

## County Council

13 April 2016

### Houses in Multiple Occupation Article 4 and Interim Student Accommodation Policy



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#### Report of Corporate Management Team Ian Thompson, Corporate Director, Regeneration and Economic Development Councillor Neil Foster, Cabinet Portfolio Holder for Economic Regeneration

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##### Purpose of the Report

- 1 The purpose of the report is, in relation to the Council's approach to student accommodation in Durham City, for Members to:
  - a) Note and endorse the Article 4 Direction for Durham City that was made on 17 September 2015 has been confirmed through delegated powers;
  - b) Note and endorse the making of a new Article 4 Direction to cover Framwellgate Moor, Pity Me and Newton Hall; and
  - c) Recommend that full Council adopt the Interim Policy on Student Accommodation.

##### Houses in Multiple Occupation Article 4 Direction and Interim Student Accommodation Policy.

- 2 On 15 July 2015 Cabinet agreed that a proposed Interim Policy on Student accommodation and a proposed Article 4 Direction should be subject to public consultation. Consultation began on 17 September and ended on 30 October 2015.
- 3 An Article 4 Direction allows local planning authorities to withdraw the 'permitted development' rights that would otherwise apply. Permitted development is development that can be undertaken without requiring planning consent. An Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority for that development which in this case would be the conversion of a dwelling to an HMO.
- 4 As part of the consultation, eight drop-in events were held across the City and were well attended. In total, 76 people commented as part of the consultation. In relation to the Interim Policy on Student Accommodation, 40 respondents commented, making 43 comments and in relation to the Article 4 Direction, 63 respondents commented made 66 comments.

- 5 Following the consultation, it has been demonstrated that there was overwhelming support for the proposed Article 4 Direction. The Direction was made on 17 September 2015 and had to be confirmed by 17 March 2016 or legally it would lapse and not come into force on 17 September 2016. As a consequence it was considered appropriate to confirm the Direction as soon as possible and this was done by Delegated Decision.
- 6 Some representations received as part of the consultation on the Article 4 Direction argued that the Direction should cover a wider geographical area. Having considered these comments it is felt there is evidence to support the making of an Article 4 Direction to cover the Framwellgate Moor, Pity Me and Newton Hall areas as shown on the map at Appendix 6.
- 7 The Council makes use of council tax data to understand the percentage of dwellings exempt from council tax due to sole occupation by students, as a proportion of all dwellings mapped by postcode area. This data was used to assist in defining the area of the confirmed Article 4 Direction. This data shows that some areas in Framwellgate Moor already have more than 10% of properties in certain postcode areas occupied by students. It is considered that in order to promote the creation of sustainable, inclusive and mixed communities and maintain an appropriate housing mix, an article 4 Direction should be made for the Framwellgate Moor, Pity Me and Newton Hall areas.
- 8 Under the Delegated Powers in the Council's Constitution (Part C, Table 4, Paragraph 19), Stuart Timmiss, Head of Planning and Assets, authorised the making of an Article 4 Direction for Framwellgate Moor, Pity Me and Newton Hall, on 24 February 2016.
- 9 It is clear that respondents had given the Policy careful consideration commenting, in some cases, on individual words . It is noted that the respondents were not commenting with a single voice and decisions have had to be made on which proposed changes were to be accepted and which rejected, on the basis that in some instances there is no consensus of preferred approach.
- 10 Appendix 2 breaks down the Interim Policy into sections and sets out the main issues raised by respondents together with responses to the main issues. Appendix 3 is a tracked changes version of the Interim Policy setting out the suggested changes to the consultation draft. Appendix 4 is a version with the changes accepted for clarity and is the proposed final version of the Interim Policy.
- 11 Once the Interim Policy has been approved it can be used in the assessment of planning applications as a material consideration. It is considered that the Interim Policy will have less weight than the City of Durham Local Plan Saved Policies, as it hasn't been through an Examination in Public.

### **Recommendations and reasons**

- 12 In relation to the Council's approach to Student Accommodation, Cabinet are asked to:

- A) Note and endorse the decision that has been taken to confirm the Durham City Article 4 Direction by Delegated Report;
- B) Note and endorse the making of an Article 4 Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to remove permitted development rights in relation to changes of use from Use Class C3 to Use Class C4 (as defined in the Town and Country Planning [Use Classes] Order 1987, as amended). Twelve months advance notice of the Direction taking effect shall be given and representations will be invited for a period of 21 days. The Direction shall apply to the area shown on the map at Appendix 6; and
- C) Recommend to full Council it adopt the Interim Policy on Student Accommodation as set out in Appendix 5 which includes the changes made following the period of consultation.

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## **Appendix 1: Implications**

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### **Finance –**

None

### **Staffing –**

None – statement will aid business as usual when assessing development proposals

### **Risk –**

None

### **Equality and Diversity / Public Sector Equality Duty –**

In relation to the Council's approach to student accommodation, equality and diversity has been considered but this proposal is not expected to impact either positively or negatively on any particular group.

