



Appeal Decision

Site visit made on 29 January 2025

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 March 2025

Appeal Ref: APP/X1355/W/24/3351744

44 Claypath, Durham DH1 1QS

- 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 Gurpreet Jagpal of Dartford Students against the decision of Durham County Council.
 - The application Ref is DM/24/00402/FPA.
 - The development proposed is convert ground floor office into a 2 person house for student accommodation.
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Decision

1. The appeal is allowed and planning permission is granted to convert ground floor office into a 2 person house for student accommodation, at 44 Claypath, Durham DH1 1QS, in accordance with the terms of the application, Ref DM/24/00402/FPA, subject to the following 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 – Centre Coordinates: 427667, 542729
As Existing & As Proposed – DC/1A
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The cycle storage shown on the approved plans shall be installed prior to the first occupation of the dwelling hereby permitted and retained thereafter for the storage of cycles in connection with the dwelling.
 - 5) The bin storage shown on the approved plans shall be installed prior to the first occupation of the dwelling hereby permitted and retained thereafter for the storage of refuse and recycling in connection with the dwelling.
 - 6) Prior to the first occupation of the dwelling hereby permitted, security measures to include sensor lighting, alarm system and door locks shall be installed in accordance with the details set out in the email dated 18 June 2024, and shall be retained thereafter.

Applications for Costs

2. An application for costs has been submitted by Mr Gurpreet Jagpal of Dartford Students against Durham County Council and is the subject of a separate decision.

Preliminary Matters

3. The updated version of the National Planning Policy Framework (the Framework), which came into force on 12 December 2024, introduces no changes that would materially affect the outcome of this appeal.

Main Issue

4. The main issue is whether the proposed development would have an acceptable effect on the living conditions of nearby occupiers, with particular regard to noise, disturbance and community cohesion.

Reasons

5. The appeal site is a vacant ground-floor unit within a two-storey building, most recently used as an office. The adjoining units and the first-floor unit above it are residential. The site fronts a reasonably busy road and is a short walk from the services and amenities of Durham city centre. Whilst the immediate area is predominantly residential, there are nearby non-residential uses including restaurants and a dental surgery across the road.
6. The proposal seeks to convert the unit into a two-bedroom dwelling. The front of the unit would feature a lounge and kitchen, and two en-suite bedrooms would be located to the rear. New windows and doors would be installed to the rear elevation, providing both bedrooms with direct access to the rear garden area.
7. The site's recent planning history includes a proposal for use as a Class C4 house in multiple occupation (HMO). Given this history and the generous bedroom sizes, interested parties contend that the proposal would be a 'de facto' HMO. However, my assessment must be based on the details before me, which clearly propose a two-bedroom unit. Since Class C4 applies to properties occupied by between 3 and 6 unrelated individuals, the Council considers the proposal to fall under Class C3; i.e. a conventional dwelling. Based on the submitted evidence, I find no reason to take a different view.
8. Policy 31 of the County Durham Plan, Adopted 2020 (the CDP) requires development proposals to demonstrate there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. The available evidence suggests a high proportion of properties in the area are either known HMOs or are exempt from Council Tax, indicating a significant presence of student accommodation. The Council and interested parties refer to existing issues in the area related to purpose-built student accommodation (PBSA) and student-occupied HMOs, including noise, disturbance, and effects on community cohesion.
9. Students living together in a single property will often lead independent lifestyles, leading to different living patterns compared to a conventional single-household home. This can include frequent comings and goings and activity at hours that

differ from those of families or working residents, which could impact neighbouring properties.

