



## **Area Planning Committee (Central and East)**

**Date**      **Tuesday 11 July 2023**  
**Time**     **9.30 am**  
**Venue**    **Council Chamber, County Hall, Durham**

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### **Business**

#### **Part A**

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 13 June 2023 (Pages 3 - 18)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central and East)
  - a) DM/23/00700/FPA - Land to the north of 28 North Terrace, Seaham, SR7 7EU (Pages 19 - 46)

Erection of 1 no. 3 storey building comprising of 3 no. units (Use Class E(a), E(b), E(c), E(d), E(e), E(g)(i)) or sui generis (drinking establishment) to ground floor, 1 unit (Use Class E(a), E(b), E(c), E(d), E(e), E(g)(i)) or sui generis (drinking establishment) to first floor and 4 no. residential units (Use Class C3) ancillary to the commercial units to the ground and first floor to the second floor.
  - b) DM/23/01084/FPA - 37 Moor Crescent, Gilesgate Moor, Durham, DH1 1PB (Pages 47 - 64)

Change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including formation of new parking area to front, cycle parking, bin storage and associated alterations.
  - c) DM/23/01173/FPA - 38 Moor Crescent, Gilesgate Moor, Durham, DH1 1PB (Pages 65 - 82)

Change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including formation of new parking area to front, bin storage and associated alterations.

6. Such other business as, in the opinion of the Chair of the meeting, is of sufficient urgency to warrant consideration

**Helen Lynch**  
Head of Legal and Democratic Services

County Hall  
Durham  
3 July 2023

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

Councillor D Freeman (Chair)  
Councillor D Oliver (Vice-Chair)

Councillors A Bell, L Brown, I Cochrane, J Cosslett, S Deinali,  
J Elmer, L A Holmes, C Kay, D McKenna, R Manchester,  
I Roberts, K Robson, K Shaw and A Surtees

**DURHAM COUNTY COUNCIL**

**AREA PLANNING COMMITTEE (CENTRAL AND EAST)**

At a Meeting of **Area Planning Committee (Central and East)** held in the **Council Chamber, County Hall, Durham** on **Tuesday 13 June 2023** at **9.30 am**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

Councillors D Oliver (Vice-Chair), A Bell, L Brown, I Cochrane, M Currah (substitute for J Cosslett), S Deinali, J Elmer, L A Holmes, R Manchester, I Roberts (substitute for D McKenna), K Robson, K Shaw and A Surtees

**Also Present:**

Councillors R Ormerod and M Wilkes

**1 Apologies for Absence**

Apologies for absence were received from Councillors J Cosslett, D McKenna and C Marshall.

**2 Substitute Members**

Councillor I Roberts substituted for Councillor D McKenna and Councillor M Currah substituted for Councillor J Cosslett.

**3 Minutes**

The minutes of the meeting held on 9 May 2023 were confirmed as a correct record by the committee and signed by the Chair.

**4 Declarations of Interest**

Councillor J Elmer declared an interest in Item 5b, noting he was Local Member and had called the item to Committee. He explained he would speak in objection to the item and leave the meeting during the consideration thereof.

Councillor L Brown noted she added that she was a member of the City of Durham Trust, however she was not a Trustee and had not been party to their submissions in objection to applications on the agenda. The Chair, Councillor D Freeman noted he too was a member of the City of Durham Trust, however he was not a Trustee and had not been party to their submissions in objection to applications on the agenda.

## **5 Applications to be determined by the Area Planning Committee (Central and East)**

### **a DM/21/02982/FPA - Sunridge Farm House, Thornley, Durham DH6 3EE**

The Principal Planning Officer, Leigh Dalby 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 Principal Planning Officer 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 agricultural to off road motorcycle training centre, with creation of motor track and was recommended for refusal.

The Principal Planning Officer asked Members to recall that the application had originally been deferred at the Committee's meeting of 12 July 2022, to allow for further information as regards noise, transport and business issues to be brought forward, as well as to allow a site visit to take place. He added that there had been 33 letters of objection to the application and five letters of support, as summarised within the agenda papers. The Principal Planning Officer noted that while some aspects of the application were acceptable, Officers felt that the proposed use, in such a rural setting, impacted on the tranquillity and amenity of the area and relied upon unsustainable modes of transport.

The Chair thanked the Principal Planning Officer and asked Mr Emery, on behalf of the Applicant, to speak in support of the application.

Mr Emery explained that the point of setting up the facility was to help reduce the number of off-road bikes plaguing the disused railway tracks and village greens within our towns and villages. He understood the point raised in terms of transport to the track being via an unsustainable mode, however, that was a necessity to ensure no one simply rode to the track and gained access. He added that there would be a marshal on the gate, with no bikes were admitted, only those transported in a van or on a trailer.

He explained that there would be an attempt to encourage bikes to be kept on-site, with 10 purpose-built workshop/storage facilities, with a fee of £20 per week, for each of the 10 units, with each unit holding up to five bikes for a total of 50 bikes that would be kept off public roads and from illegal use. Mr Emery noted that in addition to the storage on site, members of the club would have access to workshops and tutorials and lessons. He added that this was all in with the £20 fee, which was for track days once per week, 45 times per year. He added that the operation times would be 10.00am until 4.00pm and that those under 14 years of age would pay £5.

Mr Emery reiterated that the aim was to take bikes out from the community and limit their use to the track. He explained that there would be an ethos created where the members would take pride in their bikes, learn how to work on them, creating a club atmosphere similar to other sporting clubs, such as boxing gyms. He noted that there was noise measuring equipment, and should a bike not pass in terms of decibel levels, then it would not be permitted to be used. He added that there were clip on baffles for use.

Mr Emery summarised that the application included 10 units for storage, car parking, a toilet block, plumbed in and with drainage, first aid facility, member registration and would help suppress motorbike use on the road and encourage use on the track.

The Chair thanked Mr Emery and asked the Principal Planning Officer to respond to the points raised.

The Principal Planning Officer noted that the 10 units did not form part of the planning application and that this was the first Officers had heard in respect of such units, which themselves may require planning permission. Mr Emery noted if retrospective application was required it would be made.

The Chair thanked the Principal Planning Officer and asked the Committee for their comments and questions.

Councillor A Bell noted he felt it was a difficult decision and could appreciate the work the applicant had undertaken. He added that all Members could appreciate efforts to relieve public areas of the plague of illegal off-road bikes and in that respect it was commendable. He noted, however, the location was next to a cemetery and while he had not been able to attend the site visit he asked as the location was being used, how many complaints had been made so far, and asked as regards permitted development rights, and how many days could be operated without permission. The Principal Planning Officer explained that permitted development allowed for use on 14 days per year, however, did not allow for the engineering works that had created the track.

He noted that while the track had been in use there had been some objections to the use, reiterating there had been 33 written objections to the application, while not a lot of objections, there was one objector who contacted when every event took place at the track.

Councillor A Bell asked what day the track operated, he assumed Saturday. The Chair asked Mr Emery to respond, Mr Emery noted that the track operated on Sundays. Mr Emery noted that the cemetery was well screened with trees and bunds created on the track site. He noted the applicant was in contact with the cemetery manager at 8.00am to enquire as regards any funerals taking place, and if so, activity would be shut down 30 minutes before until 30 minutes afterwards. The Chair noted that people visited cemeteries at all times, not just for funerals. The Principal Planning Officer noted that information from Environmental Health showed 13 noise nuisance complaints since March 2023.

Councillor D Oliver asked if there were any similar motorbike tracks elsewhere in the county and whether there was any evidence that such were removing illegal bikes from public roads. He noted that the report from Environmental Health suggested if conditions were in place that they would be sufficient to mitigate statutory nuisance and asked Officers if they were in place would they remove the noise concern or not. The Principal Planning Officer noted there had not been any recent applications for motorbike tracks in County Durham, however, there were a number of historic tracks in the county. He explained that Environmental Health had commented that the noise level of +4dB was not sufficient to harm residential amenity, however, within County Durham Plan (CDP) Policy 10 wider amenity issues were considered and Officers felt that there was potential impact on noise sensitive receptors, so while the residential amenity may not be impacted, other use of the nearby countryside and cemetery was felt to be impacted.

Councillor L Brown asked as regards the members' fee and noted that £20 for use of the track for one Sunday, and £20 for storage may put a lot of people off due to the cost. She also noted that in terms of CDP Policy 29, motocross use was inherently harmful. The Chair asked if Mr Emery could respond. Mr Emery noted that the storage was across 10 units, each holding five bikes, therefore each person would pay £4. He noted around 60 members on a Sunday and noise assessments that were carried out.

Councillor J Elmer noted he had attended the site visit and looked at the proposals. He felt the site was well screened, had several bunds in place as well as a very wide tree belt. He did not however that the cemetery was directly on the side of the site and therefore noise would impact upon the cemetery.

In respect of membership fees, if one was to store one's motorbike on site and attend the Sunday meeting, that would equate to around £100 per month and questioned whether those that would ride motorbikes illegally on public roads would be the type to pay for such a facility. He added that he struggled to see how those type of people would afford the cost, noting perhaps if it was free of charge, else he felt it could be only for the relatively wealthy to use.

Councillor A Surtees noted that she welcomed this type of application, however, she felt that this specific application may not necessarily alleviate the issues associated with off-road bikes. She asked as regards the storage of fuel on the site or whether users would need to travel to the nearby JET petrol station at Wheatley Hill. She noted the use of the cemetery next to the application site and noted that cemeteries were a sanctified place and should be peaceful to allow people to spend time with those they have lost. She added that she felt that it was almost guaranteed that there would be people travelling on motorbikes to the track to use the facility. She added that the turnover of bikes was huge, with any illegal bikes seized and crushed replaced very readily by eBay purchases or other means. She reiterated she did not feel she could 100 percent support the application and asked as regards fuel storage, those turning up already on their bikes, and the interruption to the cemetery.

Councillor A Bell agreed with the issues raised by Councillor A Surtees, however, noted that under permitted development, the issues would be occurring, only on fewer days, and noted whether this was an opportunity to regulate the operation. He asked if it were possible to grant a temporary permission. The Principal Planning Officer noted that permitted development allowed for 14 days for motor events. He added that granting a temporary consent was an option open to the Committee, however, there would need to be justification as such temporary permission was the exception rather than the rule, and timescales in terms of coming back and reassessing.

Councillor A Bell proposed that the application be approved for a period of 12 months, then to be assessed. The Legal Officer (Planning and Highways), Laura Ackermann noted that the application was recommended for refusal by the Officers. Councillor A Bell noted this and noted his motion was as he felt contrary to the Officer's recommendation. The Principal Planning Officer noted that the track had been operating already for two years, though once mitigations were all in place the situation could be assessed after. Councillor A Bell agreed, after 12 months.

Councillor J Elmer noted he supported and would second Councillor A Bell, specifically approval for 12 months and for the situation to be monitored to establish whether there were complaints, and to be in touch with Durham Constabulary to gather feedback in relation to anti-social behaviour and off-road bikes.

He noted they were unlikely to be able to be conditions, however, suggested that such monitoring took place. He added could there be a condition to be in regular contact with the Cemetery Manager.

Councillor A Surtees reiterated she had concerns as regards fuel being transported and noted that a number of complaints were set out within the Committee report, adding that 12 months was a long to see if additional complaints were received. She noted she felt she could not support the application in its current form and noted the complaints received over the last two years. She added she was not convinced that that there would be less in the 12 month period if operating every week, indeed it was likely more complaints would be received. She reiterated that she was not convinced that the proposals would make any difference to the situation in terms of illegal off-road bikes.

Councillor L Brown noted she was quite unhappy in terms of looking for improvement over the 12 months and also was wary as regards the 10 units that may require permission, and the toilet block that also may require permission. Accordingly, she moved that the application be refused as per the Officer's report.

The Principal Planning Officer noted he was not sure at this point whether the 10 units would require permission, and in terms of fuel he had received no details, with no fuel pumps forming part of the application before Members. He reiterated that under permitted development rights, there could be 14 events per year, however, the facility had operated most weekends, and it was reiterated that Environmental Health had received 13 complaints. He asked, should the Committee be minded to approve the application for 12 months, when permission would be granted from, for example 12 months from when works were completed. Councillor A Bell noted he agreed, 12 months from when works were completed.

Councillor K Robson noted all Members were familiar with the problem of off-road bikes in County Durham, and indeed nationally, and therefore he felt that there would be interest in the proposals if they could be shown to have an impact in terms of any reduction in illegal use. The Principal Planning Officer noted he did not have any additional information on such schemes elsewhere, however, information may be able to be gathered should Members be minded to approve for 12 months. The Chair noted that none of the Local Members were in attendance today at Committee.