### **Accommodation –**

None

### **Crime and Disorder –**

None

### **Human Rights –**

None

### **Consultation –**

The proposals relating to the Article 4 Direction and Interim Policy have been informed by public consultation

### **Procurement –**

None

### **Disability Issues –**

None

### **Legal Implications –**

Legal opinion and advice has been sought from the Council's in-house legal team. This has informed the development of this report.

## Appendix 2

### Interim Policy on Student Accommodation - general issues that were raised during the consultation and responses

#### Interim Policy PART A: HMOs

In all cases proposals will only be permitted where:

- a) the quantity of cycle and car parking provided is in line with relevant saved policies from the City of Durham Local Plan , the Council's Parking and Accessibility Guidelines and the relevant institution's restrictions on students' cars;
- b) they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues in line with relevant saved policies from the City of Durham Local Plan; and
- c) The design of the building or any extension would be appropriate in terms of the property itself and the character of the area in accordance with relevant saved policies of the City of Durham Local Plan.

#### Comment summary

- The relevant saved policies in the Local Plan should be listed in the Interim Policy.
- The University's parking standards are only applicable to their land – this is not therefore relevant.
- A criteria relating to secured by design should be added to the Policy.

#### Response:

- *Including the Local Plan saved policies would date the Interim Policy and not be relevant when the policy is included in the revised County Durham Plan.*
- *The reference to the University's parking standards will be removed*
- *Secured by design will be included*

#### Interim Policy PART A: HMOs

However, such changes would not be resisted in the following circumstances:

- d) Where an area already has such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm; or
- e) Where the remaining C3 dwellings would be unappealing and effectively unsuitable for family occupation.

Changes of use from an HMO to C3 will be supported, including policies and initiatives outside of the Plan that can bring funding and other measures to assist the re-balancing of neighbourhoods.

### **Comment summary**

- Paragraphs d) and e) should be removed – not in keeping with the aim to promote mixed and balanced communities, a ‘loophole’ for the policy.
- Paragraphs d) and e) should be retained – some residents may need to sell homes in ‘student areas’.
- Support for recognition that change of use from an HMO to C3 would be supported.
- The Policy should be specific about what measures would be used to rebalance neighbourhoods – A Regulation 7 Direction should be considered.

### *Response:*

- *If paragraphs d) and e) were removed the effect could be to trap people in houses they couldn't sell. It might also leave the Council open to significant compensation claims by the creation of blighted properties*
- *The Policy can't be specific about particular measures as there is no money to implement any measures – opportunities will be explored if they arise*

### **Interim Policy Part B: PBSA**

When considering proposals for new, extensions to, or conversions to, Purpose Built Student Accommodation (PBSA) the Council will consult with key stakeholders in accordance with Appendix A of the Statement of Community Involvement.

Any proposal will be required to demonstrate:

a) that there is a need for additional student accommodation. Developers should demonstrate what specific need the proposal is aimed at and why this need is currently unmet;

b) It would not result in a negative impact on retail, employment, leisure, tourism or housing use or would support the Council's regeneration objectives ; and

c) partnership working with the relevant education provider.

### **Comment Summary**

- The Statement of Community Involvement (SCI) does not need to be mentioned – any consultation would have to be in line with SCI.
- There is no need for further student accommodation.
- Bed space within HMOs should be quantified as part of any assessment of need.
- The Policy could be made more succinct by putting the reasons / explanation into the supporting text.
- Impacts should be measured – ‘significant’, ‘adverse’ etc.
- The requirement for ‘partnership working’ is unlawful.

### *Response:*

- *The reference to the SCI will be removed*
- *Reasons / Explanation will be put into the supporting text*
- *The requirement for ‘partnership working’ will be removed but consultation will be needed*

## **Interim Policy Part B: PBSA**

Proposals for new development will not be permitted unless:

1) The development is in close proximity to an existing university or college academic site, or hospital and research site;

2) The design and layout of the student accommodation and siting of individual uses within the overall development are appropriate to its location in relation to adjacent neighbouring uses. The aim is to ensure that there is no unacceptable effect on residential amenity in the surrounding area through increased noise, disturbance or impact on the street-scene either from the proposed development itself or when combined with existing accommodation;

### **Comment Summary**

- In close proximity' is open to interpretation. Should be replaced by 'on or adjacent' or similar.
- The Policy should provide opportunities to site PBSA next to public transport routes.
- The reasons or explanation should be separated from policy statements in order to ensure the policy is as succinct as possible.
- Disabled access should be specifically identified.
- The Policy should contain reference to building regulations.
- The Policy should contain reference to relevant Local Plan saved policies.

