



Area Planning Committee (Central and East)

Date Tuesday 12 February 2019
Time 1.00 pm
Venue Council Chamber - County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held 15 January 2019 (Pages 3 - 16)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) DM/18/03308/FPA - 35 Front Street, Framwellgate Moor, Durham, DH1 5EE (Pages 17 - 30)
Change of use from hairdressing training centre to 8 bed house in multiple occupation (sui generis) (amended plan).
 - b) DM/18/03552/FPA - 51 Whinney Hill, Durham, DH1 3BD (Pages 31 - 44)
Change of use from a C4 house in multiple occupation to a 7 bedroom HIMO with a wrap round extension and internal alterations to existing dwelling (sui generis).
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
4 February 2019

To: **The Members of the Area Planning Committee (Central and East)**

Councillor A Laing (Vice-Chairman)

Councillors G Bleasdale, D Brown, J Clark, I Cochrane, K Corrigan, M Davinson, D Freeman, A Gardner, K Hawley, S Iveson, P Jopling, R Manchester, J Robinson and O Temple

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber - County Hall, Durham** on **Tuesday 15 January 2019** at **1.00 pm**

Present:

Councillor A Laing (Chairman)

Members of the Committee:

Councillors D Brown, J Clark, M Clarke (substitute for R Manchester), I Cochrane, K Corrigan, M Davinson, D Freeman, K Hawley, S Iveson, J Robinson and O Temple

Also Present:

Councillors R Crute and M Wilkes

1 Apologies for Absence

Apologies for absence were received from Councillors G Bleasdale, P Jopling and P Taylor.

2 Substitute Members

Councillor M Clarke substituted for Councillor R Manchester.

3 Minutes

The minutes of the meeting held on 11 December 2018 were confirmed as a correct record by the Committee and signed by the Chairman.

4 Declarations of Interest

There were no Declarations of Interest submitted.

5 Applications to be determined by the Area Planning Committee (Central & East Durham)

a DM/18/03308/FPA - 35 Front Street, Framwellgate Moor, Durham

The Planning Officer, Susan Hyde, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer, SH advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for change of use from hairdressing training centre to 8 bed house in multiple occupation (sui generis) and was recommended for approval, subject to conditions.

The Planning Officer, SH noted the site was in a sustainable part of Framwellgate Moor and explained it was part of the allocated centre, with a number of amenities nearby. Members were informed of the adjoining social club to one side, and residential property to the other side. It was explained that the only access to the rear garden was via the property, on foot through the property, and for vehicles via the single width garage, no access from the rear, Alexandra Close. The Committee noted no changes to the elevations of the property, and the proposed internal layout retained the garage and there was internal alterations to accommodate the eight bedrooms. It was added that the Licensing Section had confirmed compliance in terms of headroom for the second floor.

Members were informed that there had been no objections from Environmental Health, subject to conditions including noise insulation. It was added there had been no objections from Highways, as the property was in a sustainable location, with amenities and transport links. Councillors noted that the House in Multiple Occupation (HMO) Officer had noted the application met the required standards for HMO licensing. The Planning Officer, SH noted responses from the public, with 3 objections from nearby residents from Front Street and Alexandra Close. She explained the objections were summarised within the report and related to: students occupying the property; increase noise and disturbance; the rear garden not being utilised for parking as per the previous planning consent; and the impact on parking.

The Planning Officer, SH noted that the application was considered acceptable in terms of being within a sustainable location, and reiterated that the previous uses of the property had been residential dwelling and hairdressing training centre, it had not previously been used as a retail unit. It was added that in terms of the sustainable location and two parking spaces provided within the garage the application was considered acceptable in highways terms.

The Planning Officer noted a change to Condition 3 as set out within the report, in order to be more precise, with the wording to include "...noise and meet noise regulations in Building Regulation document E". Members noted the application was recommended for approval, subject to conditions and the amendment as explained by the Planning Officer, SH.

The Chairman thanked the Planning Officer, SH and asked Councillor M Wilkes, Local Member, to speak in objection to the application.

Councillor M Wilkes thanked the Committee for the opportunity to speak in relation to the application. He noted he was speaking on behalf of a number of residents with concerns, his fellow Local Members, and the Parish Council and was asking that the Committee refuse the application. He explained that there was no objection from residents in terms of the property and site being developed, if the application was for the right development. He added that the application did not take into account residential amenity of nearby residents, nor that of the potential occupants of the property when considering the amount of parking provision. Councillor M Wilkes noted that the use was not specifically for students and there was no conditions relating to this. He added that initially that there was to be parking in the rear garden and within the garage space, with no parking at the rear within the application being considered. He noted that as the proposal was for a tandem garage, there would be a need to manoeuvre cars in order to get a vehicle at the rear of the garage out. Councillor M Wilkes noted that this would not be suitable should the property not be occupied by students, other types of occupiers likely having more vehicles, potentially eight. He noted that parking and access standards looked for a three metre width for parking, he suggested that given the width of the door was 2.34 metres that the driver would probably be stuck in their vehicle. Councillor M Wilkes noted that there was not capacity outside of the property or nearby properties, with the pub and public car parks nearby locked at night, and that the displacement of vehicles was a concern.

Councillor M Wilkes explained that if the Committee were minded to refuse the application, they may wish to consider City of Durham saved Local Plan Policy T1 in relation to traffic, where an application would not be approved if the development was detrimental to highways safety or have a significant negative impact on the amenity of occupiers of neighbouring properties. He added that the parking did not meet the minimum requirements in terms of parking and accessibility standards. Councillor M Wilkes noted that if one was to agree the proposed parking arrangements, he would then ask how bins would be moved from the rear of the property through two parked cars to the front of the property on collection day. He noted this was poor design, contrary to saved Policies Q1 and Q2, and there would likely be a need for multiple bins in terms of the number of potential occupants. Councillor M Wilkes explained he felt the application was also contrary to saved Policy H9, in terms of the sub-division of the property likely to have an adverse effect on the amenity of nearby residents. He concluded by asking Members to refuse the application on those grounds.

The Chairman thanked Councillor M Wilkes and asked the Planning Officer, SH to respond to the issues raised.

The Planning Officer, SH noted that the application had two spaces shown within the existing garage space, currently empty, and that given the sustainable location with nearby shops, New College Durham and bus stops, the provision as proposed was reasonable. She continued noting that Councillor M Wilkes was correct, the change of use to C4, HMO did not specify the type of tenant therefore there was a range of use, not just for students.

The Planning Officer, SH explained that in respect of bin storage, Councillor M Wilkes was also correct in that the bins would need to be moved to the front of the property, via the garage, and this could be an inconvenience, however this was the case for many properties. She added that the Applicant had noted that a local agent would manage the property and a tenancy agreement would be in place. It was reiterated that Officers felt that the application was suitable in terms of a HMO.

The Highway Development Manager, John McGargill explained that in terms of saved Policy T1 it was not felt after assessment that there was grounds for refusal. He noted the extant permission for the hairdressing training session and added that upon looking at the demand for parking, at that time the parking within the curtilage was not used, with a likely demand of three or four staff and several students. He noted that particular use could recommence at any time and that demand on parking materialise. He added that looking at other commercial demand in the area, there were 12 staff within the nearby six units, with all parking on the street. The Highway Development Manager noted that residential use was different to commercial use, with staff likely to park during the day, and residents to park on an evening, so in effect there would be an exchange of spaces, with 12 staff vacating spaces and eight potential residents to take those up. He added that there were 56 car parking spaces nearby at the community centre and Parish Council on the opposite side of the main road. The Highway Development Manager added that the application was in a very sustainable location with many shops nearby and bus stops. He explained that given this it would be difficult to uphold any objection in terms of Policy T1 as there needed to be "significant" effect, with perhaps some potential occupants needing to park a little way from the property, however, there was sufficient parking in the area.

The Chairman thanked the Officers and asked Members of the Committee for their comments and questions.

Councillor O Temple noted that when visiting the site earlier in the day he had noted how well the property would lend itself to residential space if sound-proofed. However, he added that he felt the parking arrangements were not fine, with the garage feeling more akin to an alleyway that had been built over and that the large garden, currently in a state of disrepair, would be far better suited for around 6 vehicles to be parked. He added that in HMOs a garden was not the "crowning feature" and that the poor example at this property would be better suited for parking, accessed via driving through the "garage". He added that he felt it was a pity that the application was such to remove the parking to the rear and asked if planning had sought this. Councillor O Temple reiterated the point made by Councillor M Wilkes in relation to the bins and movement on collection days. He explained that he felt that the reasons suggested in terms of saved Local Plan Policies T1, Q1 and Q2 for refusal could be used in terms of supporting a recommendation for refusal. He added that it may be possible to argue that the application was contrary to Policy H13 in addition, and concluded by noting that many of the issues with the application could be perhaps remedied with the replacement of the garage door with an electric gate to allow access to the rear garden.

The Chairman asked if the Planning Officer could respond to the points raised. The Planning Officer, SH noted that the change to the parking arrangements was made by the Applicant and that Planners had only spoke in terms of clarity on how the doors would work and that the Applicant had chosen to submit the form presented to Committee.

Councillor J Robinson noted he was sad that there was yet another HMO application for Durham. He asked as regards paragraph 35 of the report, with the previous consent having a parking scheme which had not been implemented and whether for consistency this application should have a similar scheme. The Planning Officer, SH noted it had been a material consideration for that previous scheme, however, the approved plans had not been implemented.

Councillor M Clarke noted the building would benefit from internal refurbishment and that the main issue seemed to be that of parking. He agreed that it would be better if the parking was to the rear of the property, and while potential occupants would not need to rely upon a car given the location, it was still likely that an occupant would have a car and this would increase demand on spaces. Councillor M Clarke noted the proposed tandem garage arrangement had the potential for arguments and noted a national average of 46.8 percent of students owning a car, yet the eight bedroom proposal only had provision for two car parking spaces. He added that this did not take into account potential visitors to the property and that any tenancy agreement, even with a local agent engaged, was not a "policing agreement". He concluded by noting he was minded to agree with the concerns raised by local residents.