Councillor A Surtees asked how those riding up to the track would be prevented from accessing the facility and noted she had not noticed a decrease in anti-social behaviour associated with off-road bikes in the east of the County. The Chair asked Mr Emery to respond.



Mr Emery noted that on track days, there would be a Marshal at the entrance and if a bike was ridden up to the entrance it would not be permitted entry. He noted the facility was gated and any such riders would not be able to get past and gain entry and reiterated that bikes would need to be transported in a van or on a trailer. Councillor A Surtees noted she was not convinced.

The Chair noted the motion from Councillor A Bell, seconded by Councillor J Elmer had been for temporary approval for 12 months. The Legal Officer (Planning and Highways) asked Councillor A Bell if the suite of conditions would be delegated to Officers, in consultation with the Chair and Vice-Chair of the Committee. Councillor A Bell agreed.

Upon a vote being taken, it was:

### **RESOLVED**

That the application be **APPROVED** for 12 months, with a suite of conditions to be delegated to Officers, in consultation with the Chair and Vice-Chair of the Committee.

Councillor L Brown asked what the process would be at the end of the 12 month period. The Principal Planning Officer noted that any decision on further permission would be under delegated authority unless the application was called-in to Committee.

#### **b DM/22/03125/FPA - Land to rear of 31A to 33, Lobley Hill Road, Meadowfield, DH7 8RQ**

The Planning Officer, Michelle Hurton 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 advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for a two storey detached 4 bed dwelling and detached double garage with associated external works and was recommended for approval, subject to the conditions as set out in the report. The Planning Officer noted that paragraph 93 of the report referred to the Town and Country Planning (General Development Procedure) Order, however, it should have referred to the Town and Country Planning (Development Management Procedure) Order.

The Chair thanked the Planning Officer and asked Ghulam Kamran, local resident in objection, to speak on the application.

G Kamran thanked the Chair and Committee and explained he was the resident of 31A Lobley Hill Road, the immediate neighbouring property to the application site. He noted he respected the applicant, adding they were a good neighbour. He noted the recent issue in terms of an area of unregistered land that was in use by the occupants of 31 and 32 Lobley Hill Road for 25 years. He noted that on the A690 side of Lobley Hill Road there was limited parking for friends and family to park and the elderly and children used the area at the rear of Lobley Hill Road, not the A690 side at the front. He referred to the turning head mentioned in condition 13 and noted that the turning head would need to be constructed prior to commencement of works on the dwelling and would be retained and be available for use in perpetuity. He noted that the applicant had acknowledged on several occasions that he and residents used the area in question and noted that while beyond the scope of the Committee, he felt it could set a dangerous precedent in respect of other applications.

G Kamran reiterated that 31A and 32 Lobley Hill Road used the area in question and were in a better position in terms of any potential adverse possession claim and explained that he had information within documents from a previous owner of his property in respect of the land. He noted it was not a simple proposal as regards laying tarmac on his land and reiterated that 31A and 32 maintained the area and used it for parking.

The Chair thanked G Kamran and asked Elaine Irving, the applicant, to speak in relation to her application.

E Irving thanked the Planning Officers for their work in relation to the application and noted that the proposals would improve the land and access situation in the area.

The Chair thanked E Irving and asked Councillor J Elmer, as Local Member, to speak in relation to the application.

Councillor J Elmer referred to National Planning Policy Framework (NPPF) Part 15 which noted applications should preserve or enhance the local environment and landscape. He referred to a slide which compared aerial photos from Google maps at different points in time and noted that the older aerial photo showed a high degree of vegetation around the site, including trees and bushes. He noted that the current aerial view showed the site had been cleared, very much thinned, clear felled other than some trees on the boundary of the site, noting a stack of timber on the site. He noted those works had been carried out prior to the application and therefore the assessments carried out by Officer were after the changes to the site. He noted CDP Policy 40 referred to no loss of trees or amenity unless there were demonstrable benefits.

He added that the Council's Arboriculturist had referred to the trimming of trees at the edge of the site and that an application may increase the pressure to prune or remove trees as a result of issues such as leaf drop or unwanted shade. He referred to the proposed site plan and the close proximity to those trees, leading to a high likelihood that they would be pruned.

Councillor J Elmer noted CDP Policy 24 referred to transport infrastructure and noted the points raised by the residents as regards land ownership and the turning head. He noted that residents had used the area for quite some time and asked therefore if it was viable for the applicant to convert, and if there was no turning head it would be difficult and dangerous as vehicles would need to reverse and such was the need that it was conditioned. He noted that he felt the application was invalid in terms of legal challenge to the turning head.

*Councillor J Elmer left the meeting at 10.46am*

The Chair asked the Principal Planning Officer, Paul Hopper to respond to the points raised. The Principal Planning Officer reminded Members that in terms of land ownership issues, Planning was not the arbiter, however, there was the condition within the recommendations relating to the turning head. He added that a Land Registry search showed that part of the site was unregistered, however, the requisite checks were satisfactory in planning terms. He noted that ultimately if the applicant did not have control of the land they would not be able to carry out the works proposed. In terms of the clearing of the site, he noted that this had taken place prior to the application being submitted and added that there was a Tree Preservation Order (TPO) made in 2022.

The Chair thanked the Principal Planning Officer and asked the Committee for their comments and questions.

Councillor A Bell noted he had been unable to attend the site visit and asked for clarification as regards the status of the back lane, whether it was an unadopted track given there were more than six properties. The Highway Development Manager, Phil Harrison noted that it was not maintained at the public expense and noted that it was possible for access to be a private road and that would not be deemed reason to recommend refusal of a planning application.

Councillor A Bell noted that issues relating to the trees had been referred to by Councillor J Elmer and asked if there was anything within the conditions relating to this, such as the protection of roots.

The Principal Planning Officer noted that the proposed position of the dwelling had been moved to be outside of the area where root systems existed and therefore, based on the information from the Council's Arboriculturist, Planning Officers were satisfied. He noted now issues in terms of overshadowing and noted the conditions contained sufficient protections in respect of trees.

Councillor A Surtees asked for clarification on a piece of land that had cars parked on it. The Principal Planning Officer referred to the aerial photograph on the projector screen and highlighted the area in question, noting it fell outside of the red line boundary for the application.

Councillor L Brown noted a number of neighbouring properties surrounding the site and suggested that, should the application be approved, that construction start time began at 8.00am rather than 7.30am to protect residential amenity.

Councillor I Roberts noted she had attended the site visit and noted the area to the bottom of the aerial photograph was being used as a car park and asked if that was the area G Kamran referred to, he confirmed it was.

Councillor A Bell noted it was a difficult application, however, issues of land ownership were outside of the scope of the Committee. He asked if all the requisite notices had been served in respect of the unregistered land, adding if so he would propose that the application be approved as per the recommendation. The Principal Planning Officer noted that the necessary press notices had been completed. Councillor D Oliver seconded the proposal for approval. The Legal Officer (Planning and Highways) asked if that included the proposal from Councillor L Brown in relation to the 8.00am start time for construction. Councillor A Bell noted it did.

Upon a vote being taken, it was:

## **RESOLVED**

That the application be **APPROVED** as per the conditions set out within the report, subject to amendment of the construction hours to have an 8.00am start time.

*Councillor J Elmer entered the meeting at 10.58am*

**c DM/23/00889/FPA - 4 St Marys Close, Shincliffe, Durham, DH1 2ND**

The Principal 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 Principal Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for a two storey rear extension with Juliet style balcony, pitched roof dormer to rear, front porch extension, conversion of garage into storage, external alterations to appearance and installation of solar PV panels to front facing elevation and was recommended for approval, subject to the conditions as set out in the report. The Principal Planning Officer noted a typographical error within the report, noting that the final paragraph 62 should include the word not so it would read '*As mentioned previously, the dormer window is also considered not to be permitted development*'. He explained that such permitted development rights were withdrawn within conservation areas, and this was the case in this instance, therefore requiring planning permission. He noted an update to conditions in terms of a matching brick finish rather than render.

The Chair thanked the Principal Planning Officer and asked Parish Councillor Ann Callaghan, representing Shincliffe Parish Council, to speak in relation to the application.

Parish Councillor A Callaghan thanked the Chair and Committee and explained that while Shincliffe Parish Council reviewed all the planning applications within its area, it only rarely put forward any objections to an application, rather more usually recognising and supporting residents who wished to make improvements to their properties. She noted however, where it was felt there would be an impact upon the conservation area, green belt or residential amenity then the Parish Council would make representations, as in this case. She set out that the two main issues were the development within the conservation area, adding St. Mary's Close an award winning development designed by renowned Architect Donald Insall, and the loss of amenity for neighbours.

Parish Councillor A Callaghan noted that the properties at St. Mary's Close were one of only 11 Civic Trust award areas in County Durham and was the only housing development within those 11. She noted it had been recognised for its openness and low density design, with rectilinear design and leading up to St. Mary's Church. She explained that the proposals within the application did not take those factors into account and noted the applicant had questioned the status of the conservation area.

Parish Councillor A Callaghan noted the status was incontrovertible, noting its boundary flowing along the line of homes and to the boundary of the village and A177. She noted that the proposals would break the roof line of the houses in St. Mary's Close and therefore impact upon the visual amenity of the conservation area and also would not be in keeping with the established rectilinear style and noted other dormer window applications that had been rejected in the area.

Parish Councillor A Callaghan noted that policy relating to extensions was such that they should not impact upon the amenity of neighbouring occupants. She noted the scale of the proposals were disproportionate, representing a 44 percent increase in footprint, where 33 percent was deemed as an acceptable increase. She added that none of the extensions within St. Mary's Close were beyond 3.0 metres, with the proposals being for 4.5 metres. In terms of the brick finish rather than render, she noted this was an improvement.

Parish Councillor A Callaghan noted the Parish Council felt the application was in conflict with CDP Policy 29 and the Residential Amenity Standards Supplementary Planning Document (SPD) as the proposed extension was not sympathetic with the existing buildings and conservation area as a result of the roof design, material, scale and size. She added this also meant the proposals were in conflict with CDP Policy 6. She noted that the recently updated Residential Amenity Standards SPD required that extensions were sympathetic and subordinate to the main dwelling. She added the proposals were not in accord with NPPF Part 12 in terms of sustainability and conserving of the character of the conservation area. She noted previously Planning Officers had ensured scale and proportion, citing examples at numbers 10 and 28 St. Mary's Close.

In reference to loss of amenity for neighbouring residents, Parish Councillor A Callaghan noted the proposals would be overpower and dominate neighbouring properties and shade the garden of neighbours, impacting upon their residential amenity. She added the proposed Juliet balcony and window would look directly into 5 St. Mary's Close, a considerable loss of privacy. She added that two of the three proposed windows were unobscured glass and gave views into 3 St. Mary's Close, in conflict with national and Council guidelines referring to 21 metres between windows of habitable rooms. She added that should Members be minded to approve the application, she felt that obscured glazing should be used in all windows.

Parish Councillor A Callaghan noted that the application was in conflict with CDP Policy 31 in terms of the proposals representing a visual dominance and loss of light that would not be mitigated and therefore should not be permitted. She reiterated that the proposals were also in conflict with CDP Policies 6 and 29, as well as NPPF Part 12.

She reiterated that Shincliffe Parish Council supported development to properties in the Parish, however, they must abide by the appropriate policies in place. She noted the Parish Council would work be happy to work with the applicant to help with proposals that would meet their needs.

The Chair thanked Parish Councillor A Callaghan and asked Christine Warburton, local resident, to address the Committee.

C Warburton thanked the Chair and Committee and explained she was putting forward the views on behalf of herself, resident of 3 St. Mary's Close, and of the resident of 5 St. Mary's Close, Anne Stark.

She noted the proposals were not consistent with other granted permissions for extensions, such as that approved in 2021 for an extension at 28 St. Mary's Close. She noted that extension had been developed with a sympathetic design, however, the proposals for 4 St. Mary's Close and Officer's report either rejected or ignored the concerns of residents. C Warburton noted the scale of the proposals, being 3.5 metres in size, with a maximum height of 6.5 metres and explained this represented over 40 percent increase in comparison to the host building. She added this would present a visually dominant addition to the area and due to its orientation, would block garden sun to neighbouring properties.