### *Response:*

- *'Close proximity' will be replaced with 'readily accessible'. This will also allow for the site to be on a good transport route.*
- *Reasons / Explanation will be put into the supporting text*
- *The internal design will be 'of appropriate standard' which allows for disabled access and the building regulations*
- *Including the Local Plan saved policies would date the Interim Policy and not be relevant when the policy is included in the revised County Durham Plan.*

## **Interim Policy Part B: PBSA**

3) The internal design, layout and standard of accommodation and facilities is of a high specification;

4) The impacts from occupants of the development will not have an unacceptable impact upon the amenity of surrounding residents in itself or when considered alongside existing and approved student housing provision. A management plan appropriate to the scale of the development shall be provided. Implementation of the management plan will be controlled through the use of planning conditions or an appropriate legal agreement;

### **Comment Summary**

- Cross reference to Local Plan Saved Policies in the Interim Policy.
- 'High specification' should be replaced with 'appropriate standard'
- Make provision for the submission of a 'draft' or 'outline' management plan.

#### *Response:*

- *Including the Local Plan saved policies would date the Interim Policy and not be relevant when the policy is included in the revised County Durham Plan.*
- *'Appropriate standard' will be used instead of 'high specification'*
- *Draft or outline management plan will be included*

### **Interim Policy Part B: PBSA**

5) The quantity of cycle and car parking provided is in line with relevant saved policies of the City of Durham Local Plan, the Council's Parking and Accessibility Guidelines and the relevant institution's restrictions on students' cars; and

6) It has been demonstrated to the local planning authority that the proposals are deliverable. To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that PBSA will be delivered on the site within five years. Sites with planning permission will be considered deliverable until permission expires.

Where appropriate, proposals in accordance with the above requirements should contribute to the re-use of listed buildings, heritage assets and other buildings with a particular heritage value.

### **Comment Summary**

- Parking requirement should only refer to the Council's standards.
- Deliverability should not be considered – planning does not require it for other forms of development.

#### *Response:*

- *The parking standards will be amended*
- *References to deliverability will be removed*

### **Supporting Text Comment Summary**

- There are duplications, typographical errors and references that need to be corrected / removed
- Reasons or explanation should be incorporated into supporting text rather than policy.

#### *Response:*

- *Corrections to the text will be made*
- *Reasons / Explanation will be put into the supporting text*

## Appendix 3

### Interim Policy (Revised)

#### Houses in Multiple Occupation, Student Accommodation and Purpose Built Student Accommodation

##### PART A: HMOs

In order to promote the creation of sustainable, inclusive and mixed communities ~~mixed, sustainable and balanced communities~~ and maintain an appropriate housing mix, applications for new build Houses in Multiple Occupation (both C4 and sui generis), extensions that result in additional bedspaces, and changes of use from any use to:

- a Class C4 (House in Multiple Occupation), where planning permission is required; or
- a House in Multiple Occupation in a sui generis use (more than six people sharing)

will not be permitted if more than 10% of the total number of properties within 100 metres of the application site are already in use as ~~licensed~~ HMOs or student accommodation exempt from council tax charges.

In all cases proposals will only be permitted where:

- a) ~~T~~the quantity of cycle and car parking provided is in line with relevant saved policies from the City of Durham Local Plan, the Council's adopted Parking and Accessibility Guidelines and: ~~the relevant institution's restrictions on students' cars;~~
- b) ~~T~~they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues in line with relevant saved policies from the City of Durham Local Plan; and
- c) The design of the building or any extension would be appropriate in terms of the property itself and the character of the area; ~~and in accordance with relevant saved policies of the City of Durham Local Plan.~~
- d) the applicant has shown that the security of the building and its occupants has been considered along with that of other local residents and legitimate users.

However, such changes would not be resisted in the following circumstances:

- ~~ed~~) Where an area already has such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm; ~~or~~

~~e) Where the remaining C3 dwellings would be unappealing and effectively unsuitable for family occupation.~~

Changes of use from an HMO to C3 will be supported. Opportunities to enable this will be explored as they arise in order to, including policies and initiatives outside of the Plan that can bring funding and other measures to assist the re-balancing of neighbourhoods.

## PART B: PURPOSE BUILT STUDENT ACCOMMODATION

~~When considering proposals for new, extensions to, or conversions to, Purpose Built Student Accommodation (PBSA) the Council will consult with key stakeholders in accordance with Appendix A of the Statement of Community Involvement.~~

Any proposal for new, extensions to, or conversions to, Purpose Built Student Accommodation (PBSA), will be required to demonstrate:

- a) that there is a need for additional student accommodation; ~~Developers should demonstrate what specific need the proposal is aimed at and why this need is currently unmet;~~
- b) ~~it would not result in a significant negative impact on retail, employment, leisure, tourism or housing use or would support the Council's regeneration objectives;~~ and partnership working with the relevant education provider.
- c) consultation with the relevant education provider.