Councillor O Temple noted he would propose that the application be refused on the grounds the application was contrary to Policies Q1 and Q2, being of poor design, in relation to the bin store and means of placing bins out for collection.

The Solicitor – Planning and Development, Neil Carter noted that the main issues raised seemed to relate to the proposed parking arrangements and how this would also have a knock-on effect in relation to how bins could be presented for collection. He noted that this was not in relation to saved Policy T1 and added that if the garden was allocated as the parking for the development, it would not be possible to force the occupants to use it as such, similar to the extant permission not having this, and with occupants still having the option to utilise the garage space, still causing the issue in terms of bin movement as discussed.

Councillor O Temple noted that if there were not the parking to the rear, then there would not be the option to use it. He asked why not apply a reasonable approach and approve amenity for the occupants and residents nearby by removing the tandem garage use and have the rear garden used for parking.

The Solicitor – Planning and Development reiterated that the previous use as a hairdressing training centre had not developed the rear garden for parking, a breach of their permission, a separate enforcement issue. He added that if the application was revised as suggested, there was still the potential for the same issue to arise.

He noted he was simply querying the sustainability of a refusal reason on that basis, however, this could be an aspect Members wished explored and may wish for a deferment to allow this to take place.

Councillor O Temple proposed the application be deferred, he was seconded by Councillor M Clarke.

RESOLVED

That the application be **DEFERRED**.

b DM/18/03100/OUT - Land to the West of Eden Cottage, Station Town

The Senior Planning Officer, Paul Hopper, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. It was noted the proposal was an outline application for residential development comprising 4 dwellings with all matters reserved and was recommended for refusal.

The Senior Planning Officer noted the application had been brought to Committee at the request of Local Members, with the current application being a resubmission of a previously withdrawn application, albeit with an amended indicative site layout plan and a reduction from six dwellings to four. The Senior Planning Officer noted that the area of land was a narrow parcel, bordered by open space, with residential properties at either end of the parcel. He noted the site currently displayed a number of uses, including agricultural use, livestock on site together with a variety of boundary treatments in use. Members noted the C22 road running alongside the site, linking Station Town and Wingate to Hutton Henry. It was explained to the Committee that there were a number of timber sheds on the site, together with two caravans. The Senior Planning Officer reiterated that the application was outline, with all matters reserved, however, the indicative layout of four properties all showed individual access on to the C22. He added that the supporting information with the application suggested that the properties would be bungalow style properties.

In terms of representations, the Senior Planning Officer noted no objections from the Highways Section and similarly no objections from the majority of the internal consultees, subject to conditions and an appropriate Section 106 Legal Agreement. Members noted that the Council's Landscape Section had raised objections to the application on the basis that they felt the proposals would have substantial adverse impact of the landscape and visual impact in a "DCC Landscape Improvement Priority Area" where the aim of spatial policy was to "restore and enhance".

The Senior Planning Officer noted that there had been no objections from members of the public and in this case Paragraph 11 of the National Planning Policy Framework (NPPF) was engaged, with there being a balance test applied, with a presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. He explained that the Landscape Section noted that the proposed development would adversely impact in terms of further erosion of the rural character of the area and would represent a degree of coalescence between the settlements of Station Town and Hutton Henry that was not acceptable. Officers felt that on balance the limited benefits of the development in terms of housing supply and jobs was outweighed by the adverse impacts and set out by the Landscape Section and therefore the application was recommended for refusal.

The Chairman thanked the Senior Planning Officer and asked Councillor R Crute, Local Member, to speak in support of the application.

Councillor R Crute noted that he and his fellow Local Member supported the application and noted that there had been no objections from residents or any Council Department other than the Landscape Section. He noted that the objections were in terms of "loss of views" and felt that there were three issues: whether it was a significant loss; whether there was coalescence between Station Town and Hutton Henry; and whether the development was sustainable, with if the latter was the case then the NPPF states that consent should be provided without delay.

In relation to the views, Councillor R Crute noted that many were partially obstructed by a hedge and that the vast majority of those passing the site would be doing so by car. He explained it was not a route frequently used by pedestrians and the lack of any objections from the public was evidence of this.

In respect of the possible coalescence of Station Town and Hutton Henry, Councillor R Crute noted that this was in fact not the case, noting that the development was in fact in-fill development within Station Town, as the property adjoining the site and several beyond that as you moved along the C22 towards Hutton Henry were in fact all within Station Town. He gave the example of the Station Town Parish Hall and Cemetery being further along the C22 towards Hutton Henry than the application site. He reiterated that the development did not represent coalescence, rather was within Station Town.

In terms of the sustainability of the site, Councillor R Crute referred to paragraph 45 of the Officer's report, which set out the case for the site being sustainable with local shops and services nearby and bus stops providing transport links.

Councillor R Crute felt that the application should be approved as: it did not represent a significant loss of views; did not constitute coalescence as all the proposed development was within Station Town; and the application was considered sustainable and the NPPF noted that such development should be given consent with delay. Accordingly, Councillor R Crute urged the Committee to consider granting consent and allow the development to go ahead.

The Chairman thanked Councillor R Crute and asked the Committee for their comments and questions on the application.

Councillor J Clark noted the parts of the NPPF that supported the application and reiterated Councillor R Crute's comments in terms of the site being wholly within Station Town. She noted Part 6 of the NPPF in relation to a strong economy, Part 8 in relation to healthy communities; and Part 12 in terms of achieving well designed places. She added that Station Town had a large proportion of ex-mining stock housing and ex-Local Authority properties and the proposals within the application would help to add to the housing diversity, giving a boarder housing mix. Councillor J Clark added that the Officer's report set out at paragraph 17 of the report, saved Local Plan Policy 1 from the Easington District Local Plan which noted that account would be taken in terms of sustainable development while benefiting the community and local economy. She noted that such development was needed in the area and supported the approval of the application.

Councillor M Davinson noted that he did not agree with Landscape Officers, with his opinion that the current condition of the site was such that it was a blight and that he did agree with Councillor J Clark and seconded her motion for approval.

Councillor J Robinson support the comments of his fellow Committee Members and questioned the statement at paragraph 64 of the report relating to a sum to ameliorate in terms of landscape concerns, and why this was for Castle Eden.

Councillor D Brown noted that having visited the site he felt that it was common sense in his opinion that the application would enhance the area and would not destroy views.

The Chairman asked the Senior Planning Officer and Solicitor – Planning and Development to respond to the points raised by Committee Members.

The Senior Planning Officer noted the commuted sum in relation to Castle Eden Walkway was in relation to ecology impact, not landscape impact. He added that in terms of the site appearance and tidiness, there were separate policies in terms of untidy land and that as such mechanisms were in place there was not a need to redevelop land in order to tidy a side.

The Solicitor – Planning and Development noted the proposal which had been seconded and suggested that this would also include delegated authority to the Planning Officer to provide and appropriate suite of conditions and a relevant Section 106 Legal Agreement as discussed at paragraphs 64 and 66 of the Officer's report relating to ecology and the Heritage Coast Management Plan.

Councillor J Robinson suggested that the delegation be to the Planning Officer in consultation with the Chairman of the Committee. Councillors J Clark and M Davinson agreed.

RESOLVED

That the application be **APPROVED** subject to a suite of conditions and s106 Legal Agreements to be delegated to the Planning Officer, in consultation with the Chairman of the Committee.

c DM/18/03366/FPA - 8 The Hallgarth, Durham

The Planning Officer, Jennifer Jennings, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer, JJ advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for a 2 storey extension at rear of C4 property, including internal alterations and was recommended for approval, subject to conditions.

The Planning Officer explained that there was already an existing permission and use in terms of the property being a HMO and Members were shown proposed elevations and noted similar extensions to nearby properties within the area. She explained that there had been no objections from Northumbrian Water or the Highway Authority to the application. Members noted there were objections raised by the City of Durham Parish Council including in terms of how the application related to the Council's Interim Policy on Student Accommodation, with a representative from the Parish Council being in attendance to address the Committee.

The Planning Officer noted that there had been no objections from internal consultees, however, Spatial Policy had commented in terms of the student density in the area being 36.5 percent, therefore creation of additional bed space would be contrary to the Interim Policy. It was added that it was also noted that consideration needed to be given to an appeal case at Hawthorn Terrace in January 2017 where a similar proposal was allowed, despite being contrary to the Interim Policy.

The Planning Officer noted that in respect of public representations, there had been objections from the City of Durham Trust and from a neighbouring family as summarised within the report.

The Planning Officer, JJ noted that it was felt that as the application did not represent an increase in number of HMOs as the property already operated as a small C4 HMO and therefore did not run contrary to the principles within the Interim Policy as the housing mix would be unaltered. The recent appeal decision was reiterated and Members were asked to note the recommendation for approval.

The Chairman thanked the Planning Officer, JJ and asked Local Member and Committee Member, D Freeman if he wished to speak first in respect of the application.

Councillor D Freeman noted he was a member of the Parish Council, although he was not a member of the Parish Council's Planning Committee and had not been involved in their decision making or objection to the application as submitted.

Councillor D Freeman noted that the report suggested that the application was for "just one more bed" and therefore would have little impact, however, Members noted that month by month there were applications for "just one more bed" and at the last Committee there had been approval for an additional eight beds within the same area, likely to be let to students. Councillor D Freeman noted within the last year there had been a number of such additions, contrary to the Interim Policy, noting this meant not only the creation of additional HMOs, but also to the creation of additional bed spaces, as stated at paragraph 50 of the Officer's report. He added that the Council created the Interim Policy on top of the statutory provisions of the saved City of Durham Local Plan to stop further "studentification". He noted that in this case the report set out that unfortunately the Interim Policy was not able to stop this. Councillor D Freeman noted the reference to the appeal decision relating to Hawthorn Terrace, however, he felt this was not directly applicable as the area was on the other side of the City and the student density in that area was likely greater than 90 percent, with that being around 35 percent in The Hallgarth, demonstrating there was still a mix of housing use within the area. He noted that each appeal should be looked at on its own merits, as should each application and he felt that the information as set out at paragraph 50 of the Officer's report should be sufficient to refuse the application based upon the Interim Policy.