C Warburton explained that there would be loss of privacy, given the floor to ceiling glazing, and with two obscure glazing windows to be replaced by a balcony window. She noted paragraph 52 of the report stated '*...sufficient areas of adjacent gardens would remain unaffected*', however, she noted it would result in a loss of privacy not only in the garden, but also in terms of her kitchen reiterated that the proposals would have an overbearing impact upon her and her neighbour's property. She noted the removal of a garage and siting of the extension closer to her property, adding the visual dominance could not be ignored. She noted the applicant stated that the application was small, however, the proposals represented around 8 metres by 3.3 metres.

C Warburton noted that the application was not in accord with CDP Policies 6, 29 and 31 and Part 12 of the NPPF. She added she felt Planners had not considered the designated status and added that other garages on the Close had not been developed in such a manner and other extensions had been developed in sympathy with the area. She noted that she understood the desire to improve one's property, however, any development must respect the design of the area and the residential amenity of neighbours.

The Chair thanked C Warburton and asked the Committee for their comments and questions.

Councillor L Brown asked if the Design and Conservation Team were aware of the award status of St. Mary's Close. The Principal Planning Officer noted that there were, at very least through the representation made by those in objection. Councillor L Brown asked if they had been aware at the time of their consultation response to the application. The Principal Planning Officer noted that they were.

Councillor K Shaw noted the reference made by objectors to visual amenity and impact upon the conservation area and asked if there was a conservation area management plan in place. The Principal Planning Officer noted he was not aware of such a plan.

Councillor J Elmer noted the change to brick rather than render, adding he felt that was a positive step. He noted however, listening to the comments from the Parish Council and residents he felt split in terms of the application. He noted it was important for the Committee to pay heed to those comments, though noted he felt that the proposals while not impacting the conservation area, did impact upon residential amenity. He noted it was finely balanced, however, he felt support for those local residents.

Councillor A Bell noted the points raised by the Parish Council and asked for further comments from Officers on those issues. The Principal Planning Officer noted that the refusal of a dormer window referred to related to a property within the green belt, refused on that basis. In terms of the size and being 'disproportionate', reference had been made to a desired extension size of 33 percent. He noted that while some Local Authorities referred to such a percentage, it was not included within the CDP and each application would be judged on its own merits. He noted that Design and Conservation had been happy the proposals represented a neutral impact and Planning Officers had attached weight to their response.

Councillor D Oliver noted he felt similarly torn, as Councillor J Elmer had noted. He added that, while understanding the comments from the Parish Council and residents, he felt the comments from the Officers tipped the balance in his opinion.

Councillor L Brown asked as regards any construction management plan, noting the residential nature of the area. The Principal Planning Officer noted that for residential extensions it was not normal practice to require a construction management plan, however, that would be for Members to decide, though he felt it would not pass the test in terms of the reasonableness of such a condition. Councillor L Brown noted she would like to see one, given the residential nature of the area.



Councillor A Bell noted that from the responses from the Principal Planning Officer to queries and points raised, he felt that the application should be approved with a construction management plan as suggested. Councillor L Brown noted she would propose an 8.00 am construction start time and usual conditions relating to Bank Holidays and weekends. The Principal Planning Officer asked if Members were proposing extending the obscured glazing to the additional windows, it was noted they were. Councillor D Oliver seconded the motion for approval put forward by Councillor A Bell.

Upon a vote being taken, it was:

## **RESOLVED**

That the application be **APPROVED** as per the conditions set out within the report, amendment to obscure glazing and a construction management plan.

*Councillors I Roberts and K Robson left the meeting at 11.33am*

### **d DM/22/03237/FPA - Sniperley Park and Ride, Sniperley Park, DH1 5RA**

The Senior Planning Officer, Chris Shields 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 application was for an extension to the Sniperley Park and Ride by 262 total bays accommodating 29 disabled bays, 18 electric charging bays and 4 motorhome bays and was recommended for approval, subject to the conditions as set out in the report.

The Chair thanked the Senior Planning Officer and asked the Committee for their comments and questions.

Councillor J Elmer noted he was very supportive of the application and welcomed the inclusion of additional electric vehicle charging bays, in the move to such technology. He asked as regards any electric bus charging provision, whether it was included or would require a refit of technology. He also asked as regards provision for cyclists, how they could park and access the service in terms of cost and connectivity.

The transport and Infrastructure Manager, Craig MacLennan noted the safeguards for future electric vehicle charging, with the Council looking to seek opportunities for electric bus charging, noting the issues in terms of retrofit of equipment.

He noted there were cycle lockers on site, and payment for the 'ride' was made upon boarding the bus. In terms of connectivity, he explained the design was complemented the existing access through the site with a shared path and links to the wider cycle network.

Councillor J Elmer reiterated that he felt the proposals represented a very positive addition to the facility and moved approval. Councillor A Surtees noted it was very clear the proposals were required to help meet increasing demand and therefore seconded the motion for approval.

Councillor L Brown noted she would support the application, adding that the increased capacity would help alleviate traffic issues in her Electoral Division. The Chair noted he too supported the application, noting it would help to improve the poor air quality in the city centre, with his Electoral Division being one of those within the city. He noted that while there would always be traffic that needed to travel through the city centre, the potential reduction of 250 vehicles coming into the city by the proposals was welcomed.

Councillor A Bell noted the proposals were welcomed and commented that he felt there could have perhaps been more additional motorhome bays, say up to 12, as he felt this was an area of increasing demand explaining a nearby caravan site on the A690 always being full and that perhaps there could have been an opportunity in terms of additional and overnight parking.

Upon a vote being taken, it was:

## **RESOLVED**

That the application be **APPROVED** as per the conditions set out within the report.

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/23/00700/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of 1 no. 3 storey building comprising of 3 no. units (Use Class E(a), E(b), E(c), E(d), E(e), E(g)(i)) or sui generis (drinking establishment) to ground floor, 1 unit (Use Class E(a), E(b), E(c), E(d), E(e), E(g)(i)) or sui generis (drinking establishment) to first floor and 4 no. residential units (Use Class C3) ancillary to the commercial units to the ground and first floor to the second floor.
<b>NAME OF APPLICANT:</b>	Mr David Gill
<b>ADDRESS:</b>	Land To The North Of 28 North Terrace Seaham SR7 7EU
<b>ELECTORAL DIVISION:</b>	Dawdon
<b>CASE OFFICER:</b>	Lisa Morina Senior Planning Officer Telephone: 03000 264877 <a href="mailto:Lisa.morina@durham.gov.uk">Lisa.morina@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site consists of a parcel of disused/previously developed land to the north of 29 North Terrace, Seaham within close proximity to the commercial centre of the town. It is located within Seaham Conservation Area and is surrounded by existing built development comprising residential dwellings to the north, open land/parking area to the east and a mix of uses including a former gym, residential and other leisure uses to the south.
2. The site is positioned in highly accessible location within walking distance of local shops, services and employment opportunities and is also accessible to public transport including regular town centre bus services.

#### The Proposal

3. Planning permission is sought for the rection of 1 no. 3 storey building comprising of 3 no. units (Use Class E(a), E(b), E(c), E(d), E(e), E(g)(i)) or sui generis (drinking establishment) to ground floor, 1 unit (Use Class E(a), E(b), E(c), E(d), E(e), E(g)(i)) or sui generis (drinking establishment) to first floor and 4 no. residential units (Use

Class C3) ancillary to the commercial units to the ground and first floor to the second floor.

4. The proposed building would occupy the majority of the site footprint although the proposal does also include the installation of a decorative paving to the front of the site.
5. This application represents the resubmission of a previous planning application which was originally refused by the committee when it was presented to members in 2021. In that instance it was considered that the development would, by virtue of its design, appearance, characteristics, mass and scale appear as an incongruent addition within the Conservation Area, have a detrimental impact upon residential amenity and highway safety through increased parking demand. This decision was subject to an appeal to the Planning Inspector which was subsequently dismissed. Full consideration of that decision in the context of the current application is undertaken elsewhere in this report.
6. The current application reflects a reduction to the overall height of the building, reducing this to 3 storey height from 4 as previously proposed. Further amendments were submitted during consideration of the application which included the removal of the domed corner feature.
7. The application is reported to Planning Committee as it constitutes a major development.

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## **PLANNING HISTORY**

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8. DM/20/01726/FPA Retrospective application for temporary site compound, including site hoarding, associated welfare and storage units and material storage . Withdrawn 09.03.2022.
9. DM/20/01479/FPA - Erection of 1no. 4 storey building comprising of 3no. units (use class E (a)(b)(c) or Sui Generis (drinking establishment)) to ground floor, 1no. unit (use class E(d) to first and second floor and 4no. residential units (C3) ancillary to the commercial units to third floor. (amended description). Refused 15.09.2021. Dismissed on appeal.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

10. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
11. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application

of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

12. NPPF Part 4 Decision-making - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
13. 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.
14. NPPF Part 6 Building a Strong, Competitive Economy - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
15. NPPF Part 8 Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. NPPF Part 9 Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
17. 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.
18. 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.
19. NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
20. 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.

21. 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:**

22. 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.

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

#### **LOCAL PLAN POLICY:**

##### County Durham Plan

23. Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
24. Policy 2 (Employment Land) Supports business, general industrial and storage and distribution development within specified employment allocations and also protects other existing employment sites from being changed to non-employment uses, unless appropriate marketing has been undertaken or that the use would not compromise the main employment use and would comply with retail Policy 9 where main town centre uses are being proposed. Where a non-employment development is proposed on the protected employment sites, any existing jobs on site must be relocated. Specific further protection and safeguarding is outlined for land north of NETpark, at Integra 61 and Project Genesis, Consett.
25. Policy 6 (Development on unallocated sites) states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
26. Policy 9 (Retail Hierarchy and Town Centre Development) seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county.

27. Policy 21 (Delivering sustainable transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
28. Policy 25 (Developer contributions) advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
29. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing site must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable it proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest. Any residential and commercial development should be served by a high-speed broadband connection, where this is not appropriate, practical or economically viable developers should provide appropriate infrastructure to enable future installation
30. Policy 29 (Sustainable Design) details general design principles for all development stating that new development should contribute positively to an areas' character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
31. Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users. Provision for new major residential development to be assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. All new development to achieve BREEAM minimum rating of 'very good'.
32. Policy 31 (Amenity and pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

33. Policy 32 (Despoiled, degraded, derelict, contaminated and unstable land) requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
34. Policy 41 (Biodiversity and Geodiversity) states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
35. Policy 42 (Internationally Designated Sites) states that development that has the potential to have an effect on internationally designated sites, either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.

Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and 'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017.

Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site. In determining whether a plan or project will have an adverse effect on the integrity of a site, the implementation of identified strategic measures to counteract effects, can be considered. Land identified and/or managed as part of any mitigation or compensation measures should be maintained in perpetuity.

36. Policy 43 (Protected Species and Nationally and Locally Protected Sites) development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided, or the proposal meets licensing criteria in relation to European protected species.
37. Policy 44 (Historic Environment) seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
38. Residential Amenity Standards SPD – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.



39. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

*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>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

40. Historic England – Advises that the advice of the Councils Design and Conservation Team is sought.
41. Highway Authority – No objection
42. Durham Constabulary – No response received
43. DCC as Lead Local Flood Authority (LLFA) – No objection
44. Seaham Town Council – Objects to the proposal on the grounds given below:
- The effect of the proposed development on the living conditions of the occupiers of nearby dwellings
  - The effect of the proposed development on highway safety, with reference to parking demand and provision The highways authority indicates that the proposal would inevitably increase on-street demand in the area and that the development makes very little provision to mitigate the parking issues.
  - The impact the proposal would have on the streetscene and conservation area in which the property is located
  - The proposed development would cause harm to the character and appearance of the CA. Consequently, the proposal would fail to accord with Policies 29 and 44 of the County Durham Plan 2020 (CDP) where they seek to achieve well-designed buildings and places and to protect the character and appearance of Conservation Areas. The proposal would as a result also fail to preserve or enhance the character and appearance of the CA. Furthermore, there would be a conflict with The Framework, where it too seeks to achieve well-designed places, and because the harm to the CA is not outweighed by public benefits.

### **INTERNAL CONSULTEE RESPONSES:**

45. Environmental Health (Contamination) – A phase 2 investigation report is required
46. Environmental Health (Noise) – This application is seeking multiple uses for the development over three floors, the ground floor will be divided into three units with the intention to have Use Classes of E(a), E(b), E(c), E(d), E(e), E(g)(i) or sui generis (drinking establishment); the first will have similar Use Classes to the ground floor and the second floor will be divided into four residential flats, Class C3. Such mixed uses are not usually supported without sufficient mitigation measures therefore an objection is raised. Subject to appropriate conditions being applied to any application with regards to noise and disturbance issues, this would remove any objection raised.