Proposals for ~~new~~ development will not be permitted unless:

- 1) The development is readily accessible in close proximity to an existing university or college academic site, or hospital and research site;
- 2) The design and layout of the student accommodation and siting of individual uses within the overall development are appropriate to its location in relation to adjacent neighbouring uses. ~~The aim is to ensure that there is no unacceptable effect on residential amenity in the surrounding area through increased noise, disturbance or impact on the street-scene either from the proposed development itself or when combined with existing accommodation;~~
- 3) The internal design, layout and standard of accommodation and facilities is of appropriate standard; ~~is of a high specification;~~
- 4) The impacts from occupants of the development will not have an unacceptable impact upon the amenity of surrounding residents in itself or when considered alongside existing and approved student housing provision. Prior to occupation a management plan or draft outline management plan appropriate to the scale of the development shall be provided. ~~A management plan appropriate to the scale of the development shall be provided. Implementation of the management plan will be controlled through the use of planning conditions or an appropriate legal agreement;~~
- 5) The quantity of cycle and car parking provided is in line with ~~relevant saved policies of the City of Durham Local Plan,~~ the Council's Parking and

~~Accessibility Guidelines; and the relevant institution's restrictions on students' cars; and~~

- ~~6) It has been demonstrated to the local planning authority that the proposals are deliverable. To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that PBSA will be delivered on the site within five years. Sites with planning permission will be considered deliverable until permission expires.~~
- 6) The applicant has shown that the security of the building and its occupants has been considered along with that of other local residents and legitimate users.

Where appropriate, proposals in accordance with the above requirements should contribute to the re-use of listed buildings, heritage assets and other buildings with a particular heritage value.

## Background

- 1 Durham University is a major asset to the City, shaping the built environment, contributing to the cultural offer, developing highly skilled individuals as well being a major employer and a purchaser of local goods and services. ~~The University also facilitates business and industrial research.~~ The University also facilitates business and industrial research. The University has recently begun a major new strategic programme of development including a £60M investment in the new Palatine Centre; relocation of some departments and support services; and the disposal or refurbishment of some existing properties. The aim is to rationalise the estate and to provide opportunities to dispose of or significantly improve inefficient buildings whilst ensuring it makes maximum use of its retained buildings and of its land holdings.
- 2 The University set out in the Residential Accommodation Strategy (2012), its ambition to increase student numbers in the City from 13,500 to 15,300 by 2020 (a 13% increase over 6 years) but it also intends to increase the percentage residing in purpose built student accommodation (controlled by the University) from 43% to 50% and has an aspiration eventually to achieve 70%. These figures were revised in early 2015 by the University as part of their an annual planning process. The number of students based in Durham (as opposed to Queen's Campus, Stockton), in 2014/15 was 13,482 projected to rise to 13,841 in 2019/20. As part of this process it was noted that of the 13,482 students in 2014/15, 6,392 were accommodated by the University leaving 7,090 to be housed elsewhere. The Council's Council Tax data, relating to the academic year ~~20134/145~~, indicates that there were approximately ~~6,300970~~ students living in student exempt properties within the DH1 postcode area. The Council Tax data identifies properties where the only occupants are students. ~~Whilst this data reflects different reporting periods, it suggests that some students are living outside of University accommodation or HMOs. It may be that these students are living at home, in mixed households (student and non-student) or outside the DH1 postcode~~

area. The University has appointed a new Vice-Chancellor and new Accommodation and Estate Strategies are to be undertaken.

- 3 The student housing market is not static - there needs to be upgrading of some existing provision; there needs to be choice in the market; and there is an acknowledgement that some a pressing need for some of the areas of the City have a high concentration relative to other groups of residents that are now virtually saturated with student HMOs to be relieved and regenerated. Policies 32(A) and 32(B) for HMOs and for PBSAs respectively will help to realize all these needs.
- 4 Wherever possible the increase in student numbers should be accommodated in purpose built student accommodation designed and managed in a way that meets the needs of students on-site which will attract student take-up. When considering proposals for new, extensions to, or conversions to, Purpose Built Student Accommodation (PBSA), the Council will consult with key stakeholders in accordance with Appendix A of the Statement of Community Involvement.
- 5 East Durham and Houghall Community College, New College Durham, The University Hospital of North Durham, St John's College and St Chad's College are other further education establishments in Durham City; and there are also Colleges of Further/Higher Education in Bishop Auckland, Consett and Peterlee within County Durham, and in Darlington and other major towns around the County's borders. Future expansions of these establishments may impact on the requirement for student accommodation and the situation should be kept under review. At the present time, however, the predominant issue of HMOs and PBSA is in Durham City and these strategic policies are directed there.

## **HMOs**

- 6 In broad terms, a House in Multiple Occupation (HMO) under planning legislation is defined as a house or flat occupied by a certain number of unrelated individuals who share basic amenities and is classified by the Uses Classes Order as Class C4 (between 3 and 6 residents); and Sui Generis (more than 6 residents). Planning permission is not required for changes of use from Class C3(residential) to Class C4(HMO) unless an Article 4 Direction has been made for a particular locality. HMOs can provide accommodation for a wide range of groups including professionals, students, migrants, and people on low incomes. In County Durham the majority of HMOs are located in Durham City and are occupied by students of Durham University.
- 7 The University is an intrinsic part of the City, bringing a range of jobs, students and researchers benefiting the economy of the County as a whole. It is also a large university in relation to the size of the City and as a result students make up a significant proportion of the term time population contributing greatly to its economy and vibrancy. However there can also be an adverse impact on the amenity of residents and local businesses in areas where student HMOs are dominant. This policy will therefore be used to assess the acceptability of a proposal for an HMO, balancing the contribution that such a conversion will

make to meeting housing demand against the potential harm that might be caused to the character and amenity of the surrounding area and the suitability of the property concerned.

