



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: 14th April 2025

Appeal Ref: APP/X1355/W/24/3355969

2 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 Sugar Tree Limited against the decision of Durham County Council.
 - The application Ref is DM/24/01649/FPA.
 - The development proposed is change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including driveway widening, cycle parking and bin storage.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including driveway widening, cycle parking and bin storage at 2 Monks Crescent, Gilesgate, Durham DH1 1HD, in accordance with the terms of the application, Ref DM/24/01649/FPA, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposal on community balance and cohesion and the living conditions of the occupants of neighbouring residential properties, with particular reference to noise and disturbance.

Reasons

3. The appeal site is a semi-detached dwelling located within an established residential area. It occupies a corner plot at the junction of Monks Crescent and Pilgrims Way, with garden areas to the front, side and rear. The front elevation faces onto Monks Crescent with an existing garage and driveway located to the rear and side of the property accessed from Pilgrims Way. There are a mix of two storey houses and bungalows in the area of the appeal site, with those immediately adjoining it on Monks Crescent and Pilgrims Way being two storey.
4. The proposal would see the change of use of the existing dwelling to a house in multiple occupation (HMO) (Use Class C4). This area is covered by an Article 4 Direction which removes permitted development rights for the conversion of a residential dwelling (Use Class C3) into an HMO (Use Class C4). The removal of permitted development rights does not suggest that all HMOs are inappropriate, only that proposals should be assessed against the development plan and other material considerations.
5. The Council does not refer to Policy 16 of the County Durham Plan 2020 (the CDP) in its refusal reason, although this is specifically referenced in the evidence

of the main parties. I consider that it is relevant to the appeal proposal as it is pertinent to creating inclusive places in line with the objective of creating mixed and balanced communities, as well as protecting residential amenity. This is consistent with the National Planning Policy Framework (the Framework).

6. To achieve mixed and balanced communities and protect residential amenity, 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. Alongside the Article 4 Direction, Policy 16 of the CDP therefore provides a mechanism to consider the impacts arising from HMOs in this and other locations.
7. The evidence highlights that there are existing HMOs or unimplemented permissions for such use at the adjoining property, 4 Monks Crescent, and within the same street at Nos 5 and 9 Monks Crescent. However, as the 10% threshold would not be exceeded the proposal complies with the criteria of Policy 16(3) of the CDP. However, along with interested parties, the Council highlights other material considerations to be taken into account as part of the overall planning balance.
8. 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, other than minor alterations to the width of the first floor window openings at Nos 5 and 9 Monks Crescent.
9. 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, therefore a balanced community would be maintained. Allowing the development would not preclude the property from reverting to a Class C3 dwelling in the future.
10. I acknowledge that interested parties have concerns about potential issues associated with HMO properties. These include an increase in noise, disturbance, waste, antisocial behaviour and lack of maintenance of the property. However, consistent with other appeal decisions that I have been directed to in the evidence, these issues are not a predictable consequence of HMOs, but rather a matter of individual behaviour and suitable management.
11. The Council makes specific reference to bungalows close to the site. Whilst these may be likely to be occupied by more elderly residents, I have no evidence to demonstrate this is the case in this instance. Notwithstanding this, I have no reason to find that the appeal proposal would result in specific adverse impacts for occupants of bungalows. The majority of properties in the area would remain in Class C3, including a considerable number of two storey dwellings suitable for family homes.
12. 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. These include sound insulation measures and implementation of the submitted student management plan. I consider that the recommended conditions would satisfactorily mitigate any potential unacceptable impacts associated with noise and disturbance. The appellant's evidence also highlights that Durham University have a Code of Conduct relating to behaviour of students living outside of university accommodation. This sets out disciplinary procedures, which could contribute to the effective management of the property and assist in mitigating potential adverse impacts from the development.

13. For the reasons given above, the proposed development would not be materially harmful to community balance or cohesion and the living conditions of the occupants of neighbouring residential properties in terms of noise and disturbance. 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

14. 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.
15. 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, or the Article 4 Direction, would also be a matter for the Council, and my decision is made on the evidence before me.
16. Concerns have been raised on the impact of increased traffic on parking and highway safety. 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. Most properties, including the appeal property, have off-street parking. There are no parking restrictions in the immediate area, and although there was some limited on-street parking, it did not disrupt traffic flow or impact on pedestrian and highway safety. Based on my observations, in the absence of other evidence, and given that no objection has been raised by the Highway Authority, I have no reason to find that the proposal would have an adverse impact on highway or pedestrian safety.
17. Neighbours have raised concerns with regard to the effect of proposals to create an enlarged access and driveway to accommodate additional parking with associated bin and cycle storage. Based on my assessment of the proposals and site visit, I do not consider that there would be any significant or harmful effects on the character and appearance of the area from this aspect of the development.

18. I note concerns raised from interested parties that the proposal is not acceptable having regard to relevant standards for such accommodation. The officer report acknowledges a slight shortfall for internal floor space based on the Nationally Described Space Standards, although it has not identified this as a reason to refuse permission. The Council also highlights that the licensing requirements applicable to HMOs for shared amenity space would be satisfied. I do not consider that there would be any material harm from this element of the proposal in this instance on the basis of Policy 29 of the CDP. I also note that this element would be subject to a separate licensing regime for HMO development.
19. I have taken into account all other concerns raised, including in relation to location, the loss of family accommodation, the loss of Council Tax, and waste management, but no other matter is of such weight or substance as to alter my overall conclusions.

Conditions

20. 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.
21. In addition to the standard time limit, a condition specifying the plans is 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 property and the area.
22. Conditions requiring the implementation of a sound insulation scheme and student management plan are necessary to protect the living conditions of future and neighbouring occupiers. To achieve suitable parking provision and to promote the use of sustainable transport modes, a condition is needed to secure the implementation of the driveway and secure cycle storage shown on the approved plan.
23. As the proposal is for a change of use with only limited physical works, I do not consider that 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

24. 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:
Site Location Plan (Drg no. 1396-01)
Proposed Floor Plans and Elevations (Drg no. 1396-03)
Existing and Proposed Site Plans (Drg no. 1396-04)
- 3) Notwithstanding the details shown in the submitted application, the building materials to be used for all alterations to the external walls and roof shall match the existing building.
- 4) Prior to the first occupation of the property as a small house in multiple occupation (Use Class C4) hereby approved, the sound proofing measures as detailed on the Proposed Floor Plans and Elevations (Drg no. 1396-03) shall be fully installed and thereafter retained at all times during which the property is in Class C4 use.
- 5) The use hereby approved shall be operated in strict accordance with the measures detailed in the submitted Student Management Plan for the duration that the property is occupied as a small house in multiple occupation in Class C4.
- 6) Prior to first occupation of the property as a small house in multiple occupation (Use Class C4) the driveway and cycle storage shown on the Existing and Proposed Site Plans (Drg no. 1396-04) shall be constructed and made available for the parking of motor vehicles and storage of bicycles by its occupants. The driveway and cycle storage shall thereafter be retained for the parking of motor vehicles and storage of bicycles by occupants of the property at all times.

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