47. Ecology – No objection subject to mitigation being carried out in accordance with PEA and financial contribution towards HRA.
48. Spatial Policy – Confirms that policies 6 and 9 of the CDP are the principal policies against which the proposal should be assessed and raises no fundamental objection to the submitted sequential assessment.
49. Design and Conservation – Following an application and appeal process, the applicant has submitted an amended scheme to address the concerns of the planning inspector. The reduction in scale allows the building to relate to the scale of the majority of North Terrace. The removal of the elaborate domed corner feature is welcomed which was designed out of the original scheme.

#### **PUBLIC RESPONSES:**

50. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. To date, 19 letters of objections and 2 letters or representation have been received with the following comments:

#### Visual Impact/Scale/Conservation Area Issues

- Seaham's Character Appraisal and Management Plan (CAMP), which had been 'inadvertently' ignored by the proposer, Durham CC planning department and conservation officer.
- The Government's National Planning Policy document also states that any new development should make a positive contribution to local character and distinctiveness of the area - it's hard to see how a large three-storey modern contemporary building in this key position would benefit a conservation area.
- The impact on the adjacent Grade II listed buildings at Bath Terrace and the other properties of Tempest Road which have been designated as of significant interest;
- Loss of traditional and important views and vistas.
- The proposed reduction in height is not considered to overcome the scale, size, width, bulk, height and massing of the previous application which was refused by the Planning Inspector Detrimental Impact on the Conservation Area – Paragraph 8 of appeal decision.
- The application fails to overcome the points of objection listed in Paragraph 11 of the appeal decision.
- Considerable bulk and massing in fact the new proposal has a larger footprint;
- Visual Amenity Impact given the position of the site adjacent to the main road.
- The finished building would be out of character and would not sit well with the row of properties on North Terrace.
- The proposed boundary wall along Tempest Road is set too close to the road.
- This development will still affect the open vistas at the bottom of Tempest Rd, which the conservation document said should be preserved.
- Concern that the Harbour View Building is being used to assess the proposal against.

#### Residential amenity

- Loss of light or overshadowing- due to the excessive height of the proposed building, which is not in keeping with other buildings in the vicinity, the development will cast shadow over gardens and properties in the winter months

- Overlooking/loss of privacy - The windows on the side of the development will result in a loss of privacy, as there is no way to screen these windows, which will have an unobstructed view into living room and bedrooms.
- All windows should be removed from the side of the building or at least reduced in size and be of a frosted design to maintain the privacy of the residential properties opposite.
- Concern regarding opening hours of the drinking establishments
- Adequate ventilation needs to be incorporated into the design
- Noise and disturbance resulting from the use including loud music and people leaving late at night.

## Highway Safety

- The corner is terrible for traffic, cars parked on both sides on busy days, further housing would make this worse. The increase in parking needs, deliveries and refuse collection in that the additional congestion would create a public safety hazard at the busy junctions of North Terrace/Tempest Road and at Back North Terrace/Tempest Road.
- Building Up to the footpath will result in limited pedestrian access
- Terrace, further restricted by the increase in parked vehicles on both sides of the road. This will only get worse if the development goes ahead due to the additional parking requirements for the proposed gym and commercial units.
- Adequacy of parking/loading/turning - No additional parking has been considered for this development that could easily exceed the capacity of the nearby Terrace Green Car Park, which is often full at present due to existing visitors to the area.
- The Back North Terrace is not suitable for large commercial vehicles that will be required to deliver to these commercial units; lorries are regularly observed now reversing from the minor road of Back North Terrace into Tempest Road.
- Inappropriate/Inconsiderate parking blocking access to properties and preventing parking outside own home
- There was also a comment to say that the revised plans are much more in tune with the build and character of the area however parking remained a concern.
- A pedestrian guardrail should be considered to prevent parking on both sides of the street to keep traffic flowing.

## Other Issues

- There is no need for another bar/restaurant in the locality.
- Proposed alternative uses - The land presently provides balance with the other side of the terrace and could be given over to green space/public space.
- There are a number of alternative sites which could accommodate the development
- The applicant owns Harbour View which continues to stand empty.
- Cllr Shaw has requested to speak with the developer on many occasions which has not been reciprocated, as the local residents would welcome some development of the site.
- Use of the properties is wider on this application this could result in all four ground and first floor units being used as drinking establishments - this would be totally inappropriate for the location.
- Devaluation of properties.
- Whilst creation of jobs is recognised, and the basis on which planning permission is often granted this does not always result in development being carried out.
- The applicant concludes that the identified 5 alternative sites in Seaham are 'simply too small' (planning statement paras 46,47), which indicates the fact that this is still a very large building being proposed for a site in the conservation area.

- We agree that this is a brownfield site, but as it has remained undeveloped since the former hospital was demolished in 1960s, it should have a building appropriate for the conservation area and offering valuable uses to the community.
- Concern the building will be left empty.
- Public Drains: The planning authority might want to locate or seek further information about what public drains pass beneath the development site, so that it does not face urgent decisions during the process of development.

#### **APPLICANT'S STATEMENT:**

51. This re-application responds to the Inspector's concerns about the previous scheme which related to the impact of the development on the Conservation Area.

A major change in this re-application is that the proposed development is to be a storey lower than previously proposed. During the course of the current application period a further change has been made to the detailed design of the proposed building at officers' request. Acknowledging these changes which have been made the revised scheme is acceptable in design and conservation terms.

The scheme will bring a range of benefits including recycling a site and generating over 30 full time and 30 part time jobs. Additionally, the development will positively contribute to a vibrant promenade which offers a wide variety of leisure and recreational facilities.

We believe the proposals are acceptable in principle and in detail and that they should be supported. The Committee are therefore requested to grant planning permission subject to controlling conditions.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P8X9C0GDL8J00>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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52. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
53. 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 in this regard. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 219 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
54. The County Durham Plan is now adopted and is considered to represent the up-to-date Local Plan for the area. Consequently, consideration of the development should be led by the plan if the decision is to be defensible.
55. In this context, it is considered that the main planning issues in this instance are the principle of the development, impact on character and appearance of heritage assets, the design and impact upon visual amenity and the impact of the

development upon residential amenity, and highway safety. As well as any other issues raised where relevant to planning.

## Principle of the Development

56. The site is not located within any town centre boundary although it is considered to be an edge of centre location given it is positioned within 300m of Seaham Town Centre as defined by the County Durham Plan, and as such is well linked to existing shops and services.
57. Objection has been raised by some respondents questioning the need for the proposed uses and raising concern at the wide range of uses listed within the description of the development. However, it is noted that neither policy 6 nor 9 of the CDP specifically require the applicant to demonstrate need for any of the uses proposed. There is, however, requirement to demonstrate that there are no more centrally located alternative sites within existing centres that could accommodate the development. In the event that there are found to be no more centrally located alternatives then an edge of centre site could be supported. This is considered in more detail elsewhere within this report.
58. Notwithstanding the above, it is noted that site is not allocated within the County Durham Plan for any particular purpose or use, and as such policy 6 is relevant. This supports development on sites which are not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
59. The site is within the built up area so as detailed above policy 6 supports development on unallocated sites provided it meets the criteria set out within the policy. By way of assessment of the criteria listed in the policy it is noted that the proposed development relates to a site which is brownfield having formally been the location of an infirmary in accordance with Policy 6 criteria i), is located within close proximity to compatible uses that would not be prejudicial to any existing uses in accordance with policy 6 criteria a), is within the existing built framework of Seaham and would not lead to coalescence with neighbouring settlements in accordance with policy 6 criteria b), would not result in a loss of open land that has any recreational, ecological or heritage value in accordance with policy 6 criteria c), has easy access to sustainable transport and local facilities in accordance with policy 6 criteria f).
60. The proposal is therefore considered to be in broadly accordance with the requirements of policy 6 of the CDP subject to more detailed consideration of remaining criteria d), e) and h) which are considered in more detail elsewhere within this report. It is not considered that criteria j) is relevant to this proposal.
61. Policy 9 of the County Durham Plan relates to retail hierarchy and town centre development and aims to protect and enhance sub regional centres, large towns, small towns and local and district centres within the County. Seaham is defined as a Large Town Centre for the purposes of policy 9 which states that proposals for town centre uses not located within a defined centre are required to provide a sequential assessment in order to demonstrate that there are no more centrally located sites capable of accommodating the development. Where an application fails the

sequential test or would have a significant adverse impact on investment or the vitality and viability of a town centre, it will be refused.

62. The NPPF Section 7 provides guidance on how to assess applications for uses that would normally be located within a town centre and that could potentially impact on the vitality and viability of proposed centres.
63. Paragraph 88 confirms that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and LPAs are required to demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
64. Paragraph 90 states that when assessing applications for retail and leisure development outside of town centres, which are not in accordance with an up to date plan, local planning authorities should require an impact assessment if the development is over a locally set floorspace threshold and if there is no locally set threshold, the default threshold is 2500sqm of gross floorspace. This should include assessment of:
  - a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
  - b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).
65. Given the proposed floorspace and nature of the uses an impact assessment is not considered to be required. Paragraph 91 confirms where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 90, it should be refused.
66. The application has been accompanied by a sequential assessment. Concern has been raised by some interested parties that the sites within the sequential assessment were too small. The applicants have provided a sequential test that identifies units located in in Seaham and Peterlee town centre.
67. In terms of those sites identified in the sequential assessment it is noted that the Seaham Carpet Centre site has been discounted as being too small to accommodate the proposals, which is accepted. The site of 4 South Crescent is assumed to be 4 South Terrace, this site is also in use and it is therefore not available, the applicant has identified the site as too small. The site of 46 – 47 Church Street is also identified as being too small, as are Units 5 & 9 in Byron Place shopping centre. Whilst the applicant has also considered the Ridgemount House site in Peterlee, it is accepted that this does not offer a suitable location for the proposed development and represents a site which is too large.
68. The conclusions of the applicant's sequential assessment have been reviewed by the Council's Spatial Policy Section and are broadly accepted.
69. In light of the above, it is considered that the applicant has met the requirements of the sequential assessment in that there are no suitable, available units or development sites within the existing centres of either Seaham or Peterlee and as such the proposal would not have any adverse impact upon the vitality and viability of either Town Centre. The application site is situated at the end of an existing terrace of commercial units which itself is located within an edge of centre location

and is well related to the commercial centre of Seaham as a consequence. Therefore, the principle of development is considered acceptable when considered against Policy 9 of the County Durham Plan and paragraphs 88 and 90 of the NPPF.

70. In addition, to the commercial elements discussed above, the proposal also includes residential accommodation to the upper floor. Whilst the site is within the 400m of the HRA, which would normally prevent any new residential development due to the impact on the coastal protected site (as set out in the Council's Developer Contribution Guidance Document), it is considered that the proposed residential units would be directly occupied by persons managing or working within the commercial units on the lower floors, this would not have a detrimental effect on the heritage coast and as such is considered acceptable. Consideration of the development upon the Heritage Coast is considered in more detail elsewhere in this report. In summary, it is therefore considered that the principle of residential use at the site is acceptable, subject to a planning condition linking the residential use directly and solely to the commercial uses of the lower floors.

Impact on Designated & Non-Designated Heritage Assets and the character and appearance of the streetscene.

71. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the Act requires a local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation area.
72. Section 16 of the National Planning Policy Framework (NPPF) goes further in seeking to enhance and sustain the significance of heritage assets and ensuring new developments make a positive contribution to local character and distinctiveness (para. 197), whilst requiring local planning authorities when considering the impact of a proposed development on the significance of a designated asset to give great weight to the asset's conservation irrespective of the level of any potential harm (Para. 199).
73. Policy 44 (Historic Environment) seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
74. Policy 29 (Sustainable Design) of the County Durham Plan requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
75. The site is located within the Seaham Conservation Area (a designated heritage asset). Significant concerns have been raised that the proposal does not take into consideration the Seaham's Character Appraisal and Management Plan (CAMP) and that the proposal would have a detrimental impact on the Conservation Area in terms

of the scale, size, width, bulk height and massing and that the views of the planning Inspector have not taken into consideration as part of the current proposal.