- 8 The Student HMOs are not spread evenly throughout the City. The highest concentrations are in the viaduct area, where over 90% of all properties are thought to be HMOs, and the adjoining areas of St Nicholas and Crossgate. In recent years, more students have been occupying houses around Elvet and Whinney Hill, which is very close to the main University campus and students' union. There is a general perception that students want to live as close to the city centre as possible. However, because of increasing demand, students are also moving into other areas including the Sands, Neville's Cross and Gilesgate. It is estimated that there are around 350 HMOs that fall under mandatory HMO licensing. It is also suggested that there are an additional 1,200 - 1,400 two storey or smaller HMOs in Durham City. This may be an underestimate as not all HMOs are occupied by students. Members of the community have a desire to see HMOs return to family use.
- 9 In areas where the community is considered unbalanced due to the number of HMOs, the Council is committed to removing permitted development rights on applications for C3 dwellings to allow the local authority to refuse change of use to C4. This is achieved by making an Article 4 Direction. An Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority for that development. The Council made an Article 4 Direction on 17 September 2015 which will come into force on 17 September 2016. –The Council will give consideration to removing permitted development rights, where appropriate, from new housing developments outside the proposed Article 4 Direction.
- 10 Part A of the Policy uses a threshold of 10% of the total properties in an area already being HMOs or student accommodation. or the population within those properties exceeds 20% of the population in that area. These 'tipping points' has ve been derived from –, and are in line with, section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', which was published in 2008.
- 11 In order to assess the percentage of HMOs or student exempt properties within 100m of an application for an HMO, the Council will use Council Tax information consisting of those properties with Class N exemption mapped (and where relevant Class M), using the Council's GIS mapping system.
- 12 In relation to parking each application will be assessed on an individual basis taking into account the capacity of the street, the controlled parking zone (CPZ), and the Council's adopted Car Parking and Accessibility Guidelines. and any education providers restrictions on students having cars whilst attending that institution
- 13 Poor management of rubbish and recycling at HMOs can lead to unattractive frontages, problems with vermin and raise concerns over health and safety.

Such issues can affect the amenity of nearby properties and may lead to complaints from neighbouring residents. These matters should therefore be appropriately addressed at the planning application stage. Applications will be expected to be accompanied with appropriate details of how household waste and recycling will be stored and presented for collection at the property. This should include layout drawings of the application site and its surroundings, clearly indicating the bin storage area. Acknowledgment should be made of the fact that the occupiers of an HMO may generate more waste than a single household with the same number of occupiers.

14 The Council would like the areas with high concentrations of HMOs to become more mixed. However, there may be some cases where localised communities are already so imbalanced that the policy objective of protecting a balance is unlikely to be achieved. In these cases owners of Class C3 dwellings may find difficulty in finding a purchaser for continued Class C3 use and may therefore wish to change to Class C4/HMO use. In considering whether to make an exception in such cases the Council will have regard to things such as:

- The proximity of existing Class C4 uses, larger HMOs or Council Tax exempt properties where they might be likely to affect the amenities of normal family life (e.g. if there were such uses on both adjoining sides).
- Any demonstrable difficulty in achieving a satisfactory sale of a property to a general purchaser as a Class C3 dwelling, such as time up for sale with the property offered at a reasonable price (based on assessment of the property market in the local area).
- Any other circumstances indicating the policy restriction is causing severe personal hardship

## **Purpose Built Student Accommodation**

145 Purpose Built Student Accommodation (PBSA) is accommodation built, or converted, with the specific intent of being occupied by students – either individual en-suite units or sharing facilities. PBSA is a building which is not classified as Use Class C4 or anything licensable as an HMO. Schemes should be readily accessible either by being in close proximity to the relevant establishment or being on a good transport route.

165 The Council has received an increasing number of enquiries from developers regarding purpose built accommodation proposals. Recent planning applications show that this may lead to potential oversupply of student bed-spaces when compared to demand from the projected growth in student numbers. The consideration of ‘need’ for additional student accommodation which developers must undertake shall include, but not be limited to, waiting lists for existing places (both University and privately owned stock and, if appropriate those of any other higher education establishment) and should consider the potential contribution of schemes with planning consent. Developers should demonstrate what specific need the proposal is aimed at and why this need is currently unmet.

