

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/16/02359/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Change of use from Class C3 Dwelling House to Class C4 House in Multiple Occupation including conversion of garage to habitable room.</b>
<b>NAME OF APPLICANT:</b>	<b>Bill Free Homes Ltd.</b>
<b>ADDRESS:</b>	<b>32 Faraday Court, Nevilles Cross, Durham, DH1 4FG</b>
<b>ELECTORAL DIVISION:</b>	<b>Nevilles Cross</b>
<b>CASE OFFICER:</b>	<b>Chris Baxter</b> <b>Senior Planning Officer</b> <b>03000 263944</b> <a href="mailto:chris.baxter@durham.gov.uk">chris.baxter@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site relates to a C3 residential property located at 32 Faraday Court in Nevilles Court. The property is a three storey town house with a living room and garage at ground floor, a bedroom and kitchen/dining room at first floor and a further 3 bedrooms and two bathrooms at second floor level.

### The Proposal

2. This application seeks planning permission for the change of use of the property from a C3 family house to a C4 house in multiple occupation (HMO). The existing garage is proposed to be converted into a bedroom as well as bedroom on the first floor being divided into two rooms. Overall, this property would have six bedrooms.
3. This application is being referred to the planning committee at the request of the Ward Councillor.

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## PLANNING HISTORY

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4. No past planning history relevant to the determination of this application.

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## PLANNING POLICY

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### NATIONAL POLICY:

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

6. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
7. The following elements are considered relevant to this proposal;
8. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.
9. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing application should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
10. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
11. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

*The above represents a summary of the NPPF considered most relevant the full text may be accessed at:*

<http://www.communities.gov.uk/publications/planningandbuilding/nppf>

## **LOCAL PLAN POLICY:**

### **City of Durham Local Plan**

12. *Policy H9 (Multiple Occupation / Student Households)* states that the sub division or conversion of houses for flats, bedsits or for multiple occupation, or proposals to extend or alter properties already in such use will be permitted provided that it does not adversely impact on other planning considerations.
13. *Policy H13 (Residential Areas – Impact upon Character and Amenity)* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
14. *Policy T1 (Traffic – General)* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.

## RELEVANT EMERGING POLICY

### The County Durham Plan

15. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

16. *County Highways Authority* have indicated that they cannot support the proposal and would recommend refusal on grounds of road safety.

### INTERNAL CONSULTEE RESPONSES:

17. *Spatial Planning Policy* has indicated that applying the Interim Policy on Student Accommodation gives the figure of 15% of the properties within the defined area being already HMOs. As such it is considered there is an argument in relation to saved policy H9, that there already is a detriment to the local housing stock which would be exacerbated by the change of use of 32 Faraday Court.

### PUBLIC RESPONSES:

18. Neighbouring residents were notified individually of the proposed development. Six letters of representations have been received including comments from the City of Durham Trust and the Nevilles Cross Community Association.

19. Concerns raised relate to the deterioration of the visual amenity; traffic generation, highway safety and road access; adequacy of parking, loading and turning; noise and disturbance; contravening legal covenants; and conformity to planning policy.

20. The City of Durham Trust and the Nevilles Cross Community Association have objected to the proposal indicating that weight should be given to the Interim Policy on Student Accommodation. It is also noted that the proposals to convert the garages into extra bedrooms will destroy the integrity of the terrace, besides leaving a paved front street for parked cars.

### APPLICANTS STATEMENT:

21. The application has been made on behalf of the freeholder in conjunction with Bill Free Homes the leading provider of student accommodation in the city. They are well aware of the perceived problems of HMO properties in residential areas but have an excellent record in mitigation of problems. The area has changed considerably in character and we face living on an extended campus of Ustinov college, The Article 4 Direction however well-intentioned will trap residents in properties that cannot be sold and which will not give the quiet enjoyment that they once promised. The application is within policy and as such I would ask it to be approved.

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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22. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development; visual amenity; and highway safety.

#### Principle of development

23. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses within C4 (HMO's). HMO's are small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom. The proposed floor plans indicate that the proposal would fall under the permitted development remit as six bedrooms would be provided.

