



Appeal Decision

Site visit made on 4 March 2025

by **N Armstrong BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Appeal Ref: APP/X1355/W/24/3355299

50 Prebends Field, Gilesgate, Durham DH1 1HH

- 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 Steven Argument against the decision of Durham County Council.
 - The application Ref is DM/24/00555/FPA.
 - The development proposed is construction of two storey side extension, additional off-street parking and change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted for construction of two storey side extension, additional off-street parking and change of use of the existing dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class Sui Generis) at 50 Prebends Field, Gilesgate, Durham DH1 1HH, in accordance with the terms of the application, Ref DM/24/00555/FPA, subject to the conditions in the attached schedule.

Applications for costs

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

Preliminary Matters

3. The description of development in the banner heading above is taken from the description that is provided on the partially amended application form included with the appellant's appeal submission. I note that this was amended from the original application form description that referred to *"house in multiple occupation (Use Class C4)"*. A similar description was used by the Council in its decision notice, therefore I have dealt with the appeal on the basis of the description within the banner heading. I have omitted wording that is not a description of development that references a previous submission.
4. The officer report makes reference to the Durham City Neighbourhood Plan 2020 to 2035 and copies of policies from this were provided with the Council's questionnaire. However, the Council has confirmed that reference to the Neighbourhood Plan was an error. Therefore, in terms of the development plan, only the County Durham Plan 2020 (the CDP) is relevant to the appeal proposal.

Main Issue

5. The main issue is the effect of the proposal on community cohesion and the living conditions of the occupants of neighbouring residential properties and the

character of the area, with particular reference to noise, disturbance and antisocial behaviour.

Reasons

6. The appeal site is a detached dwelling located within an established residential area with a garden and driveway to the front and garden areas to the side and rear. It lies close to a bend in the estate road and the junction with properties on Deans Walk. There are a mix of detached, semi-detached and terraced two storey properties in the area of the appeal site. The property fronts onto the estate road with a grassed verge opposite and the boundary of the estate with the A690 highway.
7. The proposal would see the change of use and extension of the existing three-bedroomed dwelling to a seven-bedroomed house in multiple occupation (HMO). The development proposes the construction of a two storey side extension alongside internal alterations to the layout. The existing driveway would be widened to accommodate four off-street car parking spaces with provision for cycle and bin storage made within the site.
8. Policy 16 of the CDP is relevant to creating inclusive places in line with the objective of creating mixed and balanced communities, as well as protecting residential amenity, which is consistent with the National Planning Policy Framework (the Framework). To achieve this, part 3 of Policy 16 of the CDP sets out a presumption against granting permission for HMOs where the total number of residential units that are exempt from Council Tax charges (Class N Student Exemption) within 100 metres of the application site exceeds 10%. It also requires that proposals for HMOs need to be considered in respect of the suitability of cycle and car parking provision, bin storage and other shared facilities, other amenity issues, design and the security of the building for occupants and neighbouring local residents.
9. The Council and interested parties make specific reference to the presence of existing HMO uses at Nos 34 and 51 Prebends Field within close proximity to the site. However, the 10% threshold would not be exceeded in respect of the appeal proposal and thus it accords with Part 3 a) of Policy 16. However, the Council highlights that Part 3 e) of the policy is also relevant for the assessment of such proposals in terms of other amenity issues and effects on non-student residents.
10. At the time of my visit, I noted the area to be a quiet residential neighbourhood with a mix of homes. There were variations in the overall condition, appearance and maintenance of properties and their gardens within the area. However, there were no distinct external or other indications of HMO uses in the area to distinguish these from other Class C3 dwellings.
11. Although HMOs could have individual and cumulative impacts, attributable in part to the transient nature of their residents, as established above, the proposal would not lead to an over-concentration in the locality of the appeal site. A balanced community would therefore be maintained. Allowing the development would not preclude the property from reverting to a Class C3 dwelling in the future.
12. I acknowledge that interested parties have genuine concerns about potential issues associated with HMO properties. These include an increase in noise, disturbance, waste management, litter and antisocial behaviour. However,

consistent with other appeal decisions that I have been directed to, I consider that these issues are not a predictable consequence of HMOs, but rather a matter of individual behaviour and suitable management.

13. In view of my finding above I have no reason to believe that the appeal proposal would adversely impact on community cohesion, or that the use of the appeal property as an HMO, even alongside other permitted HMOs, would unbalance the community to such an extent there would be adverse impacts.
14. The Council's Nuisance Action Team (NAT) acknowledge the potential for increased noise given the nature of the proposal, but raise no objection, subject to conditions, which include securing sound proofing measures. The Council has suggested a condition to secure a detailed strategy of precise management methods, approaches and techniques for the operation of the site in the interests of reducing the potential for harm to residential amenity and antisocial behaviour. I consider that the recommended conditions would satisfactorily mitigate any potential unacceptable impacts associated with noise and disturbance.
15. The appellant's evidence also highlights that in relation to occupation by students, Durham University have a Code of Conduct relating to behaviour of students living outside of university accommodation, which sets out disciplinary procedures, as well as an 'Anti-Social Noise Procedure'. These could also contribute to the effective management of the property and assist in mitigating potential adverse impacts from the development.
16. For the reasons given above, I conclude that the proposed development would not be harmful to community cohesion or the living conditions of the occupants of neighbouring residential properties and the character of the area in terms of noise, disturbance and antisocial behaviour. It would therefore accord with Policy 16 of the CDP, the aims of which are set out above. It would also accord with Policies 29 and 31 of the CDP, which amongst other matters require development to contribute positively to an area's character, help to create sustainable communities, provide high standards of amenity, and ensure that proposals will not have an unacceptable impact, either individually or cumulatively, on living conditions.