The Chairman thanked Councillor D Freeman and asked Mr John Ashby, representing the City of Durham Parish Council, to speak in objection to the application, having 5 minutes to address the Committee.

Mr J Ashby thanked the Committee for the opportunity to speak and noted he was speaking on behalf of the City of Durham Parish Council to object to the application to extend an existing HMO at 8 The Hallgarth, Durham City.

He noted that the Applicant suggested that an extension to create just one additional bedroom was so marginal as to be acceptable, with an appeal decision being quoted as evidence. Mr J Ashby noted that, as Members would know, a decision of an Appeal Inspector does not create a precedent and that indeed, the awkward fact was that often one decision apparently contradicts another. He added that Appeal decisions do not change a policy and that line of reasoning must therefore be set aside.

Mr J Ashby explained that the County Council's Interim Policy had been upheld in many appeal decisions and it rightly could therefore be given weight. He added that the key question was whether there were any compelling grounds for making an exception in this case.

Members were asked to note the relevant part of the County Council's Interim Policy on Student Accommodation which stated:

“In order to promote the creation of sustainable, inclusive and mixed communities and maintain an appropriate housing mix, applications forextensions (to HMOs) that result in additional bed spaces..... 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.”

Mr J Ashby noted that the application was for an extension of an existing HMO into the back garden and therefore must be assessed under the above those criteria. He added that according to the County Council's Officers the percentage of properties within 100 metres already converted into HMOs was 36.5 percent, way above the 10 percent threshold and the proposal was therefore contrary to the Interim Policy.

He added that he would add that the extensions on nearby properties pre-date the Interim Policy and so do not assist the application being considered.

Mr J Ashby noted that the City of Durham Parish Council believed that the County Council used its expertise and knowledge in its very careful crafting of the wording of the Interim Policy on HMOs, including what it says about extensions to existing HMOs.

He added that if today the Committee agreed that just one additional bedroom was alright, then why not two or three? He asked where would the new line be drawn. Mr J Ashby noted the Committee would in effect be undoing the meticulous work of its own Officers, and of the Cabinet approval given to that wording. He added that this would mean no-one would know where they stood - residents, developers, professional planners, or legal officers. Mr J Ashby noted that, in particular, Elected Members would find themselves having to operate in a fog of uncertainty if the Interim Policy did not mean what it said.

Mr J Ashby noted that furthermore, the Applicant also sought to establish a threshold of around 70 percent of properties already being HMOs as the limit of trying to maintain balanced and sustainable communities. Mr J Ashby noted that that the Applicant was in effect saying that the area was now too far gone to be worth saving as a community - let it all become just students. Mr J Ashby noted that this was a counsel of despair.

Mr J Ashby explained that in turn this brought in the fundamental question of what is a community. He suggested that it was not properties that make a community, it was the people within them and that although an additional property was not proposed, so the housing mix is not altered, additional capacity of an existing HMO was proposed and this meant a further intensification of the student part of the local community.

Mr J Ashby proposed that the Council's Policy on Student Accommodation had to be about buildings but its purpose was to try to maintain balanced communities. He added that the policy clearly set a 10 percent threshold on HMOs, including extensions in areas at risk of becoming unbalanced. He noted that this clarity was important to uphold so that everyone could understand where they stood.

Mr J Ashby noted that accordingly, the Parish Council urged that the application be refused on the grounds that it was an extension to an existing HMO where significantly more than 10 percent of the properties within a 100 metre radius were already HMOs and was therefore contrary to the County Council's Interim Policy on Student Accommodation.

The Chairman thanked Mr J Ashby and asked Members of the Committee for their comments and questions.

Councillor O Temple noted his focus on paragraph 36 of the report, with the percentages as reported by the Council's Spatial Policy Section. He noted he felt it was clear from this paragraph that the application was contrary to the Interim Policy, however, he felt the issue needed to be further unpacked and for further explanation in relation to the appeal decision relating to Hawthorn Terrace being referenced.

The Solicitor – Planning and Development noted that within that appeal decision, the Planning Inspector had given a guide as to how the Interim Policy should be interpreted. He added that when assessing the application against saved Policy H9 relating to HMOs, which was considered to be afforded full weight, and also the Interim Policy on Student Accommodation, saved Policy H9 was part of the statutory development plan and therefore should be given more weight than the Interim Policy.

Councillor O Temple asked in what way the Interim Policy was in conflict with Policy H9. The Solicitor – Planning and Development noted that the saved policy was more permissive, with the Interim Policy being more specific.

Councillor O Temple noted he struggled with the idea that if an area had “gone beyond a point we gave up” and that he felt it would be illogical as the current student density was 3.6 times greater than the threshold set out in the Interim Policy.

The Area Team Leader (Central and East), Sarah Eldridge noted that the specifics in relation to the Hawthorn Terrace appeal were a two storey extension with an additional three bed spaces. She added that the Inspector had noted that the evidence base that had been used had been for the number of properties and referred to new developments. It was noted the Inspector had added that for extensions to existing properties it was the number of people which was the factor, which was not referred to within the evidence base.

Councillor M Davinson noted that, similar to the application considered at the last meeting of the Committee, he felt that while Members may not wish to have more student accommodation in such areas, the advice from Officers and reference to the Inspector's comments on the appeal regarding Hawthorn Terrace suggested that any refusal would likely be overturned at any appeal. He added that while it was frustrating to Members in respect to the Interim Policy and its application in these cases, on the basis of the Officers report and the debate by Members he would propose that the application be approved as set out within the Officer's report.

Councillor D Freeman noted that Officers seemed to suggest that while the Interim Policy stated the application should be refused, Policy H9 deemed the application to be acceptable. He contended that in fact the application was contrary to Policy H9 in that the amenity of permanent residents would be affected and that direct comparison with Hawthorn Terrace was not possible as the two areas were not the same.

Councillor J Robinson left the meeting at 2.25pm

The Solicitor – Planning and Development noted that Mr J Ashby had noted that a Planning Inspectorate decision was not binding, however, there was a need to give some regard to such decisions. The Solicitor – Planning and Development noted that it was his opinion that if the application was refused on the reasons suggested so far, and in the context of the steer given by the Inspector's decision on the Hawthorn Terrace appeal, it would be a struggle to defend that decision at appeal.

Councillor J Clark noted she agreed with Councillor M Davinson in that it was an awkward position, however, she seconded that the application be approved as per the Officer's recommendation.

RESOLVED

That the application be **APPROVED** subject to the conditions as detailed in the Officer's report.

This page is intentionally left blank

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/03308/FPA
FULL APPLICATION DESCRIPTION:	Change of use from hairdressing training centre to 8 bed house in multiple occupation (sui generis) (amended plan).
NAME OF APPLICANT:	Mrs Leeka Xu
ADDRESS:	35 Front Street, Framwellgate Moor Durham. DH1 5EE
ELECTORAL DIVISION:	Framwellgate Moor
CASE OFFICER:	Susan Hyde Planning Officer 03000 263961

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site forms a two-storey terraced double fronted property with roof lights in the roof space and with an integral garage located with the front elevation fronting Front Street. The location is sited within the local centre of Framwellgate Moor. Attached to the application site to the south is a social club and to the north is a dwelling and then a barber's shop. Across Front Street to the east is Framwellgate community centre and to the rear of the property to the west are residential dwellings accessed from Alexandra Close. The property is currently vacant, and the last use of the building was as a training centre for hairdressing. To the rear of the property is a private grassed and paved area accessed through the property only.

The Proposal

2. This application seeks consent to change the use of the property from the vacant hair dressing training centre to a house in multiple occupation with 8 bedrooms the majority of which have en suite facilities, a communal open plan lounge and dining kitchen on the ground floor. Bedroom accommodation is provided with one bedroom on the ground floor, five bedrooms on the first floor and two bedrooms on the second floor in the roof space illuminated by roof lights. No external alterations or extensions are proposed on the property.
3. **Members will recall that this application was considered at the last meeting of the Central East Planning Committee on 15 January, when it was resolved to defer a decision to enable officers to explore the possibility of including off-street parking as part of the proposal. For ease of reference, this report shows changes from the previous version highlighted in bold text.**

4. **As a result of negotiations with the applicant, the plans have been amended following the deferral of the application at committee on the 15th January to include 4 car parking spaces in the rear garden. These are accessed through the integral garage with the garage doors being operated electronically. Bin storage is shown to the rear of the property. Space is still available in the rear garden for patio furniture and a small amenity area.**
5. The application is before Members at the request of Councillor Mark Wilkes as he was concerned about the impact of the development on car parking in the locality.

PLANNING HISTORY

6. 4/02/00805/FPA - Change of use and conversion of existing dwelling to offices, construction of a pitched roof, two storey side extension, single storey front and rear and erection of detached garages, store and workshop. Approved .
7. 4/05/00294/FPA – Change of use from office to hairdressing training centre – Approved and implemented.