- 176 Assessing proposals for new purpose built accommodation against the criteria above will ensure that schemes are progressed in appropriate locations which meet the Council's regeneration priorities. In seeking to meet need, the Council recognises that PBSA can increase choice for the student population. On this basis, the level of need identified within Durham University's Residential Accommodation Strategy is not considered to be a 'ceiling'.
- 187 However, new student accommodation should not be built at the expense of general housing as the Council must address the need for new family and affordable housing. In order to protect the delivery and supply of sites for general housing, proposals for purpose built student accommodation on sites allocated for general housing ~~in this Plan~~, will not be generally acceptable.
- 198 The provision of further bed-spaces in PBSA may assist in enabling students to choose managed accommodation rather than HMOs. The impacts of a large number of students living in an area ~~may can~~ be more easily mitigated when they are living in purpose built accommodation which has a management plan, rather than a number of HMOs.
- 20 Developers should ensure that there is no unacceptable effect on residential amenity in the surrounding area through increased noise, disturbance or impact on the street-scene either from the proposed development itself or when combined with existing accommodation.
- 21 The development should be accessible and appropriate to disabled students.
- 2219 Implementation of the management plan will be controlled through the use of planning conditions or an appropriate legal agreement. Applicants or developers of PBSA will be expected to produce a The management plan: ~~This~~ should set out what measures will be put in place to ensure the best integration of the development with the local community and neighbours. It will also address issues such as (but not limited to), the tenants moving in and out at the beginning and end of each term, management of the building, tenancy agreements, fire and health and safety and community liaison.
- 203 The County Durham Parking and Accessibility Standards for Non Residential Development 2014 were approved by the Council on 7th May 2014. They include standards for student accommodation. The standard in Durham City is different from the rest of the county in recognition of the fact there is a controlled parking zone ( CPZ) and students would not be issued with permits to park in the CPZ. It requires 1 space per 5 members of staff plus disabled persons parking space. No requirement is made for student car parking if the accommodation is within the CPZ. Outside the CPZ the requirement is 1 per 5 members of staff plus 1 space per six students.
- 214 Cycling parking requirements are a minimum of 1 enclosed covered space per 5 students plus 1 short stay space per 20 students.

#### **Article 4 Direction**

~~22 — Article 4 directions are one of the tools available to local planning authorities in responding to the particular needs of their areas. They do this by allowing authorities to withdraw the ‘permitted development’ rights that would otherwise apply by virtue of the Town and Country Planning (General Permitted Development) Order 1995 as amended. An Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority for that development.~~

~~23 — The Council has sufficient evidence for the making of an Article 4 Direction in Durham City for the removal of permitted development rights in relation to changes of use from Use Class C3 to Use Class C4 (as defined in the Town and Country Planning (Use Classes) Order 1987, as amended. The area of the City that will be covered if the Direction is approved will be set out in a report and subject to consultation.~~

## Appendix 4

### Interim Policy (Revised)

#### Houses in Multiple Occupation, Student Accommodation and Purpose Built Student Accommodation

##### PART A: HMOs

In order to promote the creation of sustainable, inclusive and mixed communities and maintain an appropriate housing mix, applications for new build Houses in Multiple Occupation (both C4 and sui generis), extensions that result in additional bedspaces, and changes of use from any use to:

- a Class C4 (House in Multiple Occupation), where planning permission is required; or
- a House in Multiple Occupation in a sui generis use (more than six people sharing)

will not be permitted if more than 10% of the total number of properties within 100 metres of the application site are already in use as HMOs or student accommodation exempt from council tax charges.

In all cases proposals will only be permitted where:

- a) The quantity of cycle and car parking provided is in line with the Council's adopted Parking and Accessibility Guidelines and:
- b) They provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues; and
- c) The design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and
- d) The applicant has shown that the security of the building and its occupants has been considered along with that of other local residents and legitimate users.

However, such changes would not be resisted in the following circumstance:

- e) Where an area already has such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm;

Changes of use from an HMO to C3 will be supported. Opportunities to enable this will be explored as they arise in order to assist the re-balancing of neighbourhoods.

## **PART B: PURPOSE BUILT STUDENT ACCOMMODATION**

**Any proposal for new, extensions to, or conversions to, Purpose Built Student Accommodation (PBSA), will be required to demonstrate:**

- a) that there is a need for additional student accommodation;**
- b) it would not result in a significant negative impact on retail, employment, leisure, tourism or housing use or would support the Council's regeneration objectives.**
- c) consultation with the relevant education provider.**

**Proposals for development will not be permitted unless:**

- 1) The development is readily accessible to an existing university or college academic site, or hospital and research site;**
- 2) The design and layout of the student accommodation and siting of individual uses within the overall development are appropriate to its location in relation to adjacent neighbouring uses. 3) The internal design, layout and standard of accommodation and facilities is of appropriate standard;**
- 4) The impacts from occupants of the development will not have an unacceptable impact upon the amenity of surrounding residents in itself or when considered alongside existing and approved student housing provision. Prior to occupation a management plan or draft outline management plan appropriate to the scale of the development shall be provided.**
- 5) The quantity of cycle and car parking provided is in line with the Council's Parking and Accessibility Guidelines; and**
- 6) The applicant has shown that the security of the building and its occupants has been considered along with that of other local residents and legitimate users.**

**Where appropriate, proposals in accordance with the above requirements should contribute to the re-use of listed buildings, heritage assets and other buildings with a particular heritage value.**

### **Background**

- 1** Durham University is a major asset to the City, shaping the built environment, contributing to the cultural offer, developing highly skilled individuals as well being a major employer and a purchaser of local goods and services. The University also facilitates business and industrial research. The University has recently begun a major new strategic programme of development including a £60M investment in the new Palatine Centre; relocation of some departments and support services; and the disposal or refurbishment of some existing properties. The aim is to rationalise the estate and to provide opportunities to dispose of or significantly improve inefficient buildings whilst ensuring it makes maximum use of its retained buildings and of its land holdings.

