



Appeal Decision

Site visit made on 12 March 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2024

Appeal Ref: APP/X1355/W/23/3334953

58 Bradford Crescent, Durham, Gilesgate DH1 1HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Sugar Tree Limited against Durham County Council.
 - The application Ref is DM/23/02700/FPA.
 - The development proposed is change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including single storey rear extension, cycle parking and bin storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have determined the appeal based on the Council's failure to determine the planning application within the statutory timescale. The Council's statement of case advises that it was not in a position to conclude its assessment of the proposed scheme by the deadline for the submission of appeal documents. As such, the Council has not indicated what its likely decision, or recommendation to committee, would have been. Nevertheless, the Council's submitted evidence sets out the planning policy context against which the application would have been assessed. I have determined the appeal on this basis.
3. A revision to the National Planning Policy Framework (the Framework) was published on 19 December 2023 but there are no material changes relevant to the substance of the appeal.

Main Issues

4. Having regard to the submitted evidence of the main parties and interested parties, the main issues are:
 - whether the proposal would provide satisfactory living conditions for future occupiers;
 - the effect of the proposal on housing mix;
 - the effect of the proposal on parking and highway safety;
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on the living conditions of nearby occupiers.

Reasons

Living conditions for future occupiers

5. The appeal site is a 2-storey, 2-bedroom, end-terrace house. It has a small garden to the front and a larger private garden to the rear which can be accessed via a gate to the side.
6. The proposal seeks to convert the property into a 3-bedroom house in multiple occupation (HMO). To achieve this, the ground floor would be reconfigured and extended to the rear to provide a larger open-plan kitchen/dining area and a bedroom. The first-floor layout would not be altered.
7. Policy 31 of the County Durham Plan – Adopted 2020 (the CDP) requires proposals to demonstrate that future occupiers of the proposed development will have acceptable living conditions.
8. Policy 29 of the CDP requires proposals to provide high standards of amenity. Paragraph 5.302 of the CDP, forming part of the supporting text to Policy 29, states that it is necessary for all housing schemes to apply the Government's Nationally Described Space Standards (NDSS) unless it can be demonstrated they would render the scheme unviable. Paragraph 5.302 states that these standards address internal space within new dwellings across all tenures. Accordingly, I find it reasonable to apply these standards to HMO proposals.
9. The ground floor bedroom would be accessed from the main ground floor hallway. It would be a long, narrow room with a side-facing window facing out over the rear garden. Although the plans indicate it would meet the minimum NDSS floor area of 7.5 square metres, it would appear to fall significantly short of the minimum width of 2.15 metres. In practical terms, once essential furniture including a single bed and clothes storage was installed, this would leave very limited circulation space for prospective occupiers, resulting in a cramped and uncomfortable living environment.
10. Although I have not assessed the remainder of the proposal against the NDSS, my findings in relation to the ground floor bedroom alone are sufficient to enable me to conclude on this matter.
11. Policy 16 of the CDP requires HMO proposals to consider amenity issues and provide acceptable arrangements for bin storage and other shared facilities, and for proposals to demonstrate that the security of the building and its occupants has been considered.
12. Notwithstanding my previous conclusions in respect of room sizes, the proposal would provide appropriate designated storage for bins to the side of the property. It would also provide designated communal areas within the property that would appear suitable to meet the needs of occupants.
13. The appellant notes that they are part of the National Landlords Association and the Durham Student Accreditation Housing Scheme, which has been established to ensure that rental properties meet safety and security standards. Whilst I have limited substantive detail of the specific security arrangements, the submitted details demonstrate this issue has been considered.

14. Nevertheless, for the reasons given above, by way of the substandard ground floor bedroom, the proposal would deliver unsatisfactory living conditions for future occupiers. In respect of this issue, the proposal would conflict with Policies 29 and 31 of the CDP, the aims of which have previously been set out.