76. Objections consider that there would be loss of traditional and important views and vistas. In addition, they consider that the removal of one story would not overcome the concerns of the Inspector and the application should be refused. Concern is also raised that the proposal has a larger footprint than that previously considered and there is concern that the Harbour View building, which is also understood to be under the control of the applicant and is presently unused and unoccupied.
77. The site lies within the Seaham Conservation Area and as such the Council's Design and Conservation Section was consulted and have offered the following comments and observations;
78. The Seaham Conservation Area was designated in 1997 in recognition of its industrial heritage, retention of the historic plan form and surviving historic buildings. The proposed development site is within the historic core of the conservation area, in a mixed-use promenade facing onto a prominent and well used public open space with views out to the sea beyond. The site was formerly occupied by an L shaped infirmary built in 1844 according to historic maps and online sources, which was demolished in 1969.”.
79. The proposed development is located on a prominent corner plot within the Seaham Conservation Area and part of the thriving promenade which is well used by residents and visitors. The site is currently vacant, grassed over with a footpath crossing to Back North Terrace. To the north and north-east is a group of attractive 19th century buildings, all two storey, plus attic. Bath Terrace to the northeast is Grade II listed. To the east is a large public open space. Adjacent to the south is a snooker club which appears to be a later infill to the streetscene. North Terrace is predominantly two storey, with only a small number of higher three storey properties. To the south, and acting as a dominant focal point, is the Grade II listed former Police Station.
80. Officers go onto note that the proposed development site is a prominent gap site within the conservation area and opportunities to redevelop the site with an appropriate scale and form of development are supported in principle and raise no objection to the scheme, concluding that the proposal would have a neutral impact on the conservation area itself and to some extent presents limited enhancement through the redevelopment of a vacant plot.
81. It is considered that the proposed development represents an acceptable design solution which appropriately reflects the character and appearance of the historic buildings and conservation area, bringing back into a use a prominent site within the streetscene. Concern is also raised that the Harbour View House development is referenced as a building within the locality of comparable height, and that this is not an appropriate point of reference. However, the building does form part of the North terrace and in this regard forms part of the wider context within which the proposed building would be viewed.
82. Nevertheless, it is noted that the height of the building proposed has been reduced from that which was previously refused and dismissed at appeal and is therefore considered to have an acceptable impact when read in the wider visual envelope, including the rest of the built development along North Terrace itself.
83. As previously stated, concerns have been raised that the proposal has not taken into account the views of the Inspector from the appeal on the previous proposal. At



paragraph 11 of the previous appeal decision the Inspector considered that in that instance the proposed development would, due to its height, bulk, massing and positioning, be an overly dominant feature that would appear incongruous in its surroundings, and one which would cause harm to the character and appearance of the Conservation Area. Whilst the proposal would not be objectionable in terms of its design and appearance taken as matters in isolation, this does not overcome the other harm that would be caused. Given the nature of the proposed development and that the harm would be relatively localised, the inspector considered that less than substantial harm to the Conservation Area would be caused. This being the case, they considered it necessary to weigh the public benefits of the proposal against the harm that would arise to the Conservation Area, in accordance with Paragraph 202 of the National Planning Policy Framework (The Framework).

84. The Inspector identified the public benefits to be the recycling of a disused site in a sustainable location, the provision of an active frontage at ground floor level, economic and social benefits through both construction jobs and jobs once in use, amounting to an expected 30 full time and 30 part time jobs in addition to other indirect employment. The inspector considered that these benefits carried moderate weight in favour of the proposal, in the context of the size of the development that was proposed. However, they noted the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and that the harm that they found would arise to the designated area was a matter that carried considerable importance and weight. Therefore, whilst there would be some public benefit from the appeal proposal, the inspector concluded that this did not outweigh the harm to the Conservation Area that would arise.
85. It is important to note that in dismissing the previous appeal the planning inspector noted that in broad design terms the scheme was acceptable but that the height, bulk, massing and positioning of the building would result in an overly dominant feature within the streetscene and be harmful to Conservation Area as a consequence. Taking that into account it is considered that the removal of the upper floor of the proposed building sufficiently reduces the scale, mass and bulk of the development to ensure that it would not appear as an incongruent addition within the streetscene and would not be harmful to the significance of the Conservation Area.
86. Figure 56 of CAMP is noted in the Inspectors report where he considers this a key vista to which the proposal would be clearly seen. Whilst the width and depth of the proposed building have not been reduced, the height has to such a degree that the building would appear as a subordinate extension to the existing terrace when viewed from this vantage point.
87. The proposal is considered to represent the positive reuse of what is a vacant gap site within a prominent sea front terrace set firmly within Seaham Conservation Area. The site has previously been developed and its reuse would not result in any detrimental impact on the setting, appearance or significance of the conservation area or any nearby listed buildings. It is therefore considered acceptable in accordance with Policies 6, 29 and 44 of the County Durham Plan and Sections 12 and 16 of the NPPF. The proposals are also considered to accord with sections 66 & 72 of the Listed Building Act in that the proposal would not be considered harmful to the conservation area or other identified heritage assets and would allow the conservation area to be conserved.

Impact upon Residential Amenity

88. Policy 31 of the County Durham Plan sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment.
89. Paragraph 130 of the NPPF requires that planning decisions should ensure that developments will create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
90. Concern has been raised from the residents of neighbouring properties with regards to loss of light/overshadowing due to what they consider to be the excessive height of the proposed building as well as a loss of privacy due to position of windows and the type of windows. Concern has also been raised by residents regarding noise and disturbance from loud music and customers leaving the proposed drinking establishments late at night and that adequate ventilation needs to be incorporated into the design. Concern is also raised regarding the type of uses that could be carried out on the site.
91. The Police Architectural Liaison Officer (PALO) has raised no comment in respect of this application however, raised a number of concerns in relation to the previous proposal and requested that the garage doors/shutters were provided to the rear parking areas, waiting restriction are imposed, opening hours were restricted to 2300hrs, and access code doors were imposed. Garage doors are shown as part of this application and conditions would be added to ensure these restrictions are met however the issue of the access code entrance is considered to be a management issue and not something that could be controlled via planning controls.
92. Access to the retail units would be taken from North Terrance to the Front with the leisure (gym) and residential uses accessed via Tempest Road. It is considered that the retail units and gym would sit within the existing context of a mixed uses within this area framed by a variety of uses and activities. Therefore, any increase in noise or activity would be negligible against the existing activity and noise level typical of this edge of town centre location and busy sea front.
93. Whilst it is acknowledged that there would be an increase in movements near the site, the property is located on a busy corner location, where there are already significant traffic and pedestrian movement, it is therefore considered that any increase in movement to and from the site would not be significant enough to warrant refusal of the application in respect of noise and disturbance.
94. The Council's Environmental Health Officer has confirmed that the proposal is within a noise sensitive location and applications of this nature which are mixed used developments would normally only be accepted subject to conditions. These conditions relate to hours of operation and noise mitigation being provided for example no outside use of the premises after certain times, windows to remain shut etc.
95. The plans also indicate that the uses over each floor would be restricted to occupation only directly related to the commercial uses and this can be secured via planning condition. It is considered therefore, that subject to the appropriate condition the proposal would be acceptable in terms of noise and statutory nuisance.

96. In terms of internal amenity space, the proposed C3 uses are considered adequate for a development of this nature and would provide well-appointed living space with natural light and ventilation to all habitable rooms.
97. Significant concern has been raised in relation to loss of privacy by the adjacent residents on Tempest Road by users of the gym on the first floor. The Council's Residential design SPD requires a minimum of 21.0m between habitable room plus an additional 3.0m for each storey above a 2 storey development. In this regard the proposal would need to achieve 24.0m to create a satisfactory separation and privacy distance. The submitted details show that the separation distance between the proposed building and the residential building to the North on Tempest Road is between 28m to 29m, and as such is considered to be sufficient to protect the amenity and privacy of the dwellings to the North.
98. However, it is considered that whilst the proposal can achieve a satisfactory distance, due to the commercial nature of the first floor and the likely high frequency of users accessing these windows that a perceived surveillance over these dwellings would have a detrimental impact on the residential amenity and enjoyment of the neighbouring properties to the North. Therefore, it is considered that the windows to the Northern Elevation serving the first floors should be obscure glazed and controlled by a planning condition to ensure they are kept as such for the lifetime of the building. This position was also adopted by the Planning Inspector in consideration of the previous appeal.
99. Therefore, subject to the inclusion of a planning condition in this regard the development is considered to accord with the requirements of policy 29 and 31 of the CDP and section 12 of the NPPF.

#### Highway and Pedestrian Safety

100. Policy 21 of the CDP requires that all development ensures that any vehicular traffic generated by new development can be safely accommodated and have regard to Parking and Accessibility Supplementary Planning Document.
101. A number of objections have been received in relation to lack of parking, loss of current parking provision, highway safety and additional traffic generation. This issue was also considered at appeal by the Inspector.
102. The application proposes 4no. in curtilage parking space to the rear of the development for use in association with the additional residential units and it has been confirmed that these will be dedicated to the residential occupants and not the commercial users. Given the location of the proposal site on the edge of the town centre it is anticipated that the users of the businesses would utilise the existing parking provision within the town centre.
103. The Highway Authority have reviewed the proposal and whilst noting that the development would generate an increase in demand which is not mitigated by any additional on site provision, nevertheless consider that the application would not have an unacceptable impact upon highway safety sufficient to sustain refusal of the application subject to planning conditions. This includes the requirement to formalise parking restrictions which should be implemented prior to occupation of the property and also delineation of the paved areas to the front, cycle parking to be provided and a construction management plan to be provided.
104. In addition, the footpaths currently crossing the development land are not part of the public highway but would be deemed to possess public access rights which would

need to be formally removed and as such Stopped Up under Section 247 of the Town and Country Planning Act 1990. An informative will therefore be added to advise the developer of this, along with informatives advising that the proposal would be carried out in accordance with Sections 184(3) and 278 of the Highways Act for the new vehicle access crossing to the 4 parking bays.

105. The Inspector concurred with this position, concluding at paragraph 20 of their report that the parking provision proposed would not result in a development that would cause harm to highway safety. Consequently, the proposal would accord with Policy 21 of the CDP, where it seeks to deliver sustainable transport in a safe manner. As there would not be an unacceptable impact on highway safety, there would also be no conflict with The Framework in that regard.
106. It is therefore considered that the proposal would accord with the requirements of Policy 21 of the CDP, and Part 4 of the NPPF.
107. Whilst concern is noted regarding inappropriate parking and people being unable to park outside their own homes. Unfortunately, this is something to which weight can be afforded as when parking is not allocated and results on on-street parking which is the case in this instance, there is not control over who can park on the street.

## Ecology

108. Part 15 of the NPPF seeks to ensure that when determining planning applications, Local Planning Authorities seek to conserve and enhance biodiversity. Policy 41 of the CDP seeks to resist proposals for new development which would otherwise result in significant harm to biodiversity or geodiversity, which cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. Proposals for new development will be expected to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and providing net gains for biodiversity including by establishing coherent ecological networks.
109. The Council's Ecologist has assessed the application and confirm that the ecological report by EcoSurv is sufficient to inform this application and no further surveys are therefore, required. It is considered however that in order for the application to be considered acceptable in respect of policy 41 of the County Durham Plan that the Section 6 of the report should be conditioned to ensure the appropriate ecological enhancements are provided. A condition therefore is to be added in this regard.
110. Policy 42 (Internationally Designated Sites) states development proposals that would potentially have an effect on internationally designates site(s), (including all development within 0.4 km o the sites, as shown on Map B of the policies map document), either individually or in combination with other plans or projects, will need to be screened in first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.
111. Development will be refused where after an Appropriate Assessment, it cannot be ascertain that there would be no adverse effects on the integrity of the site, unless "no alternatives" and "imperative reasons for overriding public interest" as set out in Regulation 64 of Conservation of Habitats and Species Regulations 2017. In such circumstances where tests are met, appropriate compensation will be required in accordance with Regulation 68.
112. Where development proposals are likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats regulations screening assessment, and possible full Appropriate assessment will be required to

demonstrate that the proposal will not adversely affect the integrity of the site. In making such determination of whether a plan/project will have adverse impact on the integrity, the implementation of identified strategic measures to counteract effects, can be considered during the Appropriate Assessment.