- 2 The University set out in the Residential Accommodation Strategy (2012), its ambition to increase student numbers in the City from 13,500 to 15,300 by 2020 (a 13% increase over 6 years) but it also intends to increase the percentage residing in purpose built student accommodation (controlled by the University) from 43% to 50% and has an aspiration eventually to achieve 70%. These figures were revised in early 2015 by the University as part of their annual planning process. The number of students based in Durham (as opposed to Queen's Campus, Stockton), in 2014/15 was 13,482 projected to rise to 13,841 in 2019/20. As part of this process it was noted that of the 13,482 students in 2014/15, 6,392 were accommodated by the University leaving 7,090 to be housed elsewhere. The Council's Council Tax data, relating to the academic year 2014/15, indicates that there were approximately 6,970 students living in student exempt properties within the DH1 postcode area. The Council Tax data identifies properties where the only occupants are students. The University has appointed a new Vice-Chancellor and new Accommodation and Estate Strategies are to be undertaken.
- 3 The student housing market is not static - there needs to be upgrading of some existing provision; there needs to be choice in the market; and there is an acknowledgement that some areas of the City have a high concentration relative to other groups of residents.
- 4 Wherever possible the increase in student numbers should be accommodated in purpose built student accommodation designed and managed in a way that meets the needs of students on-site which will attract student take-up.
- 5 East Durham and Houghall Community College, New College Durham, The University Hospital of North Durham, St John's College and St Chad's College are other further education establishments in Durham City; and there are also Colleges of Further/Higher Education in Bishop Auckland, Consett and Peterlee within County Durham, and in Darlington and other major towns around the County's borders. Future expansions of these establishments may impact on the requirement for student accommodation and the situation should be kept under review. At the present time, however, the predominant issue of HMOs and PBSA is in Durham City and these strategic policies are directed there.

## **HMOs**

- 6 In broad terms, a House in Multiple Occupation (HMO) under planning legislation is defined as a house or flat occupied by a certain number of unrelated individuals who share basic amenities and is classified by the Uses Classes Order as Class C4 (between 3 and 6 residents); and Sui Generis (more than 6 residents). Planning permission is not required for changes of use from Class C3(residential) to Class C4(HMO) unless an Article 4 Direction has been made for a particular locality. HMOs can provide accommodation for a wide range of groups including professionals, students, migrants, and people on low incomes. In County Durham the majority of HMOs are located in Durham City and are occupied by students of Durham University.

- 7 The University is an intrinsic part of the City, bringing a range of jobs, students and researchers benefiting the economy of the County as a whole. It is also a large university in relation to the size of the City and as a result students make up a significant proportion of the term time population contributing greatly to its economy and vibrancy. However there can also be an adverse impact on the amenity of residents and local businesses in areas where student HMOs are dominant. This policy will therefore be used to assess the acceptability of a proposal for an HMO, balancing the contribution that such a conversion will make to meeting housing demand against the potential harm that might be caused to the character and amenity of the surrounding area and the suitability of the property concerned.
- 8 The Student HMOs are not spread evenly throughout the City. The highest concentrations are in the viaduct area, where over 90% of all properties are thought to be HMOs, and the adjoining areas of St Nicholas and Crossgate. In recent years, more students have been occupying houses around Elvet and Whinney Hill, which is very close to the main University campus and students' union. There is a general perception that students want to live as close to the city centre as possible. However, because of increasing demand, students are also moving into other areas including the Sands, Neville's Cross and Gilesgate. It is estimated that there are around 350 HMOs that fall under mandatory HMO licensing. It is also suggested that there are an additional 1,200 - 1,400 two storey or smaller HMOs in Durham City. This may be an underestimate as not all HMOs are occupied by students. Members of the community have a desire to see HMOs return to family use.
- 9 In areas where the community is considered unbalanced due to the number of HMOs, the Council is committed to removing permitted development rights on applications for C3 dwellings to allow the local authority to refuse change of use to C4. This is achieved by making an Article 4 Direction. An Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority for that development. The Council made an Article 4 Direction on 17 September 2015 which will come into force on 17 September 2016. The Council will give consideration to removing permitted development rights, where appropriate, from new housing developments outside the proposed Article 4 Direction.
- 10 Part A of the Policy uses a threshold of 10% of the total properties in an area already being HMOs or student accommodation. This 'tipping point' has been derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', which was published in 2008.
- 11 In order to assess the percentage of HMOs or student exempt properties within 100m of an application for an HMO, the Council will use Council Tax information consisting of those properties with Class N exemption mapped using the Council's GIS mapping system.