Housing mix

15. Policy 16 of the CDP also seeks to promote, create and preserve inclusive, mixed and balanced communities. Criteria a. to c. of Part 3 of Policy 16 set criteria for the assessment of proposals in this regard. The policy is clear that proposals will be resisted if they conflict with one or more of the criteria.
16. Criterion a. resists proposals if, 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).
17. Criterion b. resists proposals if there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area.
18. Criterion c. resists proposals if less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.
19. The Council's statement of case assesses the proposal against criteria a. to c. and notes no conflict with the policy.
20. During the appeal, it was brought to my attention by an interested party that a planning application was submitted on 25 January 2024 at No 31 Bradford Crescent for a change of use to HMO. This, it was suggested, had the potential to alter the data used by the Council to underpin their assessment. I was also advised that the applicant's name was the same as the appellant for this appeal. Nevertheless, I have not been provided with full details of this proposal or the status of the application. The appellant has also submitted a plan to demonstrate No 31 lies further than 100 metres from the appeal site, and I have no reason to dispute this. I therefore place limited weight on this matter.
21. There have been a significant number of objections to the proposal in respect of the issue of housing mix. Concerns include the frequency of similar applications and the rate of change in the area, questions regarding the validity of the Council's HMO data, questions regarding the methodology for calculating this data, questions regarding the effectiveness of the policy, and that the figures cited by the Council are so close to the 'tipping point' that further assessment is needed.
22. In this case, I have been provided with no compelling evidence to suggest the data cited by the Council, in assessing the proposal against criteria a. to c., is inaccurate. Based on the information before me, this data is the most reliable evidence I hold to assess the proposal in respect of housing mix, and I afford it significant weight. Moreover, the tests set by criteria a. to c. form part of adopted development plan policy, and this appeal is not the forum to question the effectiveness of policy.

23. Interested parties have also cited that Durham University's student numbers are reducing, and have questioned the need for the proposal. However, I note no requirement within the Policies of the CDP for HMO proposals to demonstrate need. As such, I am not required to consider this issue.
24. For the reasons given above, the proposal would retain an appropriate mix of housing in the area and would accord with Policy 16 of the CDP in respect of this issue, the aims of which have previously been set out.

Parking and highway safety

25. Part 3 criterion d. of Policy 16 states that HMO proposals will only be permitted where the quantity of cycle and car parking provided has regard to the Council's adopted Parking and Accessibility Guidelines.
26. The appeal property has no off-street car parking and none is proposed as part of the development. Bradford Crescent has wide footways to either side, which are asphalt-surfaced adjacent to the front boundaries of the residential properties. Along much of the street, a block-paved surface lies between the road and the asphalt footway. These areas are separated from the road by continuous dropped kerbs. Although there is no signage or formal marking indicating as such, the block-paved areas appear generally to be used for parking.
27. Although the Council has not explicitly responded to this matter in its statement of case, the Highways Development Management consultee response does not object to the proposal. It advises that the Durham County Council Parking and Accessibility SPD Adoption Version 2023 (the PSPD) requires 2 off-street parking spaces for both 2 and 3 bedroom dwellings. As such, even though the proposal would generally be expected to provide 2 spaces, so too would the existing dwelling. Given neither provides off-street parking, and the proposed additional bedroom would not require the provision of additional parking, the proposed arrangement was deemed acceptable.
28. Cycle parking would be provided within the rear garden and would appear acceptable. This could be reached via the side gate to avoid needing to take cycles through the house.
29. Whilst I note the large number of objections in relation to this issue, including existing problems with parking on pavements, I did not observe any significant parking pressures at my visit. Most properties in the area feature no off-street parking, yet there was an abundance of available space to park on the street without inconveniencing traffic flow or pedestrian safety. Although this was a snapshot in time, I have no reason to consider this was an atypical scenario.
30. Given the Highways Development Management comments and my observations on site, I am not persuaded that the proposal would cause harm in respect of parking or highway safety. I am also mindful of paragraph 115 of the Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
31. For the reasons given above, the proposal would be acceptable in terms of parking and highway safety and would accord with Policy 16 of the CDP in respect of this issue, the aims of which are set out above.