PLANNING POLICY

NATIONAL POLICY

8. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
9. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
10. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
11. NPPF Part 12 Achieving Well-Designed Places - 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.
12. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

NATIONAL PLANNING PRACTICE GUIDANCE:

13. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; and use of planning conditions.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

City of Durham Local Plan

14. *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.
15. *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.
16. *Policy T5 – Public Transport* – The council will encourage improvements to assist public transport services including the provision of suitable facilities and ensuring new development can be conveniently and efficiently served by public transport.
17. *Policy T10 (Parking – General Provision)* states that vehicle parking should be limited in amount, to promote sustainable transport choices and reduce the land-take of development.
18. *Policy T21 – Walking* – states that existing footpaths and public rights of way should be protected.
19. Policies Q1 and Q2 General Principles Designing for People and Accessibility states that the layout and design of all new development should consider the requirements of all users.
20. Policy Q8 Layout and Design – Residential Development sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
21. *Policy H2 – New Housing in Durham City* – comprising windfall development of previously developed land and conversions will be permitted within the settlement boundary so long as it accords with other relevant policies within the plan.
22. *Policy H9 – Multiple occupation / student households* - seeks to ensure that where houses are sub divided or converted to flats, bedsits or multiple occupancy, they do not adversely affect the character of the area, the amenity of nearby residents and the concentration of sub-divided dwellings to the detriment of the range and variety of the local housing stock.

23. Policy S5 – Local Centres - permits the development of new retail facilities where this will not adversely affect the vitality and viability of other local centres, whilst ensuring that it will not lead to the loss of community or recreation facilities or areas which may be required in the future for such uses. Infill or change of use to housing will be permitted provided the supply of land required for shopping or community facilities are not eroded.

24. *Policy U8A – Disposal of Foul and Surface Water* – requires all new development to have satisfactory arrangements for foul and surface water disposal

Interim Policy on Student Accommodation

25. On the 26th October 2016 an Article 4 direction that removed permitted development rights to change from a C3 dwelling to a C4 house in multiple occupation in the Framwellgate Moor Area was confirmed and adopted. Cabinet approved consultation on an Interim Policy on Student Accommodation and the consultation took place during April and May 2017. Responses received during the consultation period were considered and amendments were made to the Policy. On the 11th May 2017, Cabinet recommended that full Council adopt the revised Interim Policy. As the Interim Policy has been adopted, it can be afforded weight in the decision making process, although the weight to be afforded to it must be less than if it were part of the statutory Development Plan for the area.

RELEVANT EMERGING POLICY:

26. Paragraph 48 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

Five Year Housing Land Supply

27. Paragraph 73 of the updated NPPF maintains the requirement for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.

28. Within County Durham all of the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Preferred Options' (June 2018) stage of the emerging County Durham Plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,368 dwellings per annum (dpa). The Council can demonstrate in excess of 6 years supply of deliverable housing land against this figure.

29. Although in a recent written representations appeal involving land to the south of Castlefields, Esh Winning, the Inspector took the view that supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework, the Council's view is that the Inspector applied paragraph 74 prematurely in this appeal because paragraph 74 does not allow for submission of an Annual position statement on 5 YHLS until April 2019 at the earliest. It was therefore impossible for the Council to have such an annual position statement in place at the time of the appeal.

30. To summarise, the Council's position remains that the NPPF has confirmed the use of the standard method for calculating local housing need and as the emerging CDP is aligned with the figure derived from the standardised methodology (1,368dpa), a supply in excess of 6 years supply of deliverable housing can be demonstrated when measured against this.
31. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

- 32. County Highway Officer – Has considered the amended layout plan with 4 car parking spaces to the rear and raised no objection to the proposal.**
33. Environmental Health – Noise. Considers the site is located in a mixed commercial / residential area and therefore raise concerns that the proposed use could be affected by noise transfer from the commercial club next door and to the residential property adjacent to the site. As such a condition is requested that requires details of noise insulation in the proposed dwelling on the walls adjacent to the club and the residential dwelling. The Environmental Health Officer also noted that the property could be let to students which could lead to some anti-social behaviour which could be addressed through other legislation.
34. HMO officer – Provided detailed comments on the standards required for a HMO to be licensed. This application appears to meet these requirements.

PUBLIC RESPONSES:

- 35. The application was advertised by neighbour letters and a site notice and a further letter was sent to neighbours regarding the amended plan following the deferment of the planning application at the 15th January Committee. No further comments have been received and the comments below relate to neighbour responses to the earlier plans.**
36. Objections have been received from three neighbouring properties on Front Street and Alexandra Close on the following grounds:
37. When the hairdressing training centre received consent, it did so with a plan showing car parking to the rear of the planning application site. This parking area was never provided and the access to the car park through the internal garage (with two garage doors) was not of an adequate standard to provide access to this parking.
38. Parking in the area is limited and residents and businesses are already finding parking inadequate in the locality. This proposal will make a poor situation even worse.
39. An 8 bedroom HMO will cause noise and disturbance to neighbours, and neighbours already suffer from noise from the social club and nearby student dwellings.

APPLICANTS STATEMENT:

It is my intention to convert the property to a high standard of student accommodation.

My target students will be New College students, but that wouldn't preclude any other students.

I shall appoint a local agent to manage the property on my behalf.

Each student will be made aware of their duty to behave in a responsible and respectful manner with the local residents.

The national average for students who have cars whilst at University is 46.8 percent. However, there are some colleges where it is extremely uncommon for students to have cars. I am not expecting any more than a maximum of two or three cars using the parking facility.

Please accept this statement in support of my planning application.

PLANNING CONSIDERATIONS AND ASSESSMENT

40. 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 relates to the principle of development, status of the land, use class, the character and appearance of the conservation area, residential amenity, highways and environmental health.

Principle of Development

The Development Plan

41. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out in paragraph 12 of the NPPF. However, the CDLP was adopted in 2004 and was intended to cover the period to 2006 and, whilst the NPPF advises at Paragraph 213 that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF, it is considered nonetheless that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. In such circumstances, paragraph 11 of the NPPF is engaged and the weight to be afforded to existing Local Plan policies should depend upon their degree of consistency with policies of the NPPF.
42. The application site is located in a local centre allocation in the CDLP where policy S5 supports the provision of Class A1 shops, Class A2 service uses and Class A3 (and A4) food and drink establishments. The application site currently does not fall within this range of use classes and has an established use as a D2 training centre with the last previous use for training hairdressers.

43. From the site visit officers consider that the local centre in Framwellgate Moor is doing well with a range of local shops available including a supermarket, chemist, hairdressers etc. The application is located towards the north of the allocated area and has a residential dwelling to the adjoining north of the application site. The supporting text in para 7.39 of S5 in the local plan supports the change of use to housing in such areas provided the development does not erode the supply of land required for shopping or community facilities. In this case the application site was previously a dwelling then obtained consent in 2002 to become an office and in 2005 benefited from consent to form a D2 training centre and so has historically not been in a shop use. Given the size of Framwellgate Moor Local Centre and the range of facilities available within the centre officers do not consider the proposal leads to an erosion of land required for shopping or community facilities within the local centre if the application site changes its use.
44. Part 7 of the NPPF on 'Ensuring the vitality of town centres' supports planning policies to define a hierarchy of town centres – and officers consider that the local centre of Framwellgate Moor defined in the City of Durham Local Plan retains a relevant local centre definition and spatial boundary. Paragraph 85 f) of Part 7 also recognises 'that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.' As such both the NPPF and the Local Plan policy S5 allow residential use within allocated centres.
45. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);
- approving development proposals that accord with an up to date development plan without delay; or
 - where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i) the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development or
 - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
46. Officers therefore consider that the local plan policy S5 in the City of Durham Local Plan is consistent with Part 7 of the NPPF and continue to provide an up to date relevance with regard to the local shopping area in Framwellgate Moor in having a relevant defined centre and allowing housing, where appropriate in the local centre. Accordingly, paragraph 11 of the NPPF is not engaged. As such officers consider that the policy S5 of the CoDLP is consistent with the NPPF with regards to the local centre in Framwellgate Moor as the local shopping area defined is still relevant and with regard to this application both policies allow dwellings providing it is not to the detriment of the local centre. As such the change of use is acceptable in principle.

Locational Sustainability of the Site

47. Paragraph 103 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing significant development on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.

48. In this respect the application site is situated within Framwellgate Moor local centre and is well related to a variety of shops, services, education and employment opportunities and as such, the provision of 1 house in multiple occupation within this mixed commercial and residential area, close to existing facilities is considered to be located in a sustainable location and could be supported in principle subject to assessment against other local plan policies and material planning considerations.
49. In terms of the accommodation offer, the proposals are seeking to convert the building to a house in multiple occupation with 8 bedrooms and shared communal facilities with a shared kitchen / lounge. As the building is for 8 bedrooms the proposal falls within a sui generis use.

Residential amenity and housing mix.

50. In terms of separation distance of new properties in relation to existing properties, guidance within the local plan in policy Q8 indicates that separation distances of 21 metres should be achieved between windows of habitable windows. No alterations are proposed to the fenestrations in the existing property and the proposal meets the minimum standard in Policy Q8 of the local plan.
51. Policy H13 of the CODLP is relevant and 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. The approach contained within policy H13 of the City of Durham Local Plan is considered consistent with the general aim of the NPPF in paragraph 62 to create mixed and balanced communities and as such it remains a relevant policy of the current development plan and as such can be attributed weight accordingly in determination of this application. (For clarity Policy H9 on multiple occupation / student households only related to the subdivision or conversion of houses – and not other types of property).
52. The application site is at the northern end of the allocated local centre in Framwellgate Moor and in a mixed commercial and residential area which is reflected in the attached properties being a working men's club and a dwelling.
53. In addition, the Council's Interim Policy relating to student accommodation is also relevant and addresses both HMO's and new build accommodation. It states that the Local Planning Authority will not support the change of use of properties in instances where there is more than 10% of properties within 100 metres of the site already used as student accommodation. Whilst the Interim Policy has less weight than the saved policies of the City of Durham Local Plan it is nevertheless a material consideration and has been endorsed by cabinet following a 6-week consultation period ending May 2017 and being confirmed in October 2017. The threshold of 10% was derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', 2008 and in this respect is considered up to date and accords with the aims of the NPPF.
54. In terms of applicability of the Interim Policy, the proposed development is a change of use which fits into Part A of the policy. The Interim Policy sets out that 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, then the development will not be permitted. Publicly available information is in the form of a post code map with the relevant % figures shown. However, the County Council also calculates a bespoke 100 metre radius figure from the application site calculated from Council tax exempt data which demonstrates that within a 100m radius of 35 Front Street, 1.8% of properties are student exempt properties as defined by Council Tax records. As the 10% threshold has not been exceeded, the proposed development is consistent with the threshold in the Interim Policy.