- 12 In relation to parking each application will be assessed on an individual basis taking into account the capacity of the street, the controlled parking zone (CPZ), and the Council's adopted Car Parking and Accessibility Guidelines.
- 13 Poor management of rubbish and recycling at HMOs can lead to unattractive frontages, problems with vermin and raise concerns over health and safety. Such issues can affect the amenity of nearby properties and may lead to complaints from neighbouring residents. These matters should therefore be appropriately addressed at the planning application stage. Applications will be expected to be accompanied with appropriate details of how household waste and recycling will be stored and presented for collection at the property. This should include layout drawings of the application site and its surroundings, clearly indicating the bin storage area. Acknowledgment should be made of the fact that the occupiers of an HMO may generate more waste than a single household with the same number of occupiers.
- 14 The Council would like the areas with high concentrations of HMOs to become more mixed. However, there may be some cases where localised communities are already so imbalanced that the policy objective of protecting a balance is unlikely to be achieved. In these cases owners of Class C3 dwellings may find difficulty in finding a purchaser for continued Class C3 use and may therefore wish to change to Class C4/HMO use. In considering whether to make an exception in such cases the Council will have regard to things such as:
- The proximity of existing Class C4 uses, larger HMOs or Council Tax exempt properties where they might be likely to affect the amenities of normal family life (e.g. if there were such uses on both adjoining sides).
  - Any demonstrable difficulty in achieving a satisfactory sale of a property to a general purchaser as a Class C3 dwelling, such as time up for sale with the property offered at a reasonable price (based on assessment of the property market in the local area).
  - Any other circumstances indicating the policy restriction is causing severe personal hardship

### **Purpose Built Student Accommodation**

- 15 Purpose Built Student Accommodation (PBSA) is accommodation built, or converted, with the specific intent of being occupied by students – either individual en-suite units or sharing facilities. PBSA is a building which is not classified as Use Class C4 or anything licensable as an HMO. Schemes should be readily accessible either by being in close proximity to the relevant establishment or being on a good transport route.
- 16 The Council has received an increasing number of enquiries from developers regarding purpose built accommodation proposals. Recent planning applications show that this may lead to potential oversupply of student bed-spaces when compared to demand from the projected growth in student numbers. The consideration of 'need' for additional student accommodation which developers must undertake shall include, but not be limited to, waiting

lists for existing places (both University and privately owned stock and, if appropriate those of any other higher education establishment) and should consider the potential contribution of schemes with planning consent. Developers should demonstrate what specific need the proposal is aimed at and why this need is currently unmet.

- 17 Assessing proposals for new purpose built accommodation against the criteria above will ensure that schemes are progressed in appropriate locations which meet the Council's regeneration priorities. In seeking to meet need, the Council recognises that PBSA can increase choice for the student population. On this basis, the level of need identified within Durham University's Residential Accommodation Strategy is not considered to be a 'ceiling'.
- 18 However, new student accommodation should not be built at the expense of general housing as the Council must address the need for new family and affordable housing. In order to protect the delivery and supply of sites for general housing, proposals for purpose built student accommodation on sites allocated for general housing, will not be generally acceptable.
- 19 The provision of further bed-spaces in PBSA may assist in enabling students to choose managed accommodation rather than HMOs. The impacts of a large number of students living in an area maybe more easily mitigated when they are living in purpose built accommodation which has a management plan, rather than a number of HMOs.
- 20 Developers should ensure that there is no unacceptable effect on residential amenity in the surrounding area through increased noise, disturbance or impact on the street-scene either from the proposed development itself or when combined with existing accommodation.
- 21 The development should be accessible and appropriate to disabled students.
- 22 Implementation of the management plan will be controlled through the use of planning conditions or an appropriate legal agreement. The management plan should set out what measures will be put in place to ensure the best integration of the development with the local community and neighbours. It will also address issues such as (but not limited to), the tenants moving in and out at the beginning and end of each term, management of the building, tenancy agreements, fire and health and safety and community liaison.
- 23 The County Durham Parking and Accessibility Standards for Non Residential Development 2014 were approved by the Council on 7th May 2014. They include standards for student accommodation. The standard in Durham City is different from the rest of the county in recognition of the fact there is a controlled parking zone ( CPZ) and students would not be issued with permits to park in the CPZ. It requires 1 space per 5 members of staff plus disabled persons parking space. No requirement is made for student car parking if the accommodation is within the CPZ. Outside the CPZ the requirement is 1 per 5 members of staff plus 1 space per six students.

24      Cycling parking requirements are a minimum of 1 enclosed covered space per 5 students plus 1 short stay space per 20 students.

**Appendix 6**  
**Map of Framwellgate Moor, Pity Me, Newton Hall Article 4 Area**