10. Interested parties have suggested that the proposal would be more welcome if it was for a 'normal' residential use, as is suggested to be the case with the first-floor unit above the appeal site. However, whilst the description refers to student accommodation, there is no mechanism before me to restrict occupancy to students alone. As such, like any Class C3 dwelling of this size, its potential occupiers could include students, non-students, a small family, or couples sharing a bedroom. Given the likely number of occupiers, I am not persuaded that it would lead to a particularly intensive form of use, irrespective of whether occupiers live independently or together as a conventional household.
11. Although this unit would likely introduce two additional students to an area with a high concentration of student housing, its impact would be significantly lower than that of an HMO accommodating three or more unrelated individuals. In this respect, the proposal differs significantly from the appeal at 1 Boyd Street referenced in the evidence. Given the predominantly residential surroundings, the unit's size and the likely nature of occupancy, I am not persuaded its resulting effects of noise, disturbance and comings and goings would generate specific harm.
12. Whilst I acknowledge the concerns of the Council and interested parties, I am provided with limited specific evidence to suggest that student occupation of the unit would harm living conditions or community cohesion in the area. Furthermore, whilst my observations at my visit were a snapshot in time, I observed no clear indication of harm to the wider area in these terms. Additionally, no objection was raised from the Council's Environmental Health Nuisance Action Team concerning the nature of occupancy.
13. For these reasons, I conclude that the proposed development would have an acceptable effect on the living conditions of nearby occupiers in terms of noise, disturbance and community cohesion, and it would accord with the relevant aims of Policy 31 of the CDP, the aims of which have previously been set out. It would also accord with the relevant provisions of the Framework, which have similar aims.

Other Matters

14. The appeal site is within the Durham City Conservation Area (the CA). Accordingly, the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the area.
15. The significance of the CA is derived predominantly from the historic importance of its buildings and streets forming the city centre and its surrounding areas. Since the proposal would involve only limited external alterations, it would not harm the significance of the CA. As a result, its character and appearance would be preserved.
16. Policy 16 of the CDP relates to Durham University development, PBSA and HMOs. Although the proposal does not fall within these categories, paragraph

5.136 of the policy's supporting text requires such proposals to be assessed against Part 2 of Policy 16 where they may appeal to the student population.

17. The Council has considered the proposal against the policy and found no conflict. Although some interested parties question the proposal's compliance in these terms, particularly regarding the issue of need, I find no compelling evidence to take a different view to the Council on this matter.
18. Concerns have also been raised regarding the loss of family homes to student accommodation. However, as the appeal site is not currently a residential property, this issue is not relevant to the proposal.

Conditions

19. The Council has provided a list of suggested conditions, which I have considered against the requirements of paragraph 57 of the Framework and the Planning Practice Guidance (the PPG). To ensure compliance I have amended some conditions and omitted others where necessary.
20. Conditions relating to the statutory time limit and a list of approved plans are necessary in the interests of certainty. A condition requiring external materials to match those of the existing building is also necessary to preserve the character and appearance of the area.
21. Conditions requiring the installation of cycle and refuse storage, as detailed on the approved plans, are necessary to promote sustainable transport and safeguard occupiers' living conditions. A condition requiring the installation of security measures, as detailed by the appellant in an email to the Council, is necessary to safeguard the security of future occupiers.
22. However, a suggested condition limiting construction hours is unnecessary given the limited scale of development. Unreasonable levels of disturbance could be controlled through other regulatory regimes.
23. A condition requiring a scheme to minimise greenhouse gas emissions has also been proposed. However, its wording lacks clarity regarding specific measures and expected outcomes, and I am not convinced it would be enforceable. Additionally, CDP Policy 29, cited in support of this condition, does not convince me a scheme of this nature must be subject to such requirements. Accordingly, I do not find this condition would meet the tests outlined in the Framework and PPG.
24. A condition requiring a broadband connection scheme to be submitted prior to the commencement of development has been suggested. However, given that the site is in an existing building in an urban area and was recently in commercial use, there is no evidence that it lacks broadband service. Therefore, I am not persuaded that this condition is necessary.

Conclusion

25. For the reasons given above, I conclude that the appeal should be allowed subject to the conditions listed in my formal decision.

P Storey

INSPECTOR