy H2 of the Durham City Neighbourhood Plan and paragraphs 130 and 197 of the National Planning Policy Framework.
28. That I have not found harm in respect of this main issue is neutral in the planning balance does not outweigh the harm I have previously identified.

Conclusion

29. For the reasons given above I conclude that the appeal should be dismissed.

Mr M Brooker

INSPECTOR