24. An Article 4 direction will come into force on 17th September 2016 withdrawing permitted development rights relating to changes of use from C3 to C4 in Durham City. Planning applications determined after this date will consider the material change in circumstance that planning permission is required.

25. Policy H13 states that planning permission will not be granted for new development or changes of use which would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

26. Policy H9 relates to the conversion of houses for multiple occupation. It states that such development will be permitted provided that adequate parking, privacy and amenity areas are provided, provided it will not adversely affect the amenities of nearby residents, provided it is in scale and character with its surroundings, provided it will not result in concentrations of sub divided dwellings to the detriment of the range and variety of the local housing stock and provided it will not involve significant extensions or alterations.

27. In addition an Interim Policy on student accommodation does not support the change of use of properties when there is over 10% student properties within 100 metres of the application site. The Council's Spatial Planning Policy Team have confirmed that the percentage of properties in HMO accommodation within 100 metres of the application site is 15%.

28. The combination of the Interim Policy and the Article 4 Direction gives an indication that the proposal to change the property into a C4 use should not be supported. The Article 4 Direction however does not come into force until 17<sup>th</sup> September 2016. At this present moment this property can be changed to a HMO use without requiring planning permission under the GPDO regulations.

29. Whilst the Interim Policy on Student Accommodation may suggest that the application should not be supported, the fall back position of the GPDO regulations overrides this policy as the property can be converted without planning permission before the 17<sup>th</sup> September 2016. No objections are therefore raised in terms of the principle of changing the use of this C3 house to a C4 HMO property.

#### Visual amenity

30. This planning application also proposes internal alterations to the property including dividing the bedroom on the first floor into two bedrooms and the conversion of the existing garage into a bedroom.
31. Dividing the first floor bedroom into two rooms does not require planning permission and would not have any impacts on the external appearance of the property.
32. The conversion of the garage into a habitable bedroom, which includes replacing the garage door with windows and brickwork, also does not require planning permission providing the windows and brickwork match the existing property. The proposed elevation plans indicate that the windows and facing brickwork would match the existing property.
33. Given the internal and external works which are proposed to the building are permitted development and does not require planning permission, then no objections can be raised.

#### Highway issues

34. The County Highways Officer has raised concerns that the removal of the garage would result in only a single off street parking space. The Highways Officer has indicated that the lack of off street parking may result in significant demand for on street parking and lead to obstruction of the carriageway or adjacent residential drives and parking on footways. There are particular concerns for emergency service vehicle access to the private shared drive areas. For these reasons, the Highways Officer has recommended refusal on the grounds of road safety and amenity of the area.
35. It is noted however that the conversion of the garage to a habitable room does not require planning permission. There are examples on the Faraday Court estate where other properties have converted the garages to habitable rooms without needing permission.
36. Given planning permission is not required for the conversion of the garage to a habitable room, it is not considered that a refusal of the application on highway grounds could be substantiated.

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## **CONCLUSION**

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37. The change of use of the property from a C3 dwelling to a C4 HMO is currently permitted development and is therefore acceptable in principle.
38. The only external alterations to the property would be the removal of the garage door being replaced by windows and brickwork which will match the existing property. It is not considered that these changes would have a detrimental impact on the visual appearance of the property or the surrounding area.
39. The conversion of the garage to a habitable room is also permitted development and therefore it is not considered that a refusal on highway grounds could be substantiated.

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## **RECOMMENDATION**

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That the application be **APPROVED** subject to the following conditions;

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

<b>Plan Ref No.</b>	<b>Description</b>	<b>Date Received</b>
	Location Plan	21/07/2016
K21 L(2-)04	Existing and Proposed Floor Plans and Elevations	21/07/2016

Reason: To define the consent and ensure that a satisfactory form of development is obtained.

3. Notwithstanding the details shown on the submitted application, the external building materials to be used shall match the existing building in terms of colour, texture and size.