Character and appearance

32. Part 3 criterion f. of Policy 16 states that HMO proposals will only be permitted where the design of the building or any extension would be appropriate in terms of the property itself and the character of the area.
33. External changes to the property would be limited to the single-storey rear extension. This would involve the partial demolition of a semi-detached outhouse, which adjoins a similar structure at the adjoining property of No 60 Bradford Crescent. The rear extension would be of modest scale and subservient to the main dwelling. It would also utilise similar materials and fenestration to the existing property.
34. Interested parties have raised concerns that properties occupied as HMOs in the area are easily identifiable as such. It is argued that factors including poorly maintained properties and gardens, and an increased prevalence of litter and rubbish in their vicinity, contribute to adverse effects on the character and appearance of the area.
35. At my visit I observed several properties in the area displaying small window stickers and lettings boards bearing the name of student letting agents, indicating that they were HMOs. However, the properties otherwise bore limited indication of such use, and appeared externally similar to the majority of other properties in the area.
36. For the reasons given above, the proposal would be appropriate in terms of its effect on the character and appearance of the area. In respect of this issue, it would accord with Policy 16 of the CDP, the aims of which have previously been set out. It would also accord with the relevant parts of Policy 29 of the CDP, which seek to achieve well designed buildings and places.

Living conditions of nearby occupiers

37. Alterations to the external built form of the property are limited to the extension and associated works to the rear. As such, the adjacent properties of Nos 56 and 60 Bradford Crescent are those whose living conditions are of foremost consideration.
38. The appeal property is not attached to No 56 and there is a reasonable gap between the properties. The rear elevation of No 56 also sits slightly further rearwards than that of the appeal property. Due to the retained separation distance between the two properties and the modest depth of the proposed extension, it would not adversely affect light or outlook from No 56.
39. No 60 adjoins the appeal property and the proposal would extend outwards along the shared boundary. The flat-roofed semi-detached outbuilding which straddles the boundary would be demolished on the side of the appeal property but retained on the side of No 60. The rear elevation of No 60 features a glazed door with a small window close to the boundary. Larger windows on the rear elevation are positioned further away from the boundary.
40. The part of the extension closest to the existing rear elevation of the dwelling would feature a sloping lean-to roof, which would infill the existing gap between the rear elevation and the outhouse. The part of the extension further to the rear, which would adjoin the outhouse of No 60, would feature a similar flat roof to the existing outhouse.

41. Given the presence of the existing semi-detached outhouse, the only part of the extension likely to have any meaningful effect on light and outlook to the rear of No 60 would be the part with the sloping roof closest to the existing rear elevation. Even though the roof would extend above the existing fence line, this would not be to a significant extent. Furthermore, the main windows on the rear elevation of No 60 are sufficiently separated from the proposed extension that any effects on light or outlook would be negligible.
42. The occupier of No 60 notes concerns regarding potential damage to their property during building works. However, if such instances were to occur, this would fall under other regulatory regimes such as the Party Wall etc Act 1996.
43. In terms of noise and disturbance, I acknowledge that students living together are likely to lead independent lives with potentially frequent comings and goings. As such, the nature of use could be different to that of a regular family home and effects on neighbouring occupiers could be noticeable. Nevertheless, the aforementioned policies relating to housing mix seek to control the proliferation of HMOs in residential areas. As previously established, the proposal would not breach these policy limitations.
44. Representations note concerns that adjoining occupiers would be directly affected due to walls being thin and fragile, and the unsuitable juxtaposition of neighbouring rooms. However, such disturbances between neighbouring properties could occur even if the property was used as a regular dwelling, given that internal reconfiguration does not require planning permission.
45. I also note the concerns of interested parties regarding instances of noise and antisocial behaviour in the area, but I have been provided with limited details of specific instances of harm.
46. Interested parties are concerned that the proposal would compromise their security and that of their property. As previously noted, although the appellant has provided limited specific detail of security arrangements, the submitted details demonstrate this issue has been considered and I find the level of detail compliant with the development plan requirements.
47. For the reasons given above, the proposal would not adversely affect the living conditions of nearby occupiers and would accord with Policies 16, 29 and 31 of the CDP, which together seek, in respect of this issue, for development to provide high standards of amenity and security, and to avoid unacceptable impacts on health, living and working conditions.

Conclusion

48. The proposal would be acceptable in terms of its effect on housing mix, parking and highway safety, the character and appearance of the area and the living conditions of nearby occupiers. Nevertheless, it would fail to provide suitable living conditions for future occupiers, and accordingly it would fail to accord with the development plan as a whole. There are no other considerations, including those of the Framework, to lead me to a decision other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

P Storey

INSPECTOR