55. In addition, the Policy sets out a further 4 criteria in Part A (a) – (e) with (a) – (d) relating to HMO conversions and new build and (e) relating to the change of use to HMO properties only. Going through each of these points in turn it reveals that the level of car parking and turning (a) is considered acceptable (see highway comments below), and sufficient space is provided to the rear of the property for cycle storage (b) bin storage for the conversion can be provided to the rear of the property (c). The proposal does not include any extensions or physical alterations to the existing building (d). No issue has been raised about security of the building (d). Part E relates to the exception to the Interim Policy if the % of student properties in an area is very high. This is not such an area.
56. The application is therefore considered to comply with the Interim Policy on Student Accommodation.
57. With regard to noise and disturbance officers acknowledge that an 8 bedroom house in multiple occupation is likely to have more comings and goings than a usual family house and compared to the last established use for a training centre is likely to have a different pattern of occupation. As mentioned earlier this location is mixed between commercial and residential where there is more noise and comings and goings than an established residential area. The County Councils Environmental Health Officers (noise) have commented that the proposed development will be within an area of mixed commercial and residential use and located between a social club and existing residential property. The proposed use will be residential therefore the use should be compatible to the area. However, the proposed use will be as an HMO and will house no (Sue – was this missed last time?) more than 5 people within the house at any one time. The occupants are likely to be students and therefore the use of the house may differ from permanent residents within the street. This could result in noise being created however this can be controlled using statutory nuisance legislation if required. The same legislation could apply to noise transfer from the social club into the proposed development and between the individual households with this potential noise transfer in mind and the lack of information in the application regarding the upgrading of sound insulation in the property a condition is proposed which seeks an upgrade to the sound insulation between the application site and the social club and between the application site and the adjacent dwelling.
58. Officers therefore consider that subject to a condition regarding sound insulation the proposal is acceptable with regard to its impact on residential amenity for the proposed dwelling and the impact on the existing adjoining dwelling.
- 59. The boundary treatment to the rear of the property is a close boarded fence and officers consider that this is satisfactory. The amended plan includes car parking in the rear garden which will introduce headlights within the rear garden when cars are manoeuvring. Officers consider that the close boarded fence will be satisfactory to reduce the impact of the headlights on the residential amenity of neighbours. The surfacing material is Marshalls driveline permeable block paving in the colour brindle which is considered satisfactory both in terms of appearance and being of a permeable surface to aid sustainable drainage.**

60. The existing dwelling benefits from an integral double (tandem) garage. The amended plan for the planning application proposes the garage is used for access to the rear of the property with electronic garage doors providing ease of access and 4 car parking spaces are provided within the garden area. The agent has annotated that the same materials will run through from the patio area to the parking area and the land is level, allowing enough space to manoeuvre into and out of the parking spaces. The County Highway Officer has raised no objection. It is also noted that the site lies in a sustainable location close to a range of services, schools and colleges and public transport and the County Highway Officer considers the site is a sustainable location.

Comments on the objectors concerns

61. Objectors raised concerns about the planning consent for the previous training centre having been granted consent with car parking to the rear but this parking area to the rear was not implemented. The objector considers the parking area was too difficult to use as it was accessed by two garage doors and was narrow. Officers have checked the planning history, and this is the case that the consent was granted with parking provision to the rear and there is no evidence that the parking had been implemented. Officers have checked with colleagues in enforcement and no complaints seemed to have been made about the lack of parking whilst the hairdressing training salon was in operation. **However, as discussed above, this matter has now been addressed.**
62. Concerns that the mixed commercial and residential use of the area leads to parking being at a premium in the area and the proposal for an 8 bedroom HIMO should include additional car parking. **As discussed above, parking spaces have now been provided within the site.**
63. Concerns that 8 tenants will lead to noise and disturbance with people accessing the property at different times. Officers note that comings and goings to the property will alter from the existing but that the use of conditions will require improved wall and floor insulation which will assist within the house. As the objectors note the area is partly commercial with a social club next door and so there is additional comings and goings in the vicinity currently, officers consider that the additional potential disturbance from the property is not sufficient to warrant a refusal of planning permission.

CONCLUSION

64. This application has been fully assessed and considered in relation to the relevant policies including Q8, S5, T1, T10 and H13, of the City of Durham Local Plan and criteria detailed in the NPPF. In reaching a recommendation on this application, comments submitted with the application have been fully considered along with comments received from consultees and the objectors.
65. The application is submitted for the conversion of a D2 vacant hairdressing training centre to a house in multiple occupation for 8 people with no extensions or alterations to the exterior of the building within the local centre of Framwellgate Moor. Officers conclude that the principle of the change of use is acceptable in this location, that the location is sustainable, and that adequate parking is available for a central Framwellgate Moor site, **taking into account the inclusion of off-street parking to address members' concerns.** Officers consider that the impact on residential amenity is considered acceptable subject to conditions regarding noise insulation.

66. **The application is therefore recommended for approval with conditions, noting that the previous conditions have been amended to require implementation of the car parking scheme and retention of access through the garage.**

RECOMMENDATION

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 and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans and documents:
Site location plan validated on the 08/11/2018
Plans, elevations & site plan, existing & proposed Drawing no.101 Rev H Received 24.01.2019.

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

3. Before any part of the development hereby approved is commenced a scheme of sound proofing measures shall be submitted to and approved in writing by the local planning authority. The scheme shall be to ensure that the noise insulation of walls, and floors between both adjoining properties (dwelling and social club) shall be sufficient to prevent excessive ingress and egress of noise. The approved scheme shall be implemented prior to the first occupation of the development and shall be permanently retained thereafter.

Reason: To ensure satisfactory noise insulation is provided for the benefit of the residents of the proposed dwelling and the existing residents of the adjacent dwelling in accordance with Policy Q8 of the Paragraph 180 of the NPPF.

4. ***Before the building is first occupied for the approved use the car park shall be laid out as shown on the amended plan 101 Revision H received on the 24.01.2019 and shall be retained as such thereafter.***

Reason: To ensure the car parking spaces are available for use by the residents in the interests of pedestrian and highway safety in accordance with policy Q8 and T1 of the City of Durham Local Plan 2004.

5. ***The garage shall be retained for vehicular access to the parking area to the rear only and shall not be used for any other purpose.***

Reason: To ensure the car parking spaces are accessible for use by the residents in the interests of pedestrian and highway safety in accordance with policy Q8 and T1 of the City of Durham Local Plan 2004.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation

City of Durham Local Plan 2004

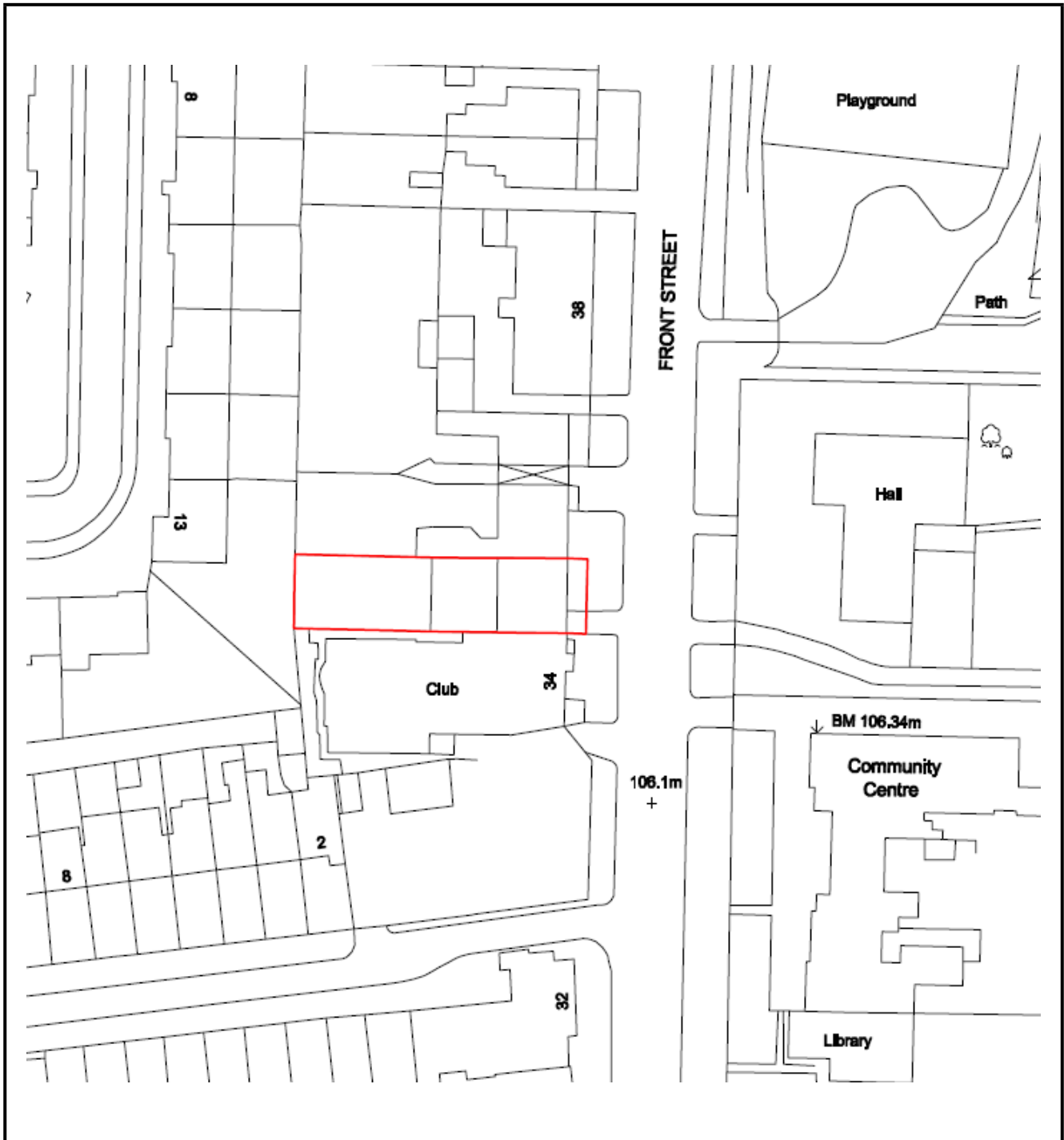
National Planning Policy Framework

Internal consultee responses

Public responses

Responses from statutory and other consultees

National Planning Policy Guidance



Planning Services

Change of use from hairdressing training centre to 8 bed house in multiple occupation (sui generis) (amended plan).

