



Appeal Decision

Site visit made on 14 November 2023

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2024

Appeal Ref: APP/X1355/W/23/3328022

1 Larches Road, Durham DH1 4NL

- 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 Gabrielle Moore of G M and J Properties Ltd against the decision of Durham County Council.
 - The application Ref DM/22/01650/FPA, dated 19 July 2022, was refused by notice dated 11 May 2023.
 - The development proposed is change from 6 bed C4 to 10 bed C4/Sui Generis HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development on the application form was as set out above. However, the submitted plans indicated that the proposal also included a single-story rear extension. During the Council's determination of the application, the appellant reduced the size of the extension and the number of occupants from 10 to 9. These changes were reflected in its decision notice. I have therefore determined the appeal on the basis that permission is sought for a change of use from a 6 bed C4 to 9 bed Sui Generis House of Multiple Occupation (HMO) with a single-storey rear extension (amended).

Main Issue

3. The main issue is the effect of the proposal on the living conditions of nearby residents, with particular regards to noise, disturbance and anti-social behaviour.

Reasons

4. No 1 is a detached two-storey dwelling located within a well-established predominantly quiet residential area, characterised by detached and semi-detached houses. Although the house fronts Larches Road it sits between the corner properties on Fieldhouse Lane and Shaw Wood Close and its large garden abuts the rear boundaries of four other dwellings. It is currently operating as an HMO for 6 people.
5. Whilst there have not been complaints to the Council which have triggered statutory noise nuisance, it is evident from representations submitted with the application and the appeal, that occupants of these adjoining properties are experiencing problems with the use of the house as an HMO occupied by students. Concerns raised by adjoining occupiers include disturbance from late night noise from groups in the back garden, and gatherings in the street talking

and shouting, which go on into the early hours of the morning. This is particularly distressing when it disturbs sleep. It is also apparent that the police have been called to address anti-social behaviour. In addition, neighbours have raised concerns about litter and parking which suggest that the property is not being effectively managed.

6. Although the Council's Environmental Health Officer (EHO) considered that the development would generate additional noise, and comings and goings, they did not object to the proposal as it was considered unlikely to cause a statutory noise nuisance. However, the Members took a broader view of the matter and refused the scheme contrary to the advice of their officers. In view of the concerns raised in respect of the current situation, I cannot be satisfied that clauses within the tenancy agreement or the University Code of Conduct would be used effectively to rectify problems in the future if more people were living in the house.
7. Whilst it is suggested that the site would be attractive to students seeking a quieter environment, that is not borne out by the objections to the appeal proposal arising from the current use of the house. In any event, the type of occupant cannot be controlled through the planning system. It therefore seems to me that increasing the number of occupants from 6 to 9 would be likely to exacerbate the existing situation, leading to increased and unacceptable noise, disturbance and anti-social behaviour.
8. Issues associated parking and rubbish are problematic at the end of an academic term or a change of tenancy. The highway authority offered no objection to the proposal and adequate refuse storage facilities could be secured by condition. Problems which occur on an occasional basis alone would not be a justification for rejecting the proposal and could be addressed by the landlord with the help of the person employed to assist with management and maintenance of the property.
9. Nevertheless, for the reasons set out above, I conclude that 3 more occupants would result in unacceptable additional noise, disturbance and anti-social behaviour, detrimental to the living conditions of neighbours. Accordingly, the proposal would be contrary to Policies 6, 29 and 31 of the County Durham Plan 2020 (CDP), which amongst other matters, collectively seek, to ensure development does not have an unacceptable impact, either individually or cumulatively, on the living conditions of existing residents. There would also be conflict with the National Planning Policy Framework which requires development to create places with a high standard of amenity for existing users.

Other Matters

10. The Council considered the position, size and external appearance of the proposed single-storey rear extension to be acceptable and I see no reason to take a different view.
11. It is agreed that the house has been in use as a 6 bed HMO since 2013 and that the number of HMOs within 100 metres of the appeal site falls within the prescribed limits set out in Policy 16 of the CDP.
12. My attention has been drawn to other changes of use from dwellings to HMOs for 5 and 7 occupants elsewhere in the city. However, neither would

accommodate 9 occupants and the decisions will have been taken having regard to the site-specific circumstances. They are therefore not comparable to the appeal proposal which I have determined on its individual merits.

Conclusion

13. The proposal conflicts with the development plan and there are no other considerations which indicate that a decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

L Clark

INSPECTOR