113. Durham County Council has carried out screening in compliance with the Habitats Regulations, this work was done in conjunction with Natural England, and after Appropriate Assessment, concluded that there is likely to be a significant effect on the Northumbria Coast SPA and Durham Coast SAC from new housing development within 6km of the coastal European sites due to increased recreational impacts including dog walking and coastal erosion.
114. The Council's Ecologist notes that the proposed development is within 0.4km of the Durham Coast HRA buffer and new residential is normally unacceptable and as such is only allowed to proceed if more than 0.4km away and subject to appropriate mitigation being provided. It was agreed that mitigation for those identified impacts upon the European protected sites will include the provision of alternative green space suitable for off-lead dog walking and/or a financial contribution to the Coastal Access and Monitoring Measures Programme designed to limit the identified impacts.
115. In this instance however, it is considered that as dwelling are proposed to be ancillary to the commercial premises proposed then this would be considered as an acceptable departure to the normal policy. This would be subject to a payment of £756.61 per dwelling towards Coastal Access and Monitoring Measures Programme Tier 2 being paid which should be secured through a S106 Legal Agreement.
116. It is important to acknowledged however that the new residential unit should not be used for any other residential purpose (ie subletting or holiday let use) or the development will be in conflict with policy 42 of the CDP. A condition therefore, will be added to control this aspect
117. The proposed development therefore, would accord with saved policy 42 of the CDP and part 15 of the NPPF, both of which seek to protect and enhance the natural environment.

#### Connectivity

118. Policy 27 of the CDP requires new residential and commercial development to be served by a high speed broadband connection unless it can be demonstrated that this is not appropriate. As the development would be located within the centre of Seaham within close proximity existing infrastructure and as such it does not appear that there any significant constraints to delivering the connectivity in accordance with the requirements of policy 27. However, the submission and agreement of precise detail in this regard could be secured through planning condition in accordance with the aims of policy 27 of the CDP.

#### Contamination

119. Paragraph 183 of the NPPF advises that planning decisions should ensure a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. In line with this, CDP Policy 32 states that development will not be permitted unless the developer can demonstrate that:

- a. any existing despoiled, degraded, derelict, contaminated or unstable land issues can be satisfactorily addressed by appropriate mitigation measures prior to the construction or occupation of the proposed development;
  - b. the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities; and
  - c. all investigations and risk assessments have been undertaken by an appropriately qualified person.
120. The application has been assessed by the Land Contamination Officer who has assessed the historical maps and the submitted Phase 1 with respect to land contamination. A phase 2 is considered to be required, which can be controlled via a pre-commencement condition.
121. The proposal subject to conditions is therefore, considered acceptable in respect of contaminated land issues in respect of policy 32 of the CDP.

### Drainage

122. Policy 35 (Water Management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
123. Whilst Policy 36 (Water Infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
124. Concern has been raised that the Council should consider drainage within the area.
125. The Council is the Lead Local Flood Authority and as such drainage information detailing surface water discharged to soakaway has been submitted and assessed. Subject to the development being carried out in accordance with the submitted details which will form part of the approved documents, then the proposal is considered acceptable. The scheme is therefore, considered acceptable in relation to Policy 35 and 36 of the County Durham Plan.

### Other Issues

126. Devaluation of property is not a material consideration in determination of this planning application and cannot be afforded weight.
127. Concern has been raised that the developer or other developers have had applications approved and not progressed with work or buildings are standing empty

and this building will. The Council cannot insist on an application progressing once planning approval has been sought or indeed ensuring a building is occupied,

128. Concern has also been raised regarding applications being approved due to the economy and providing jobs as being a benefit. In this instance, and for the reasons detailed within the report, the proposal is considered to accord with relevant policies of the CDP and whilst job creation and boost to the local economy are noted as benefits (a position reflective of that taken by the planning inspector) it is noted that it has not been necessary to weigh these against any conflict with planning policy.
129. Concern regarding the developer and his reluctance to engage with a Councillor is noted but is not a material consideration in determination of this planning application.
130. Whilst the land may be suitable for other uses, failure to progress alternative proposals in this regard is not a material consideration in the determination of this application and the Local Planning Authority must consider the development proposed as part of the current planning application.

#### Public Sector Equality Duty

131. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
132. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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### CONCLUSION

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133. The proposed development is considered acceptable in principle and proposes uses which are considered compatible with the site edge of centre location and in addition would not have any significant adverse impact upon the vitality and viability of Seaham Town Centre. The proposed building could be satisfactorily accommodated in terms of mass, scale, layout, design and materials and would not have any unacceptable impact upon residential amenity, ecology, highway safety, land contamination or drainage in accordance with the requirements of policies 6, 9, 21, 25, 27, 29, 31, 32, 41 and 42 of the County Durham Plan and sections 2, 4, 7, 9, 12 and 15 of the NPPF.
134. In addition, it is considered that the redevelopment of what is a presently a vacant site would deliver some enhancement to the character and appearance of Seaham Conservation Area and would preserve the setting of adjacent listed buildings in accordance with policy 44 of the County Durham Plan, section 16 of the NPPF (2021) and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 subject to the inclusion of appropriate planning conditions.

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### RECOMMENDATION

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That the application be APPROVED subject to a s106 agreement to secure the following;

- £3,026.44 to be used towards the CAMMs Tier 2 Beachcare and Wardening programme.

And 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 approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 6, 9, 21, 25, 27, 29, 31, 32, 41 and 42 of the County Durham Plan and Parts 2, 4, 7, 9, 12 and 15 of the National Planning Policy Framework.

3. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 2 site investigation, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

4. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 Verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

5. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

- A Dust Action Plan including measures to control the emission of dust and dirt during construction.
- Details of methods and means of noise reduction/suppression.
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
- Designation, layout and design of construction access and egress points.
- Details for the provision of directional signage (on and off site).



- Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
- Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
- Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
- Routing agreements for construction traffic.
- Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
- Management measures for the control of pest species as a result of demolition and/or construction works.
- Detail of measures for liaison with the local community and procedures to deal with any complaints received. The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

6. Notwithstanding any details of materials submitted with the application no development shall commence above damp proof course until precise details of the make, colour and texture of all walling, window and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

7. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1300 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

8. Prior to the occupation of any part of the building hereby permitted, details of appropriate cycle parking shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be implemented and retained in accordance with the agreed details.

Reason: To ensure acceptable levels of cycle parking and to promote sustainable transport methods in accordance with Policy 21 of the County Durham Plan.

9. Prior to the commencement of the development above damp proof course of the development hereby approved a scheme of sound proofing measures shall be submitted to and approved in writing by the local planning authority.

The aim of the scheme shall be to ensure that the noise insulation of walls, floors, windows, roofs between the separate and adjoining properties shall be sufficient to prevent excessive ingress and egress of noise from the commercial elements of the development and shall protect future occupiers of the residential units on the third floor from any nearby external noise sources.

Any noise mitigation measures required and agreed shall be installed prior to the beneficial occupation of the development and shall be permanently retained thereafter.

Reason: In the interest of the amenity of existing and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required as a pre commencement condition to ensure that an appropriate scheme is agreed and can be implemented.

10. No hot food shall be prepared or served at the premises until details of the fume extraction system, to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current EMAQ/DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems shall have been submitted to and approved in writing by the Local planning authority. The approved scheme shall be installed prior to the use commencing and shall be operated at all times when cooking is being carried out on the premises.

Reason: In the interest of the amenity of existing and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required as a pre commencement condition to ensure that an appropriate scheme is agreed and can be implemented.

11. The occupation of the residential units hereby approved shall be limited to person(s) solely or mainly working in the businesses contained within the building hereby approved. The residential units shall not be sold, let, sub-let, or used for holiday accommodation.

Reason: In order to comply with Policy 41 and 42 of the County Durham Plan and Part 15 National Planning Policy Framework.

12. Before any external plant is operated, a detailed noise impact assessment and scheme of sound attenuation measures shall be submitted to and approved in writing by the local planning authority.

The scheme of attenuation measures shall ensure that the rating level of noise emitted from external plant on the site shall not exceed the background (LA90) by more than 5dB LAeq (1 hour) between 07.00-23.00 and 0dB LAeq (15 mins) between 23.00-07.00. The measurement and assessment shall be made according to BS 4142: 2014+A1: 2019.

On written request by the planning authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above rating level.

All plant and equipment failing to meet those limitations shall cease to operate until such time as a scheme of additional noise attenuation measures to achieve the stated levels has been submitted to and agreed in writing by the LPA. The development shall thereafter, be carried out in accordance with the approved scheme.

Reason: In the interest of the amenity of existing and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required as a pre commencement condition to ensure that an appropriate scheme is agreed and can be implemented.

13. The Class E(a), E(b), E(c), E(e), E(g(i)) and sui generis (drinking establishment) shall not be open for business outside the hours of 0800 to 2300hrs on any calendar day, with the exception New Year's Eve on which the premises shall not be open for business outside the hours of 0800 to 2400 (midnight).

Reason: In the interest of the amenity of existing and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

14. Other than background music there shall be no amplified sound / music or live music to be played in the premises.

Reason: In the interest of the amenity of existing and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

15. The external area to the front of the ground floor commercial use premises (highlighted as a 'paved feature area' on drawings submitted with planning application DM/23/00700/FPA) shall not be used by customers outside the hours of 0900-2000 hours on any day of the week and there shall be no use of any external areas on Tempest Road at any time.

Reason: In the interest of the amenity of existing and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

16. No amplified sound / music or live music shall be played in the external area to the front of the ground floor commercial use premises (highlighted as a 'paved feature area' on drawings submitted with planning application DM/23/00700/FPA) at any time.

Reason: In the interest of the amenity of existing and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

17. External doors and windows serving the commercial uses hereby approved shall remain closed outside the hours of 0900-2000 hours on any calendar day.

Reason: In the interest of the amenity of existing and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

18. The proposal shall be carried out in strict accordance with Section 6 of the Preliminary Ecological Appraisal by Ecoserve revised 09 September 2022. The agreed measures shall thereafter be implemented prior to the first occupation of any part of the building, and maintained in accordance with the agreed details for the lifetime of the development.

Reason: To ensure a satisfactory form of development in accordance with Policies 41 and 42 of the County Durham Plan and Section 15 of the NPPF (2021).

19. Prior to the occupation of any part of the building hereby permitted details of a scheme for the formalising of parking / waiting restrictions on Back North Terrace and Tempest Road shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall thereafter be implemented in accordance with the agreed scheme at the expense of the developer.

Reason: In the interest of highway safety in accordance with Policy 21 of the County Durham Plan and Section 9 of the NPPF (2021)

20. Prior to the occupation of any part of the building hereby permitted details of a hard landscaping / paving scheme shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall incorporate and provide a design to clearly delineate the areas of public highway and areas of private ownership. The agreed scheme shall thereafter be implemented in accordance with the agreed scheme at the expense of the developer.

Reason: In the interest of highway safety in accordance with Policy 21 of the County Durham Plan and Section 9 of the NPPF (2021)

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the proposed windows within the first and second floor of the North elevation shall be obscured to level 3 or higher of the Pilkington scale of privacy or equivalent and shall be retained thereafter in perpetuity.

Reason: In the interests of the residential amenity of neighbouring properties in accordance with Policies 29 and 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

22. No development shall commence until such time as a scheme detailing the precise means of broadband connection to the site has been submitted to and agreed in writing by the local planning. Thereafter, the development shall be carried out in accordance with the agreed detail.

Reason: To ensure a high quality of development is achieved and to comply with the requirements of policy 27 of the County Durham Plan.

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (or any revocation and re-enactment of that order), the ground floor units shall be used only for uses contained

within Use Classes E (a),(b),(c) or Sui-Generis (drinking establishment), the floor unit shall be used only for uses contained within Class E (d) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any revocation and re-enactment of that order) and for no other use.

Reason: In the interests of the amenity of the area in accordance with Policies 29 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

24. Prior to the commencement of the development above damp proof course of the development hereby approved details of how the building shall ensure that the proposal can achieve as close to Building Research Establishment Environmental Assessment method (BREEM) minimum rating of 'very good' (or any future national equivalent) as possible, shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be implemented wholly in accordance with those details as agreed.

Reason: To ensure that the development achieves a sustainable form of development in line with Policy 29 of the County Durham Plan.

25. Notwithstanding any details of shutters submitted with the application the premises shall not be occupied until precise details of any security shutters or grilles have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

26. Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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.