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005

Date
February 2019

This page is intentionally left blank

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/03552/FPA
FULL APPLICATION DESCRIPTION:	Change of use from a C4 house in multiple occupation to a 7 bedroom HIMO with a wrap round extension and internal alterations to existing dwelling (sui generis).
NAME OF APPLICANT:	Hope Estates Ltd
ADDRESS:	51 Whinney Hill, Durham. DH1 3BD
ELECTORAL DIVISION:	Elvet and Gilesgate
	Susan Hyde
CASE OFFICER:	Planning Officer
	03000 263961

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site forms a two storey end terraced property of a group of 4 properties to the east of Durham City in the residential area of Whinney Hill. The site lies within the settlement boundary and the City of Durham Conservation Area. Whinney Hill is an elevated street rising from the north at its junction with Old Elvet and Green Lane. It is characterised by inter-war houses originally local authority stock providing accommodation for prison officers at Durham Prison. They are arranged in groups of four either lining the main street or in short cul-de-sacs which is the case on this application. No. 51 is located at the head of a cul de sac with the front elevation facing the road, the side facing a footpath and the rear elevation facing onto an unmade track. The property is currently occupied as a C4 house in multiple occupation and benefits from gardens on three sides. A pedestrian right of way is located adjacent to the side garden linking the cul de sac with the track to the rear and Hallgarth to the north. Impressive views of Durham Cathedral can be gained from the rear elevation of the property.

The Proposal

2. This application seeks consent to change the use of the property from a C4 house in multiple occupation with 6 bedrooms to a 7 bedroom house in multiple occupation that falls within a sui generis use class. Extensions are proposed with a two storey extension on the side and rear elevation that wraps round the property and a further single storey extension to the rear. The additional floor area of the extensions almost doubles the floor area of the existing property. Bedroom accommodation is proposed to be provided with two bedrooms on the ground floor and 5 bedrooms on the first floor. The design of the extension shows a pitched roof adjacent to the eaves that then changes to a flat roof before it joins the host property (mansard roof).

3. The application is before Members at the request of Councillor Freeman and the City of Durham Parish Council as they are concerned about the impact of the development on the locality from the intensification of student use and from the scale, design and appearance of the extension in the Conservation Area.

PLANNING HISTORY

4/06/00528/FPA - Land at 50 – 51 Whinney Hill – Erection of 2 no. dwellings refused planning permission.

PLANNING POLICY

NATIONAL POLICY

4. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
5. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
6. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
7. NPPF Part 12 Achieving Well-Designed Places - 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.
8. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
9. NPPF Part 16 Conserving and Enhancing the Historic Environment - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<https://www.gov.uk/guidance/national-planning-policy-framework>

NATIONAL PLANNING PRACTICE GUIDANCE:

10. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; and use of planning conditions.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

City of Durham Local Plan

11. *Policy E3 World Heritage Site – Protection* – Durham Cathedral and Castle WHS and its setting will be protected by restricting development to safeguard local and long distance views to and from the cathedral and castle and peninsula and seeking the conservation and management of buildings which make up the WHS and its setting.
12. *Policy E6 Durham City Centre Conservation Area* – states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character
13. *Policy E21 – Conservation and Enhancement of the Historic Environment* – states that the historic environment will be preserved and enhanced by minimising adverse impacts by development proposals.
14. *Policy E22 – Conservation Areas* – seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
15. *Policy E23 – Listed Buildings* – The Council will seek to safeguard listed buildings by not permitting development which detract from their setting.
16. *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.
17. *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.
18. *Policy T5 – Public Transport* – The council will encourage improvements to assist public transport services including the provision of suitable facilities and ensuring new development can be conveniently and efficiently served by public transport.
19. *Policy T10 (Parking – General Provision)* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
20. *Policy T21 – Walking* – states that existing footpaths and public rights of way should be protected.
21. Policies Q1 and Q2 General Principles Designing for People and Accessibility states that the layout and design of all new development should take into account the requirements of all users.
22. *Policy H9 – Multiple occupation / student households* - seeks to ensure that where houses are sub divided or converted to flats, bedsits or multiple occupancy, they do not adversely affect the character of the area, the amenity of nearby residents and the concentration of sub-divided dwellings to the detriment of the range and variety of the local housing stock.

23. *Policy U8A – Disposal of Foul and Surface Water* – requires all new development to have satisfactory arrangements for foul and surface water disposal.
24. *Policy Q5 – Landscaping – General* – requires all new development which has an impact on the visual amenity of the area in which it is located to incorporate a high level of landscaping in its overall design and layout.
25. *Policy Q9 – Alterations and Extensions to Residential Property* - The design, scale and materials are sympathetic to the main dwelling and the character and appearance of the area. Wherever possible the alteration or extension incorporates a pitched roof, the alteration or extension respects the privacy of adjoining occupiers of the property and the alteration or extension will not create a level of multiple occupation.

Interim Policy on Student Accommodation

26. On the 17th September 2016 an Article 4 direction that removed permitted development rights to change from a C3 dwelling to a C4 house in multiple occupation in the Durham City Area was confirmed and adopted. As the Interim Policy has been adopted, it can be afforded weight in the decision making process, although the weight to be afforded to it must be less than if it were part of the statutory Development Plan for the area.

RELEVANT EMERGING POLICY:

27. Paragraph 48 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at

<http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

28. County Highway Officer – The development sits within the Council's Controlled parking zone and no additional parking permits would be issued to permit residents to park on street within the zone. It is therefore unlikely any increase in car ownership will result from the increase in size. I would not object to the proposal from a highways perspective.
29. City of Durham Parish Council – Raise concerns about the increase in the number of bed spaces being contrary to the Interim Policy on Student Accommodation as the % of students in the area is over 50%. They raise concerns about the impact on local residents, bin storage and cycle storage.

Consultee Responses

30. Environmental Health – Noise. Considers the site is located in a residential area and although the proposal is not likely to create a statutory nuisance and he does not raise an objection he does raise concerns that the increase in number of 'additional households' with the separate bedrooms will lead to additional noise and disturbance through the party wall and more comings and goings to the property, and increased congregation outside the property which will have an increased impact in this location as the property is sited at the head of a cul de sac.

31. HMO officer – Comments have not yet been received at the time of preparing this report. The committee will be advised of any comments received prior to the meeting.

PUBLIC RESPONSES:

32. The application was advertised in the local newspaper, by neighbour letters and a site notice.

33. Objections have been received from the City of Durham Trust, Whinney Hill Residents Group and from 3 local residents on the following grounds:

34. An adjoining neighbouring property at no. 52 objects as the level of noise and disturbance is already high and this proposal will make the situation worse. The extensions will block light into his property, affect access to his rear yard and detract from his residential amenity.

35. Parking is already difficult in the area and additional people will make this worse with more supermarket and other deliveries even if the students do not have a car.

36. The extensions are out of keeping with the property and will detract from the appearance of the conservation area.

37. The addition of further student bedrooms – even if it is one additional bedroom – impacts on residents from more comings and goings especially late at night, more students congregating, more noise and disturbance, more impact on parking and deliveries.

38. The garden area is currently used partly as an off road parking space for students / visitors. The loss of the parking space will displace more cars onto the crowded street.

39. The resident's association has raised concerns that the applicant is not honourable and is flouting planning legislation in the locality advertising a C4 house in multiple occupation for 7 students (evidence provided). They therefore raise concerns that such a large extension is likely to lead to more bedrooms than that shown on the submitted plan as the internal floorspace can accommodate more than one additional bedroom.

APPLICANTS STATEMENT:

This application is for an extension to an existing 6 bed student HMO property. The property has been used for student accommodation for some time before the article 4 deadline was introduced and that has been established by the supply of previous tenancy agreements. The application will take the unit from 6 beds to 7 beds and thus comes under a Change of Use from C4 to Sui Generis.

Recent New Licensing requirements for two storey HMO units have brought about a re-inspection of existing HMO's that previously did not need licences and Environmental Health Inspections by the HMO teams. This coupled with the desire of students for higher quality accommodation has brought a number of Landlords to consider their existing housing stock rather than look to convert new units.

To improve the provision of accommodation given to the occupants the client looks to expand the bedroom sizes beyond the minimum required and provide better shared amenity within the dwelling and thus an extension is proposed that raises the unit from currently 6 bedrooms to 7 bedrooms, a modest increase.

This increase in bedrooms will not give rise to a noticeable increase or intensification of student housing in the area as the house is already used as C4 and only a modest increase in one bed space provision is proposed. The proposals will not change the total percentage of student properties in the area under the interim policy thresholds as it is already used for student accommodation purposes. In addition the interim policy is not part of the adopted development plan and therefore less weight must be afforded to it as a result. Therefore the proposals would not result in an adverse impact on the overall range and variety of the local housing stock of the area and will not cause further detrimental harm or conspicuous concentration.

The proposals are not contrary to the aims and objectives of the interim policy which seeks to maintain an appropriate housing mix by assessing the change in the percentage of housing in student accommodation within a 100 metres radius. The addition of one additional bed space to an existing C4 property does not undermine this principle.

