



Appeal Decision

Site visit made on 23 May 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2024

Appeal Ref: APP/X1355/W/24/3339046

4 Monks Crescent, Gilesgate, Durham DH1 1HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Richard Watters against the decision of Durham County Council.
 - The application Ref is DM/23/02725/FPA.
 - The development proposed is change of use from dwellinghouse (Use Class C3) to house in multiple occupation (Use Class C4).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from dwellinghouse (Use Class C3) to house in multiple occupation (Use Class C4) at 4 Monks Crescent, Gilesgate, Durham DH1 1HD, in accordance with the terms of the application, Ref DM/23/02725/FPA, subject to the conditions in the attached schedule.

Applications for Costs

2. An application for costs has been made by Mr Richard Watters against Durham County Council and is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the proposal on community cohesion and the living conditions of nearby occupiers in terms of noise and disturbance.

Reasons

4. The appeal site is a semi-detached house in a predominantly residential area formed of mid-20th-century properties. It has a front garden with a driveway and access to an attached garage. A gate to the side of the garage provides access to a rear garden.
5. The proposed development is for the change of use of the property to provide a Class C4 house in multiple occupation (HMO). This would involve reconfiguring the interior, including the construction and repositioning of internal walls to provide 4 bedrooms. The only external change would be the replacement of a utility room window with a smaller item to accommodate a new ground-floor shower room.
6. The Council's decision to refuse planning permission is based on conflict with Policies 29 and 31 of the County Durham Plan – Adopted 2020 (the CDP). In respect of the main issue, Policy 29 requires development proposals to achieve well designed buildings and places, to positively contribute to an area's

character, to minimise the impact of development upon occupants of existing adjacent and nearby properties, and to contribute towards healthy communities. Policy 31 states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and it can be integrated effectively with any existing business and community facilities.

7. Although not referenced in the Council's formal decision, Policy 16 of the CDP is cited in the submitted evidence the main parties and is relevant to the proposal. Part 3 of Policy 16 sets specific criteria that will resist proposals for changes of use to HMOs based on the current and proposed proportion of council tax exempt properties (indicating student occupation) within a set distance of the site. The main parties concur that the proposal would comply with these criteria.
8. The area surrounding the appeal site includes two properties across the street with permission to operate as HMOs. The Council and interested parties argue that adding another HMO, likely to be occupied by students, would disproportionately increase the number of independent occupiers in the area and cause harm in respect of the main issue. There is also concern, allegedly due to experience with existing HMOs, that issues could extend to noise, disturbance, anti-social behaviour, and general upkeep and appearance of the property.
9. HMO occupants, particularly students living together, tend to be transient and lead independent lives. This has the potential to result in frequent comings and goings from HMO properties, which could lead to a greater level of disturbance to nearby occupiers than from a typical family home. These potential adverse effects carry some weight.
10. However, during my visit, the area appeared to be a typical, quiet, suburban residential neighbourhood. Although the evidence suggests some properties in the area are currently HMOs, there was no clear external indication of this. The appearance and upkeep of properties varied widely in the area, with no apparent correlation to HMO use.
11. The supporting text to Policy 16 notes that the criteria in Part 3 are based on a 'tipping point', beyond which there is an imbalance between HMOs occupied by students, and homes occupied by other non-student residents. The proposal would not exceed this threshold, and the figures provided by the Council are well below it. I am provided with limited substantive evidence why this specific proposal should be considered differently in terms of its effect on community cohesion and the living conditions of nearby occupiers.
12. For the reasons given above, the proposed development would not be harmful to community cohesion or the living conditions of nearby occupiers in terms of noise and disturbance, and it would accord with Policies 29 and 31 of the CDP, the aims of which have previously been set out.

Other Matters

13. I note comments from interested parties questioning the need for the proposal. However, because the proposal is not for purpose-built student accommodation, the issue of need is not a consideration in this case.

14. Concerns have been raised about the impact of increased parking on pedestrian and highway safety. During my visit, which was only a snapshot in time, I did not observe any significant parking pressures. Most properties, including the appeal property, have off-street parking. There are no parking restrictions in the area, and although there was some limited on-street parking, it did not seem to disrupt traffic flow or pedestrian safety. No substantive evidence has been provided to suggest that the proposal would worsen the current situation.
15. There are also concerns regarding the effect of the proposal on property values and the saleability of homes. Additionally, it is asserted that a covenant on the property requires it to be retained as a family home. However, these are private matters that I cannot consider in determining the appeal.

Conditions

16. The Council has provided a list of suggested conditions that I have considered against the provisions of paragraph 56 of the National Planning Policy Framework and the Planning Practice Guidance (the PPG). To ensure compliance, I have amended or omitted certain conditions.
17. Conditions relating to the statutory time limit and a list of approved plans are necessary in the interests of certainty. A condition requiring the materials for all external alterations to match those of the existing building is necessary to protect the character and appearance of the area. A condition requiring the implementation of cycle storage is necessary to promote sustainable travel.
18. Conditions requiring the submission of a property management plan and the implementation of a sound insulation scheme are necessary to protect the living conditions of future and neighbouring occupiers.
19. The Council has proposed a condition removing permitted development rights to prevent further works or internal room subdivisions beyond what is shown on the approved plans. The PPG advises that internal works are not generally development, and that removing freedoms to carry out small scale domestic alterations that would otherwise not require planning permission are unlikely to meet the tests of reasonableness or necessity. In this case, I am not convinced that the suggested condition, as drafted, meets these tests. However, the intent of the condition – to prevent the creation of additional bedrooms to protect the living conditions of neighbouring occupiers – is reasonable and necessary. Therefore, a shortened version of the Council's suggested condition can be imposed to prevent the creation of additional bedrooms.
20. Given that the proposal is for a change of use with only limited physical works, I do not find the Council's suggested condition restricting hours for construction and associated operations to be reasonable or necessary to protect the living conditions of nearby occupiers. In any event, other regulatory regimes exist to control disturbance through such activities.

Conclusion

21. For the reasons given above, the appeal should be allowed subject to the conditions listed in the attached schedule.

P Storey

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan – 1360-01
Proposed Floor Plans & Elevations – 1360-03 A
- 3) Notwithstanding the details submitted within the application, the development hereby approved shall not be occupied until a detailed scheme of precise management methods, approaches and techniques for the operation of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include measures of CCTV coverage, 24-hour security or warden presence, student warden schemes or other management operations, and a scheme for the storage and removal of waste generated by the development. The development shall be implemented and operated thereafter in accordance with the approved scheme.
- 4) The cycle storage provision shown on the approved plans shall be installed prior to the first occupation of the development hereby approved and retained thereafter to be used for the storage of cycles by the occupiers of the development.
- 5) Prior to first occupation of the development hereby approved, the party wall with No. 2 Monks Crescent shall be upgraded with Gyplyner Independent wall lining or alternative that accords with the requirements of Approved Document E (Resistance to the passage of sound) of the Building Regulations (as amended), in accordance with the details shown on the approved plans, and retained thereafter.
- 6) The development hereby approved shall not be subject to further works or internal room subdivisions that would result in the property containing more than four (4) bedrooms.
- 7) The materials to be used in the construction of the external surfaces of the development hereby approved shall match those used in the existing building.

**** End of conditions ****