Other Matters

17. Interested parties have queried the need for the proposal and suggest that there is a surplus of student accommodation. However, an assessment of need is not a consideration for proposals to create HMOs having regard to Policy 16 of the CDP.
18. Interested parties also suggest that the methodology for calculating the HMO thresholds in respect of Policy 16 is not appropriate and should be reviewed. The policy sets out a standard and consistent method to assess applications for HMOs. Its use was upheld at examination and adoption of the CDP, and it has been accepted in other appeal decisions that I have been directed to. There is no substantive evidence before me to show this method is inadequate as a means of identifying the percentage of HMOs within 100 metres of the appeal property, or to consider the impact of such uses within an area. Any subsequent review of the development plan and policies would also be a matter for the Council, and my decision is made on the evidence before me.

19. Concerns have been raised on the impact of increased traffic on parking and highway and pedestrian safety. These refer to matters such as the position of the property on a corner, width of the road, footpath availability and the area being used as a 'rat run' to avoid traffic calming measures elsewhere. During my visit, which was only for a limited time of the day, I did not observe any significant volumes of traffic in the area or adverse effects from parking. Not all properties in the immediate area have off-street parking, although the appeal proposal would make provision for cars to be parked on an extended driveway. There are no parking restrictions in the area, and although there was some limited on-street parking, it did not appear to disrupt traffic flow or adversely impact on pedestrian and highway safety. Based on my observations, in the absence of other evidence, and given that no objection is raised by the Highway Authority, I have no reason to find that the proposal would have an adverse impact on highway or pedestrian safety.
20. I have taken into account all other concerns raised, including in relation to location, the appearance of the extension, the loss of family accommodation, loss of Council Tax, foul drainage, flood risk, and publicity on the planning application, but no other matter is of such weight or substance as to alter my overall conclusions.

Conditions

21. The Council has suggested a number of conditions which I have considered against the tests set out in the Framework and Planning Practice Guidance. In some instances, I have made minor changes to wording to improve precision and enforceability.
22. In addition to the standard time limit, a condition specifying the plans is necessary in the interests of certainty. I have made reference to the correct plan title and revision number of the amended plan where relevant, which reflects that referred to in the officer report and committee presentation document. A condition requiring the materials for the external alterations to match those of the existing building was not suggested by the Council, but these are proposed within the application form. A similar condition was included within the officer report, and this is necessary to protect the character and appearance of the area.
23. Conditions requiring the submission of a sound insulation scheme and a management plan are necessary to protect the living conditions of future and neighbouring occupiers. I have altered the trigger for the submission of the sound proofing measures to be prior to occupation as this is the point after which noise impacts might arise.
24. The Council has not suggested a condition in relation to car parking provision. However, given that an amended plan was requested during the course of the application to make the proposal acceptable in this respect, a condition is necessary to secure the provision of the parking as shown on the submitted plan.
25. As the proposal is for a change of use with an extension and alterations of a domestic scale, I do not consider the Council's suggested condition restricting hours for construction and associated operations is proportionate, 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

26. For the above reasons, the proposal would comply with the development plan taken as a whole and material considerations do not indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be allowed.

N Armstrong

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 plans:
Location Plan, 001
Plans & Elevations. Site / Roof Plan Existing & Proposed, 101 Revision C
- 3) The external materials of the extension and alterations hereby permitted shall match those used in the existing building.
- 4) The development hereby permitted shall not be occupied until a scheme of sound proofing measures has been implemented in accordance with details first submitted to and approved in writing by the Local Planning Authority.
The aim of the scheme shall be to ensure that the noise insulation of walls, floors, windows, and roofs between the adjoining properties shall be sufficient to prevent excessive ingress and egress of noise.
The aim of the insulation shall be to ensure the requirements of BS 8233: 2014 in relation to sleeping areas are met within the rooms.
- 5) Notwithstanding the details submitted within the application, the development hereby permitted shall not be occupied until a management strategy covering the operation of the site has been submitted to and approved in writing by the Local Planning Authority. The strategy shall include measures relating to the security of the building and its occupants, controls upon occupation to mitigate impact to residential amenity from noise and disturbance, a scheme for the storage and removal of waste generated by the development and cycle storage. Thereafter the development shall be managed in accordance with the approved strategy.
- 6) The development hereby permitted shall not be occupied until the vehicle parking spaces have been provided and made available for parking by its occupants in accordance with the drawing 'Plans & Elevations. Site / Roof Plan Existing & Proposed, 101 Revision C'. Thereafter the parking spaces shall be retained and kept available for parking by occupants of the development at all times.

******END OF CONDITIONS******