A recent appeal decision (reference APP/X1355/W/16/3160444) for a two storey rear extension of a class C4 HMO to provide 3 additional bedrooms at 40 Hawthorn Terrace, Durham, considered the issues associated with the creation of additional bedrooms within established HMOs and whether such development is considered to conflict with the Interim Policy. The Inspector found that within the Interim Policy there is no explicit reference made on how to address extensions to existing HMOs against the 10 per cent tipping point. This would suggest that the Council has essentially sought a moratorium on extensions to HMO properties within the Durham City area where the majority of residential areas are in excess of 10 per cent HMOs. The Inspector considered that such a stance would be at odds with the more permissive approach of saved Policy H9 of the local plan. The Inspector further commented that the provision of additional bed spaces to an existing HMO in an area where more than 10 per cent of properties within 100 metres of the appeal site are in use as HMOs would not result in an adverse impact on the overall range and variety of local housing stock in the area. On this basis, the Inspector allowed the appeal.

The property has a large remaining garden that will be used for external amenity, but will also have areas for the refuse bins and the provision of cycle storage as required. The property is in an area of resident only parking restrictions and permits and this will equally apply to the residents of this property. The house will remain with one permit and any other additional parking will be in the on street paid bays as used by all residents.

The design of the building matches that of other similar side extensions in Whinney Hill when especially viewed from the front main elevation, the main elevation in the public realm. Being a corner plot the dwelling is somewhat unusual in Whinney Hill in having a larger side and rear garden. This side and rear garden has not direct overlooking and remains well within the spatial standards set by the council. This larger than normal corner plot affords the dwelling the opportunity for a wraparound extension without the normal privacy issues

The property will be fully managed by Harrington's a specialist student accommodation agent who have a wealth of experience dealing with issues around antisocial behaviour and include such policies in their tenancy arrangements and these will be monitored and enforced.

Harringtons is 3 a minutes' walk away at 30 New Elvet. Harringtons have a full time maintenance man and have a 24 hour mobile telephone number answered physically by the maintenance man himself. This property as with all new Hope Estates properties will be in the Durham Student Approved Housing Scheme. Harringtons undertake quarterly property inspections and also aim to be on very good terms with all neighbours, both local and landlord/student. As a local agent they aim to support the local environment for everyone and come down as hard as they can on the rare times the students misbehave.

All Harringtons houses require their student tenants to have parental guarantors who we also call if there are problems with neighbours, which are incredibly rare. They also have contact numbers for all the local college reps as well as the Durham University Community Liaison Officer and the Durham Constabulary's Police University Liaison Officer to make sure that pressure is put on the students to behave in every way possible. They also give these last two contact details out to any neighbour who complains, so they have direct access to this information too. They also send the students Moving In letters with a large amount of information on how to live in a house and the local environment including what days to put the bins out etc. and also send the students Moving Out letters which explain how to dispose of your rubbish at the end of the tenancy.

40. 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 relates to the principle of development, impact on the residential amenity and concentration of students, design, the character of the surrounding conservation area, parking and highway safety.

The Development Plan

41. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the CDLP was adopted in 2004 and was intended to cover the period to 2006 and, whilst the NPPF advises at Paragraph 213 that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF, it is considered nonetheless that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. In such circumstances the weight to be afforded to existing Local Plan policies should depend upon their degree of consistency with policies of the NPPF.
42. In consideration of the above, saved policy H9 relating to multiple occupation and student accommodation is directly relevant to the proposal as it deals with alterations and extensions to existing properties already in HMO use. This policy is considered consistent with the NPPF, as it is up to date and not time limited and can therefore be afforded full weight in the decision-making process. Paragraph 11 of the NPPF is not engaged.
43. Policy H9 of the City of Durham Local Plan states that proposals to extend or alter properties which are already an established HMO use class will be permitted provided that there is adequate parking, there is sufficient privacy and amenity areas for occupiers, the proposal would not adversely affect the amenities of nearby residents and the extension would be in scale and character with the host dwelling and surrounding area. Policy H13 seeks to ensure that the character of residential areas is protected and that permission is not granted for development that adversely affects the character or appearance of residential areas, or the amenities of residents within them. The approach contained within policy H13 of the City of Durham Local Plan is considered consistent with the general aim of the NPPF in paragraph 62 to create mixed and balanced communities and as such it remains a relevant policy of the current development plan and as such can be attributed weight accordingly in determination of this application. The various points within Policy H9 and H13 are covered in the relevant sections of the report below.

Impact on residential amenity

44. Local plan policy H9 states that extensions should not adversely affect the amenities of nearby residents. The dwelling is already an established C4 use and the proposal to increase the number of bedrooms from six to seven moves the property out of a C4 use class into a sui generis use. Residents have raised a concern that the amount of floorspace proposed to be added to the property is much larger than would be required for the addition of one bedroom and have noted that the applicant has amended the internal floor plan on other properties in his ownership to gain additional bed spaces. Officers acknowledge this point and note that the floor area for the bedrooms / communal rooms is larger than the minimum HIMO guidance. In addition, the proposed extensions almost double the internal floor area of the existing host property. Officers consider that the internal floor plan could be amended to provide additional bedrooms with the existing fenestrations as proposed and that such an alteration may not require any additional planning consent as the works would be internal and the proposal would be retained in the same use class. As such officers consider the quantity of floor space created by the proposed extension is a material consideration and it is material that the property can be occupied by more than 7 people within the sui generis use class.

45. It is accepted that occupants of HMOs differ in their activities and general movements from that expected of family homes, and depending on individuals involved, these activities can cause levels of disturbance that create negative impacts on non-HMO residents. This is particularly from late night noise and more comings and goings and large groups of people congregating outside the property and within. In addition, the HMO properties are often left vacant for long periods of time over the holiday periods – particularly over the summer months when Durham University students have a break of over 3 months which impacts on the sense of community in the locality.
46. Officers consider that this location at the head of a cul de sac where it is a quiet location with non student properties adjacent to the site would be detrimentally affected by the property being extended to fall within a sui generis use for the above reasons. As the neighbour representation letters have explained the existing student property creates noise and disturbance for residents now and any increase in the number of occupants will increase the comings and goings and noise and disturbance. The increase in the floor area of the property provides enough space for more than 7 occupants – which is on a property that originally had 2 / 3 bedrooms. Additional unrelated people are likely to lead to more noise through the party wall with the C3 dwelling, more comings and goings – which is often noticed late at night by residents, more people congregating etc in this cul de sac location.
47. Environmental Health Officers were consulted on the application with regard to noise and they did raise concerns as they considered the proposal relates to a significant intensification of the use of the property. The more 'separate households' within a single property the greater the likelihood of noise arising. This relates to noise from occupiers using the property breaking through the party wall, noise from occupiers and visitors attending/leaving the property and an increased potential of noise break out from increased activities associated with larger groups. Due to the demographic of likely occupiers being students the likelihood of late-night noise is also increased. The property is located in a constrained location in close proximity to other properties at the end of a cul-de-sac, and as such, any noise from certain activities is likely to impact on others.
48. The siting and layout of the extensions dissects the existing garden so that the front, side and rear gardens are unconnected and all separate to each other. They would also be of limited size and constrained shape. In addition, the internal layout provides one entrance door only from the front elevation making access to the side and rear gardens inconvenient at best. If occupants wish to access the side or rear gardens they would need to go out of the front door and along the external footpath and have a separate entrance into the side and rear garden. This is not considered to be an appropriate arrangement. Officers are also concerned that this is likely to lead to bin storage occurring on the front elevation (which is the only entrance door to the kitchen etc) to the detriment of the visual amenity of the street scene. It is also of note that the garden areas as proposed are difficult to use and of limited benefit as outdoor amenity areas at a time when the number of occupants within the property increases. The truncated garden is considered to be out of character with the other gardens in the neighbourhood.
49. Officers therefore consider the extension to the property to create a sui generis HMO would be detrimental to the residential amenity of the locality from the increase in number in occupants leading to more comings and goings, and noise and disturbance in a cul de sac location where the majority of the occupants within 100 metres (which is 42.1%) are not registered student houses. In addition, the reduction in the size and availability of use of the garden is considered out of keeping with the locality and is likely to lead to bin storage at the front of the property to the detriment of residential amenity.
50. In terms of the impact of the extension upon neighbouring amenity, from assessing the site, it appears that no. 52 that is the adjoining terrace would be most directly impacted by the extension due to the proposed two storey and single storey extension to the rear of no. 51. It is noted that no. 52 has habitable room windows in the rear elevation at both the ground floor and first floor. However as the 2 storey extension does not extend beyond 1.8 metres the impact on the outlook from the habitable rooms is considered acceptable. The single storey extension extends the extension to 3 metres on the ground floor only.

Some degree of overshadowing will occur as no. 52 is located to the north and some overshadowing will therefore occur in the afternoon and evening. Due to the limited projection officers consider the impact of overshadowing on the habitable room windows and the rear garden space of no. 52 is acceptable. This is particularly as permitted development rights would allow a 3 metre single storey projection to the rear.