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## **BACKGROUND PAPERS**

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Submitted application form, plans, supporting documents and subsequent information provided by the applicant

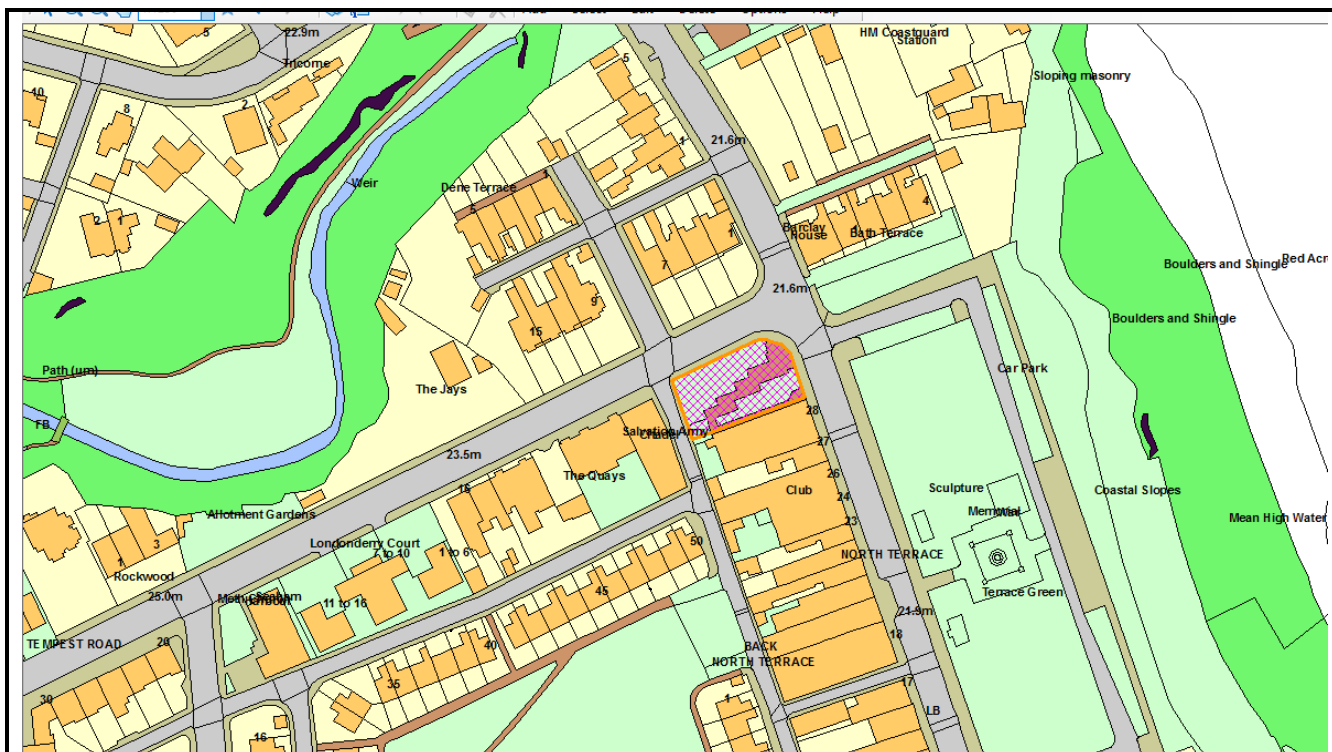
The National Planning Policy Framework (2021)

Residential Amenity Standards Supplementary Planning Document

National Planning Practice Guidance Notes

County Durham Plan

Statutory, internal and public consultation responses



<p><b>Planning Services</b></p>	<p>Demolition of existing agricultural buildings and erection of 38no. dwellings (Class C3) with associated access and landscape works (amended plans received regarding layout and removal of footpath link) at Land To The North Of 28 North Terrace, Seaham, SR7 7EU Application Reference: DM/23/00700/FPA</p>		
<p>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</p>			
	<p><b>Date:</b> July 2023</p>	<p><b>Scale</b> NTS</p>	

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/23/01084/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including formation of new parking area to front, cycle parking, bin storage and associated alterations
<b>NAME OF APPLICANT:</b>	Mr Gary Swarbrick
<b>ADDRESS:</b>	37 Moor Crescent, Gilesgate Moor, Durham, DH1 1PB
<b>ELECTORAL DIVISION:</b>	Belmont
<b>CASE OFFICER:</b>	Elinor Woodruff Planning Officer 03000 261059 <a href="mailto:elinor.woodruff@durham.gov.uk">elinor.woodruff@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site comprises a 4 bedroom, semi-detached, two-storey dwelling located within Moor Crescent, a residential estate situated to the north of Sunderland Road, Gilesgate Moor.
2. The property has a two-storey extension to the side, consisting of a garage to the ground floor and a bedroom to the first floor. The front lawn is enclosed with a low brick boundary wall with pillars and some vegetation.

### The Proposal

3. The application seeks full planning permission for the change of use of the property from a dwellinghouse (Use Class C3) to a House in Multiple Occupancy (Use Class C4) including the conversion of the garage into a habitable room, provision for bin storage and a new parking area to the front. Planning permission is required for this change of use because an Article 4 Direction has withdrawn PD rights for such changes of use.
4. The application is reported to planning committee at the request of Councillors Eric & Lesley Mavin who consider the application raises issues relating to residential amenity, parking, cycle storage and highway safety which require consideration by the committee.

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## **PLANNING HISTORY**

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5. No relevant planning history.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

#### National Planning Policy Framework

6. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
7. NPPF Part 2 - Achieving Sustainable Development. The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
8. NPPF Part 4 - Decision-making. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
9. NPPF Part 8 - Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
10. NPPF Part 9 – Promoting sustainable transport. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
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 14 – Meeting the challenge of climate change, flooding and coastal change - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of



existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

13. 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:**

14. 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; air quality; design process and tools; determining a planning application; flood risk; healthy and safe communities; land stability; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; Tree Preservation Orders and trees in conservation areas and; water supply, wastewater and water quality.

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

#### **LOCAL PLAN POLICY:**

##### The County Durham Plan

15. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
16. Policy 6 - Development on Unallocated Sites. Supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
17. Policy 16 - Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation. Seeks to provides a means to consider student accommodation and proposals for houses in multiple occupation in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.
18. Policy 21- Delivering Sustainable Transport. Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in

sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.

19. Policy 29 – Sustainable Design. Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards.
20. Policy 31 - Amenity and Pollution. Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

<https://www.durham.gov.uk/media/34069/County-Durham-Plan-adopted-2020-/pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=637424969331400000>

#### Neighbourhood Plan

21. The application site is not located within an area where there is a Neighbourhood Plan to which regards is to be had.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

22. Highway Authority – Raises no objection to the application as two off street spaces would be provided, which for a 5-bed property would be in accordance with DCC parking standards.
23. Belmont Parish Council – object to the application, raising concerns in regards to the over proliferation of HMOs within this location, insufficient parking available at the property and the impact on the highway and congested cul-de-sac. In addition, the impact the proposed HMO would have on residential amenity and the potential for increased waste generation. Furthermore, no justification of need has been provided by the application and arguably the application would exceed the 10% threshold within Policy 16 of the CDP.

### INTERNAL CONSULTEE RESPONSES:

24. HMO Data Section - have confirmed that the percentage of properties within the 100m radius of and including the application site that are exempt from Council Tax is 2.3%.

There are four properties within 100m with unimplemented planning permission, which would increase the percentage to 6.8% if all were implemented, there is one additional application pending determination.

25. HMO Licensing - have confirmed that the property will need to be licensed following completion of the works due to the property forming a 5-bedroom, 2 storey house in multiple occupation.
26. Environment, Health and Consumer Protection (Nuisance Action Team) - raise no objection to the application subject to the inclusion of conditions relating to construction works.

#### **PUBLIC RESPONSES:**

27. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents.
28. Six letters of objection have been received from neighbouring properties. Reasons for objection are summarised as:
  - The development would be contrary to Policy 16 in that the 10% threshold has been met as several other HMOs are present in the locality which are not reflected in the % figure of Class N Exempt properties. Concern is raised at the methodology used in policy 16 which they consider to be fatally flawed. In addition, respondents considered that there is no identified need for additional student housing in the area which already has PBSAs and HMOs. Also raised as a concern is the presence of the number of HMOs within a small cluster within the cul-de-sac.
  - Impact upon parking and highway safety, specifically that the site would increase traffic and parking in an already congested cul-de-sac.
  - Impact upon existing residential amenity in that the proposal would adversely impact upon neighbouring properties from increased noise and disturbance. The area is predominantly for families and the number of HMOs is pushing private owners out and increasing costs.
  - Adverse impact from increased volume of waste/recycling and that the site does not include sufficient space to accommodate refuse storage requirements for 5 persons and as such would increase nuisance and vermin.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

#### **APPLICANTS STATEMENT:**

29. The application proposals relate to a change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including formation of new parking area to front, cycle parking, bin storage and associated alterations at 37 Moor Crescent, Gilesgate, Durham.
30. Durham University is a member of the Russell Group of leading research intensive universities and placed sixth in the UK in The Sunday Times Sunday Times Good University Guide 2023 with continued strong demand for places to study at the university. The adopted County Durham Plan recognises that Durham University is a

major asset to the city, shaping the built environment, contributing to the cultural and heritage offer, developing highly skilled individuals as well being a major employer and a purchaser of local goods and services.

31. The Durham University Strategy 2017-2027 sets out clear goals to deliver world class research, education and a wider student experience and it is clear that the provision of a sufficient range and supply of high quality affordable and accessible residential accommodation options that meet the current and future aspirations of the student population will be key to supporting the wider student experience and the overarching strategic objectives of Durham University.
32. The County Durham Plan acknowledges that students make up a significant proportion of the term time population of the City contributing greatly to its culture, economy and vibrancy. However, it is also recognised that there can be adverse impacts on the amenities of residents in areas where student HMOs are dominant and Part 3 of Policy 16 of the adopted County Durham Plan sets out the adopted policy approach towards HMO related development to support the Council's objectives of maintaining and creating sustainable, inclusive and mixed communities in Durham City by balancing the contribution that such a development will make to meeting housing demand against the potential harm that might be caused to the character and amenity of the surrounding area.
33. Policy 16 confirms that proposals for new HMOs will not be supported where more than 10% of the total number of residential units within 100 metres of the application site are Class N exempt, which is the point where it is considered that there is an existing imbalance between HMOs occupied by students and homes occupied by other non student residents. Whilst we acknowledge the concerns raised by local residents in relation to the concentration of student properties within the local area, the current application proposals, in combination with approved schemes and applications under consideration in the area, will not lead to more than 10% of properties within a 100m radius being Class N exempt and, as such, would not conflict with Policy 16 of the adopted CDP.
34. The proposals relate to the provision of a small 5-bedroom HMO and it is not considered that the proposed use would generate levels of noise and disturbance and general activity that would unacceptably impact on neighbouring residents and it is noted that no objections have been received to the proposals from the Council's Nuisance Action Team. Furthermore, the property will be managed by a well-established student housing provider with a Student Management Plan in place with firm measures in place to address any issues that may arise.
35. The proposed HMO will also be served by sufficient levels of car parking and will not give rise to any unacceptable impacts on the local highway network, with no objections raised by the Council's Highways Department.
36. The current application would therefore fully accord with the requirements of Policy 16 of the adopted County Durham Plan delivering high quality student accommodation that meets the standards of the well-established Durham Student Accreditation Housing Scheme supporting the provision of a range of high-quality student accommodation options to support the identified growth of Durham University, which is a key objective of the adopted Development Plan.
37. The application proposals therefore represent an entirely acceptable form of development in this location that would fully accord within the adopted County Durham Plan.

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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38. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
39. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, the impact on the character of the area, impact on residential amenity, and impact on parking and highway safety.
40. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area which is the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP. Paragraph 11(d) of the NPPF is not engaged.

### Principle of the Development

41. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses falling within Class C4 (houses in multiple occupation HMOs). HMOs are small, shared houses occupied by between three and six unrelated individuals, as their only or main residence and who share basic amenities such as a kitchen or bathroom.
42. The proposed floor plans submitted with the application indicate that the proposal is such that the development would normally benefit from the provisions contained within the GPDO. However, an Article 4 Direction is in effect withdrawing permitted development rights in this regard and as such planning permission is required.
43. Policy 6 (Development on Unallocated Sites) of the County Durham Plan (CDP) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
44. In addition, Policy 16 of the County Durham Plan (CDP) is also of relevance to this application which relates to student accommodation/HMOs. It states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and sui generis), extensions that result in specified or potential additional bedspaces and changes of use from any use to a Class C4 (House in Multiple Occupation), where planning permission is required or a House in Multiple Occupation in a sui generis use (more than six people sharing) will not be permitted if:
  - a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);

- b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area; or
- c. less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.