Reason: In the interests of the appearance of the area and to comply with Policy H13 of the City of Durham Local Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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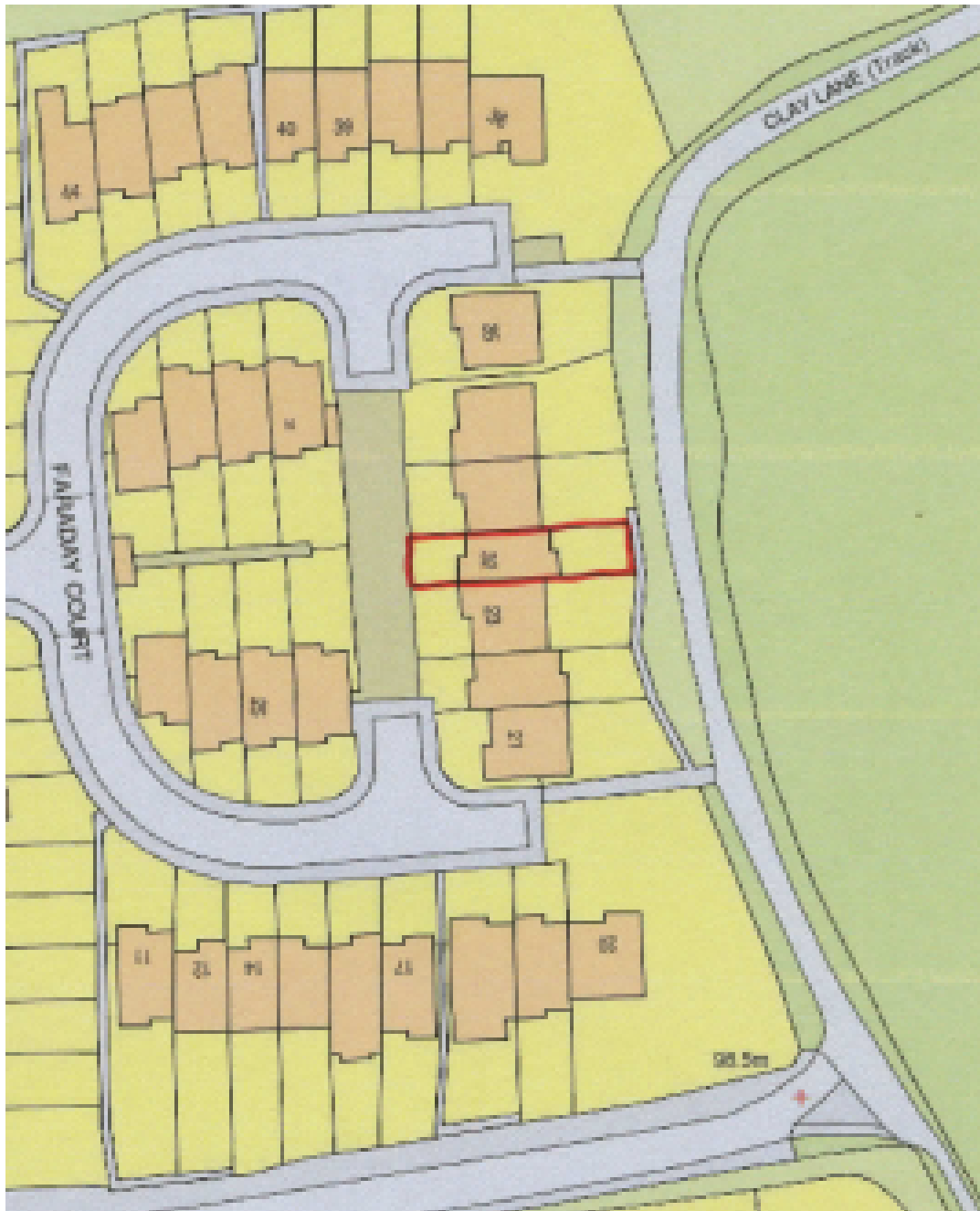
In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documentation  
City of Durham Local Plan 2004  
National Planning Policy Framework  
Internal consultee responses  
Public responses  
Responses from statutory and other consultees  
National Planning Policy Guidance



**Planning Services**

**Change of use from Class C3 Dwelling House to Class C4 House in Multiple Occupation including conversion of garage to habitable room at 32 Faraday Court, Nevilles Cross, Durham, DH1 4FG Ref: DM/16/02359/FPA**

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**Date**  
**13<sup>th</sup> September 2016**