



Appeal Decision

Site visit made on 4 July 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2024

Appeal Ref: APP/X1355/W/24/3340997

10 Mavin Street, Durham DH1 3AU

- 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 Steven Curran against the decision of Durham County Council.
 - The application Ref is DM/23/02988/FPA.
 - The development proposed is the material change of use of a dwellinghouse (Use Class C3) to a small House in Multiple Occupation (Use Class C4).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would provide suitable living conditions for future occupiers; and
 - the effect of the proposal on community cohesion and the living conditions of nearby occupiers.

Reasons

Living conditions for future occupiers

3. The appeal site is a 2-bedroom mid-terrace house in a residential street near the city centre and Durham University. Whilst the area is mostly residential, it includes some limited non-residential uses such as restaurants and public houses. The boundary wall of HM Prison Durham also lies adjacent to the end of Mavin Street, a short distance east of the appeal site.
4. The proposal is for the change of use of the property to a Class C4 house in multiple occupation (HMO). This would involve reconfiguring the interior to provide 4 bedrooms, without altering the internal walls. The only external change would be the addition of cycle storage in the rear yard.
5. The existing ground floor utility room, beyond the kitchen, would be converted to a shower room, providing the unit's only washing and WC facilities. The first-floor bathroom, within the rear outrigger, would be converted to a bedroom with a floor area of 7.19 square metres.
6. Policy 29 of the County Durham Plan – Adopted 2020 (the CDP) requires developments 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.

7. Paragraph 5.302 states that these standards address internal space within new dwellings across all tenures. The appellant argues that the NDSS is more relevant to new constructions than changes of use, questioning whether an existing family home would be unsuitable for residential use because it failed to adhere to the standards.
8. Because the proposal involves a material change of use and the room in question was not previously a bedroom, to my mind it is reasonable to apply the NDSS. The NDSS requires bedrooms to measure at least 7.5 square metres. The bedroom in the converted bathroom would therefore conflict with Policy 29.
9. Although the Council's decision notice does not explicitly state it, the officer report highlights that the proposal fails to meet the NDSS requirement for gross internal area (GIA). The submitted details suggest the GIA would be significantly short of the minimum 97 square metres required for a 4 bedroom dwelling. Moreover, Note 2 of the NDSS states that the GIAs for 2 and 3 storey dwellings include enough space for 1 bathroom and 1 additional WC (or shower room). This proposal, which removes the main first floor bathroom and offers only a small ground floor shower/WC for all residents, would provide substandard facilities for occupiers.
10. The appellant claims a conflict between the Council's planning and HMO licensing policies, asserting that the bedroom would meet relevant HMO licensing standards. However, I must assess the proposal against the development plan, not HMO licensing standards. Furthermore, although I am not provided with full details of the relevant licensing policies, the officer report indicates the proposal would not require HMO licensing.
11. Despite the small shortfall in the bedroom's floor area against the NDSS, the proposal nevertheless fails to accord with the development plan. Additionally, the significant shortfall against the GIA further detracts from the suitability of the living conditions for future occupiers.
12. Thus, due to its failure to meet NDSS requirements, the proposal would fail to provide suitable living conditions for future occupiers and would conflict with Policy 29 of the CDP, the aims of which have previously been set out.

Community cohesion and living conditions of nearby occupiers

13. Criteria a. to c. of Part 3 of CDP Policy 16 set criteria for the assessment of proposals for changes of use to HMOs. The policy resists proposals if they conflict with one or more of the criteria. 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).
14. If the area already has a concentration in excess of 90% of council tax exempt properties, Policy 16 sets an exception where changes of use to HMOs will not be resisted. As such, the policy summarily seeks to resist proposals where the resulting proportion of HMOs in the area would be between 10% and 90%.

Including the proposed development, the Council suggests the figure in this case is within the bracket where proposals would be resisted, at 65.1%.

15. Although I lack full details of how the Council calculated the 100 metre radius figures, the area appears to include a significant portion of non-residential uses including the prison, a restaurant, a public house, a job centre and office buildings.
16. During my visit, I observed many houses in Mavin Street and the surrounding area displayed window stickers of student letting agencies. While there remain some non-student occupiers in the area, the submitted evidence and my observations suggest student occupation dominates the area.
17. In respect of HMOs, the key objective of Policy 16 is to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity. HMO occupation can lead to irregular movement patterns and activity different to that of a conventional dwelling. However, given the existing prevalence of HMOs in the area, the proposal would only incrementally increase this without significantly impacting community balance. Thus, the proposal would not conflict with the key objective of Policy 16.
18. For the reasons given above, the proposal would not harm community cohesion or the living conditions of nearby occupiers, and would accord with Policy 16 of the CDP, the aims of which have previously been set out. It would also accord with Policies 29 and 31 of the CDP which, in respect of this issue, seek for developments to minimise impacts on the occupants of adjacent and nearby properties, and to effectively integrate with existing businesses and community facilities.

Other Matters

19. The appeal site is within the Durham City Conservation Area (the CA), whose significance derives from the historic importance of the city centre and the areas that have grown around it. The statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the area. Because of the very limited external changes proposed to the property, the development would not adversely affect the significance of the CA and would preserve its character and appearance.
20. I have considered the evidence for and against the development regarding need. However, because the proposal is not for purpose-built student accommodation, the issue of need is not a consideration in this case.

Conclusion

21. While I have found no harm to community cohesion or the living conditions of nearby occupiers, the proposal would fail to provide suitable living conditions for future occupiers. Therefore, it would conflict with the development plan as a whole, and there are no material considerations to justify deviating from the plan. For these reasons, I conclude that the appeal should be dismissed.

P Storey

INSPECTOR