51. The impact on the side extension on no. 50 is more limited as this dwelling is detached from the application site and located at right angles to the host property. Number 50 appears to have a conventional floor plan with the main habitable rooms located on the front and rear elevation of the dwelling and the only window facing the application site being a first floor small window that has the appearance of a landing window. So the main issue with the side extension to no. 51 relates to the impact of any first floor rooms overlooking the private garden area of no. 50. The submitted layout for no. 51 shows the side elevation having no habitable room windows at the first floor and one window only to illuminate a hallway. The residential amenity of the neighbours garden is therefore considered to be protected. The windows on the ground floor of no. 50 are into habitable rooms and assessed to be screened from views of the neighbouring garden by existing boundary treatment.
52. In terms of separation distance of new properties in relation to existing properties, guidance within the local plan in policy Q8 indicates that separation distances of 21 metres should be achieved between windows of habitable rooms. No alterations are proposed to the fenestrations in the existing property and the proposal meets the minimum standards specified in the justification in Policy Q8 of the local plan

Interim Policy on Student Accommodation

53. The Interim Policy on Student Accommodation goes further than policy H9 as it states that extensions that result in additional bed spaces will not be permitted if more than 10 per cent of the total number of properties within 100 metres of the application site are already in use as HMOs.
54. When assessed against the Interim Policy, which seeks to curtail extensions and creation of bed spaces, the proposals are contrary, particularly as the percentage of properties within the 100 metres radius of the application site equates to 42.1 per cent. It is noted, however, that the proposed extension would not impact on the percentage of properties in HMO status as the application site already falls within this category. On this basis, the proposal would equate to one additional bedroom creating a 7-bed HMO over a 6-bed HMO and the proposals continues to meet the aims and objectives of the interim policy which seeks to maintain an appropriate housing mix by assessing the change in the percentage of housing in student accommodation within a 100 metres radius. The addition of one additional bed space to an existing C4 property does not undermine this principle. It is also noted that the interim policy is not part of the adopted development plan and therefore less weight can be afforded to it as a result and in the event of conflict with saved local plan policies, those policies must prevail.
55. A recent appeal decision (reference APP/X1355/W/16/3160444) for a two storey rear extension of a class C4 HMO to provide 3 additional bedrooms at 40 Hawthorn Terrace, Durham, considered the issues associated with the creation of additional bedrooms within established HMOs and whether such development is considered to conflict with the Interim Policy. The Inspector found that within the Interim Policy there is no explicit reference made on how to address extensions to existing HMOs against the 10 per cent tipping point. This would suggest that the Council has essentially sought a moratorium on extensions to HMO properties within the Durham City area where the majority of residential areas are in excess of 10 per cent HMOs. The Inspector considered that such a stance would be at odds with the more permissive approach of saved Policy H9 of the local plan. The Inspector further commented that the provision of additional bed spaces to an existing HMO in an area where more than 10 per cent of properties within 100 metres of the appeal site are in use as HMOs would not result in an adverse impact on the overall range and variety of local housing stock in the area. On this basis, the Inspector allowed the appeal.

56. In terms of policy Q9, this states in the justification for the policy that extensions are to appear subordinate to the host dwelling and incorporate pitched roofs wherever possible. The proposed extension would result in an enlarged property which almost doubles the floorspace of the host property. Officers consider that although the front elevation has incorporated appropriate design characteristics the increased scale, siting and design – which includes the use of flat roofs - would appear overly dominant and out of scale and character with the host dwelling. Public views of the property are provided at close quarters from the footpath to the side of the host property and from the rear track and officers do consider that these detract from the street scene and are contrary to Policy Q9 of the City of Durham Local Plan.
57. It is noted that whilst a number of properties have been extended in the locality officers do raise concerns over the scale and appearance of this proposed two storey rear and side extension relative to the host property. Officers consider the front elevation of the extension appears subservient in nature resulting from the in-step in the front building line and lower ridge level. However, the side and rear return elements are less successful as they combine to create a wrap-around two storey extension of high density that officers consider dominates the original building. The roof of the extension is formed from a mixture of a pitched roof at eaves level and flat roof beyond which officers consider is out of keeping with the neighbouring pitched roof dwellings and extensions.
58. Both the side elevation and the rear elevation are visible from public vantage points with a footpath providing pedestrian access adjacent to the side elevation of the host property and an access track to the rear linking Whinney Hill to Hallgarth. The design of the extension from the side and rear provides an extension that both overwhelms the host property from the mass of the extension and the flat roof providing a design form that is both contrary to Policy Q9 and out of character with the host property and the neighbouring properties. Officers also consider the fenestrations that have a horizontal emphasis rather than a vertical emphasis, and having no door to the rear elevation visually moves the building away from appearing 'domestic' to having more of a commercial appearance reflecting the sui generis house in multiple occupation use proposed. This is considered to be contrary to Policy H9 which requires extensions to be 'in scale and character with its surroundings and with any neighbouring residential property', and 'not involve significant extensions having regard to Policy Q9, alteration or rebuilding which would unacceptably alter the character or scale of the original building'. The proposal is also considered contrary to Paragraph 130 of the NPPF which states 'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans..'

Impact on heritage assets and the character of the surrounding Conservation Area

59. Local authorities have a duty to ensure that development either preserves or enhances the character and appearance of the Conservation Area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
60. Policy E6 and E22 of the Local Plan reflect these legislative requirements and are also deemed to be consistent with the NPPF. Within the policies there is a requirement that development be refused where it would detract from the character of the area or the setting of a listed building and that all development should be sensitive in terms of siting, scale, design and materials, reflecting where appropriate existing architectural details. In addition the policy requires that trees, hedgerows, views and undeveloped areas which contribute to the character or appearance of the area should be protected.

61. Whinney Hill is located within the eastern part of the designated conservation area and is an elevated street rising from the north at its junction with Old Elvet and Green Lane. It is characterized by inter-war houses originally local authority stock providing accommodation for prison officers at Durham Prison. They are arranged in groups of four either lining the main street or in short cul-de-sacs, and are typical of designs of the social housing of their time. As such they themselves are of little historic interest or merit architecturally but the plan arrangement and streetscape of the area is positive deriving from the varying topography and layout of housing blocks, the wide verges, street trees, green open spaces, and mature front gardens. These elements combine to great effect to create a public realm of high quality with a distinctly suburban character. Furthermore impressive views of Durham Cathedral can be gained between the houses and above from the rising land to the east.
62. Design and Conservation officers provided comments on the proposals, stating that although the proposed front extension is set down and set back and is subservient to the host property the side and rear elevation are less successful as they combine to create a wrap-around of high density that overpowers the original building. These elements are viewed from a side and rear path only and in this siting the setting of the conservation area and the views of the world heritage site beyond is not detrimentally affected. As such the Conservation Officer has not raised an objection with regard to the impact of the extension on the character of the Conservation Area as the proposal would only impact at a localised level being visible from within the cul-de-sac and from a very small area within The Hallgarth, both modern estates neutral in character. It would therefore not be considered harmful to the special historic and architectural interest, character or appearance of the area underpinning its conservation area status. Due to the property's location at the south end of the block, the extension would not intrude or harm the fine view of Durham Cathedral attainable from the public realm along the main street. As a consequence of the above the development proposal would be considered to comply with the principles of the NPPF Section 16 and local policy E3, E6 and E22.

Highway and access issues

63. The County Highway Officer has raised no objection to the proposal as the site is located in a controlled parking area and no additional parking permits will be provided. The site is located in a sustainable location close to a range of services and public transport and no objection is raised on this sustainable site. The proposal is therefore considered to be in accordance with Policy T1 and T10 of the Local Plan.

Comments on the objectors' concerns

64. Residents concern about the impact of additional noise and disturbance is discussed above in the report.
65. The neighbouring property at no. 52 raised an objection about an access from his property over the rear garden of no. 51 being blocked by the proposed development. Officers consider this is a private legal matter with regard to whether the neighbour has a legal right of access that falls outside planning legislation. It is noted that no. 52 has a rear garden that bounds the rear access track so an alternative route out of his property could be gained.
66. Residents made comments about parking being difficult in the area, the existing garden being used for parking and additional people making the situation worse and more supermarket and other deliveries occurring even if the students do not have a car. As explained above as the site is located in a sustainable location the highway officer does not require the existing parking areas to be retained and as the area is a controlled parking area and no additional parking permits will be provided officers consider that the impact on parking will be minimal. With regard to shopping being delivered to the premises officers consider that whilst this is a temporary occurrence it adds to the impacts on disturbance to residential amenity explained above in the report. Indeed the loss of the parking spaces may lead to more supermarket deliveries etc for existing residents of the host property too.
67. Comments about the design and appearance of the property and its impact on the conservation are discussed above in the report.

68. The possibility of the large floor plan for the extension leading to more than one additional bedroom is also discussed above.

CONCLUSION

69. This application has been fully assessed and considered in relation to the relevant policies including H9, H13, Q9, T1, and T10, of the City of Durham Local Plan and criteria detailed in the NPPF. In reaching a recommendation on this application, comments submitted with the application have been fully considered along with comments received from consultees and the objectors.

70. The application is submitted for the change of use from a C4 house in multiple occupation to a 7 bedroom HIMO with a wrap around 2 storey extension and additional single storey extension to the rear. Officers conclude that the scale and character of the extension is not subordinate to the host property and would involve significant extensions out of scale and character with the host property and the remaining garden is also out of character with the locality. In addition, the change to a sui generis use class with seven or more occupants in the dwelling within this cul de sac location would have a detrimental impact on residential amenity from noise and disturbance from additional comings and goings at unsocial hours, and disturbance through the party wall to the adjoining C3 dwelling. For these reasons officers consider the application is not acceptable and is contrary to Policy H9 and H13 of the City of Durham Local Plan 2004.

71. The application is therefore recommended for refusal.

RECOMMENDATION

That the application be refused for the following reason:

1. The proposed wrap around two storey extension on the side and rear elevation is considered to unacceptably alter the character and scale of the host property with the subdivided garden areas not providing acceptable outdoor amenity space for the occupiers, contrary to Policy H9 and Q9 of the City of Durham Local Plan 2004.
2. The change of use of the property from a C4 dwelling to a sui generis house in multiple occupation would permit 7 or more unrelated people to occupy a terraced property in a constrained cul de sac location to the detriment of residential amenity from additional comings and goings, and noise and disturbance. This is considered to be contrary to Policy H9 of the City of Durham Local Plan 2004.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to refuse the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. Unfortunately, a positive outcome was not achieved on this application. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

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 a C4 house in multiple occupation to a 7 bedroom HIMO with a wrap round extension and internal alterations to existing dwelling (sui generis).

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.
Durham County Council Licence No. 100022202 2005

Date
January 2019

This page is intentionally left blank