45. This is in line with paragraph 92 of the NPPF, which also seeks to achieve healthy, inclusive and safe places which promote social interaction and community cohesion and with paragraph 130 which seeks to ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
46. Objections received from local residents and Belmont Parish Council have raised concern with respect to the principle of the development in that given the properties in the area that have received permission to change their use to C4, there is a perception that the percentage of properties within the area which are exempt from Council Tax is already in excess of 10% and thereby the proposal would be contrary to Policy 16 and the aims of the Article 4 Direction, resulting in an over proliferation of HMOs in the area, creating an unbalance in the community. Objections received have also raised concerns about the need for this type of accommodation in the area and the demand is likely to fall given that the number of students is expected to reduce. Specifically, the concern in this regard is that the use of Council Tax data alone is not a sufficiently accurate representation of all HMOs present within the area. Whilst the concern in relation to the use of Council Tax Exemption Data is noted it is the case that all properties registered as class N exempt within 100 metre radius of the property are captured within the data collection, and this information is gathered twice a year. The policy and the methodology contained within it was considered sufficiently accurate and robust during examination in public of the CDP in 2020, and the policy adopted as presently exists within the adopted CDP. The policy has proven sufficiently robust in this regard and the Council has successfully defended several appeals against refusal of similar changes of use where these were in clear conflict with the policy.
47. The most recent up to date Council Tax information identifies that if planning permission was granted for the change of use of the dwellinghouse into a small HMO that within 100 metre radius of, and including 37 Moor Crescent, 2.3% of properties are class N exempt properties as defined by Council Tax records. There are however four unimplemented consents, which would take the percentage up to 6.9%, in addition to an application pending determination which if approved would take the percentage to 8%. As this concentration would be below the 10% threshold stated in the CDP, the proposal would comply with criteria 'a' and 'b' in this respect. In terms of criteria 'c' the application site is within a residential area but is not on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus. Therefore, the development can be considered to comply with policy 16, Part 3, criteria a), b) and c) and is acceptable in principle, subject to further consideration of the proposal against other criteria on Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.
48. It is noted that objections have been received citing that the application fails to demonstrate need for accommodation of this type in this location, and that there is a perceived surplus of student accommodation within the city as a whole. Whilst these points are noted there is recognition that market forces will, in the main, deliver the

level of student accommodation required without resulting in a significant oversupply of accommodation, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration.

49. Notwithstanding this, it nevertheless remains that whilst Part 2 of policy 16 requires an application for PBSA to demonstrate need (along with a number of other requirements) this is not mirrored in Part 3 of the policy which relates to applications for changes of use to HMO and is the part of the policy which is relevant to the current application. For that reason, it is considered that the proposal would accord with the requirements set out in Part 3 of Policy 16 of the CDP and that the lack of any specific information within the application with regards to need, is not sufficient to sustain refusal of the application in this instance.
50. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). Given that less than 10% of properties within 100m of the application property are Class N exempt and this would remain the case post development, should permission for the current change of use be granted the aims of Paragraph 62 would be met.
51. Objections have been received citing that the development would have an adverse impact upon social cohesion and unbalance the community, given the close proximity of several HMOs to each other within the area. Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of policy 16 which includes a threshold of no more than 10% of properties being in HMO use.
52. As already noted above, in light of the low level of Class N exempt properties within 100m radius of the site at present, it is not considered that this proposal would be contrary to the NPPF or CDP in this regard.
53. In summary and whilst concerns are noted, the principle of the development could be supported subject to proper consideration of the impact of the proposal upon residential amenity and highway safety. Whilst it is noted that tenants would likely change on a yearly basis this is unlikely to have any adverse impact capable of sustaining refusal of the planning application.

#### Impact on Residential Amenity

54. Policy 31 (Amenity and Pollution) of the CDP states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living conditions. In addition, criterion 'e' of Policy 29 (Sustainable Design) states that all development proposals will be required to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
55. This is in line with paragraph 130 of the NPPF which advises that planning decisions should create places that have a high standard of amenity for existing and future users.
56. In this instance the application site is a semi-detached property located within a residential area and as such the nearest residential property adjoins the application

site to the east, with further residential properties to all sides. As already noted, the adjoining property also has an application pending consideration for a change of use to a small HMO.

57. Concerns have been raised by neighbouring residents and the Parish Council regarding the impacts on residential amenity including noise and disturbance and the tidiness of these types of properties. The Environmental Health Officer (EHO) has provided comment on the application and considers that the information submitted demonstrates that the application complies with the thresholds stated within the TANS.
58. The Council's EHO has been consulted and confirmed that the development would fall within the thresholds associated with Council's TANS. They have noted that although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO use than a single dwelling. This is due to the increase in household numbers and activity to and from the property. The demographic that uses this type of accommodation are often associated with greater use of the night time economy and as such an increased level of night time noise may occur. However, it is anecdotal as the potential for impact is associated with the individuals residing there and as such might differ greatly.
59. The application site is located within a residential area predominantly characterised by small family homes. The impact of the development upon residential amenity is a material consideration in determination of this application. In most cases it is held that changes of use from C3 dwellinghouses to HMO use can be adequately mitigated to within acceptable levels subject to planning conditions. Where a HMO is proposed within a residential area with an existing high proliferation of HMO accommodation, the cumulative impact of an additional HMO in this context has been considered to have a detrimental impact upon residential amenity from increase in noise and disturbance sufficient to sustain refusal of planning permission. The LPA has refused a number of previous applications in this regard and proved successful in defending a subsequent planning appeals. However, in this instance it is noted that there is no identified over proliferation of existing HMOs within 100 metres of the application site, and as such it is not considered that the introduction of a single additional HMO in this location would result in a level of cumulative impact that would be detrimental to residential amenity.
60. The EHO notes that a bedroom will be on the ground floor which could lead to a greater impact for the individual residing in this bedroom, as well as the potential increase of noise at night time. Therefore, to mitigate this soundproofing is proposed the shared party wall. The EHO has agreed that this would be sufficient to mitigate concerns raised in regards to noise.
61. In addition, the EHO raises concerns regarding the impact on nearby residential properties during the construction phase. Therefore, to help mitigate against relevant impacts have suggested a Construction Management Plan should be submitted based on set criteria. The submission, agreement and implementation of this can be secured through planning condition should planning permission be granted. Subject to the inclusion of a planning condition in this regard, the EHO is satisfied that the development is unlikely to cause a statutory nuisance and the stated mitigation is sufficient to ensure that there would not be any unacceptable impact upon residential amenity of nearby occupiers.
62. The property includes adequate external space to accommodate sufficient bin and cycle storage facilities as shown on the proposed site plan. In addition, noting the extent of the garden area contained within the curtilage it is considered there is



sufficient external amenity space to serve the inhabitants and as in accordance with policy 16 of the CDP.

63. It is considered that this is acceptable, and a condition will be added to ensure that this area is made available and retained for this purpose at all times for the duration that the property is in use as a small HMO.
64. In relation to internal space the Nationally Described Space Standards (NDSS) is a government introduced nationally prescribed internal space standard which sets out detailed guidance on the minimum standard for all new homes and was created with the aim of improving space standards within new residential development across all tenures. Evidence compiled during formulation of the County Durham Plan identified that many new homes in the county were being built below NDSS and that this was having an impact on the quality of life of residents. As a result, Council determined that it was necessary to introduce the NDSS in County Durham with the aim of improving the quality of new build development coming forward.
65. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate to the current application. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of policy 29(e) of the CDP which requires new development to provide high standards of amenity and privacy.
66. All of the bedrooms meet the minimum requirements of the NDSS being in excess of the required 7.5sq metres per room. With regard to the total overall internal space provided across the dwelling as a whole it is noted that the NDSS does not provide guidance specifically relating to 5 bedspace, 5 person dwellings. However, it does include standards in relation to 5b bedspace 6 person dwellings and it is noted that this requires an overall area of no less than 110sq metres. As already noted, whilst the rigid application of NDSS is not considered appropriate for the reasons outlined above the proposed change of use would provide adequate internal space delivering approximately 135sq metres of total internal floorspace.
67. The submitted plans do show an undersized room which is identified as a study. This would fall below the minimum space requirements as defined in the NDSS and as such would be unsuitable for habitation as a bedroom. Consequently, it is considered appropriate to include a planning condition which limits the number of occupants of the small HMO to a maximum of 5 to ensure appropriate amenity is provided for occupants in accordance with policy 29(e) of the CDP.
68. Therefore, based on the above the proposal is considered to comply with policy 29(e) of the CDP in that it provides a suitable amount of internal and external amenity space to meet the needs of future occupiers and deliver a suitable quality of development in relation to policy 29(E) of the CDP policy 16 of the CDP and Paragraphs 130 and 174 of the NPPF.

#### Impact on Character and Appearance of the Area

69. The National Planning Policy Framework (NPPF) sets out the Government's commitment to good design. Paragraph 124 states that, good design is a key aspect of sustainable development, creates better places in which to live and work and helps makes development acceptable to communities.

70. Paragraph 126 goes on to highlight that developments should have clear design guides and codes to create distinctive, consistent and high-quality developments, but cautions that they should "allow a suitable degree of variety where this would be justified". In this instance development was subject to an approved design code agreed as part of the outline application.
71. Policy 29 (Sustainable Design) of the County Durham Plan requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
72. Neighbouring residents have raised objections to the proposed development stating that HMOs will have a negative impact on the residential housing estate, HMOs are not adequately maintained and that students are short term occupiers with no stake in local community.
73. It is noted that limited external alterations are proposed to facilitate the change of use comprising solely of the removal and replacement of the garage door with brickwork and windows in association with its conversion to a bedroom. This is considered acceptable in principle and similar to other works undertaken at properties in the locality subject to the inclusion of a planning condition which requires materials used to match the host property.
74. The character and appearance of the surrounding area incorporates two storey semi-detached properties. There is a variety of boundary treatments within the local vicinity of the site and there is a difference in opening styles. With regard to concerns that the general appearance of the property would deteriorate as a consequence of the proposed use there is no evidence that this would occur, and the applicant has reiterated that the property would be appropriately maintained. In respect of the current state of student properties within the area, it is noted that there are separate powers available to the LPA to resolve instances where properties are considered to amount to untidy land. Should the application site appear as untidy land in the future then this could be addressed through S215 action where appropriate. This however would relate to the external appearance of the property only and cannot control for example, alcohol bottles in windows. As such, it is not considered that this matter could sustain refusal of the current planning application as a consequence.
75. It is therefore considered that the proposed development would fit with the character and appearance of the area and would not have a detrimental impact on the appearance of the wider streetscene.
76. Taking the above into consideration, it is considered that the proposed development would accord with Policy 29 of the CDP and Part 12 of the NPPF.

#### Parking, Access and Highway Safety

77. Policy 16 of the CDP states that new HMOs shall provide adequate parking and access. In addition, Policy 21 of the CDP requires all new development to provide safe and adequate access. This displays broad accord with paragraph 110 of the NPPF which requires new development to provide safe and suitable access to the site.

Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

78. CDP Policy 21 is broadly in accordance with the above and relates to the delivery of sustainable transport and states that the transport implications of development must be addressed as part of any planning application and [in part] that all development should deliver sustainable transport by ensuring that any vehicular traffic generated by the development, following the implementation of sustainable transport measures, can be safely accommodated on the local strategic highway network.
79. Objections have been raised that the development does not provide sufficient in curtilage parking provision to serve the number of occupants proposed. Therefore, that this would create unsustainable additional pressure to existing on-street provision in a quiet area which is used by families, elderly residents and has already congested narrow roads.
80. The Highway Authority have been consulted on the application and do not consider that there would be any adverse impacts in terms of highway safety as a result of the proposals. The proposals are assessed against the requirements of the current DCC parking standards, which would require a 5 bed property to have two off street parking spaces. The applicant is proposing to provide two off street parking spaces by widening the existing dropped crossing and drive. As such, the amount of in-curtilage parking proposed is in accordance with the Council's parking and accessibility standards and is therefore acceptable in this regard.
81. With regard to concerns that the development would increase in vehicle movements in this area of the cul-de-sac and the presence of parked vehicles would narrow the carriageway width, it is considered that the proposed use would not increase vehicle movements to an extent that it would adversely impact upon existing network capacity or on street parking. In instances where vehicles presently obstruct the adopted footway this is subject to other legislative control via the Highways Act and cannot be afforded weight in determination of this application.
82. Therefore, notwithstanding the concerns raised by residents in relation to parking and access, it is not considered that the development would have a detrimental impact upon highway safety sufficient to sustain refusal of the application. In light of the above, it is considered that the development would accord with the aims of policy 16 and 21 of the CDP and Part 9 of the NPPF.

#### Other Matters

83. Objections have been raised regarding the proposed change of use resulting in the loss of council tax from the class N exemption from student occupiers, that house prices are rising, and young families have already been pushed out of the area. House prices are not a material consideration, and the issue of social cohesion has been discussed elsewhere in the report.

#### Public Sector Equality Duty

84. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and

persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.

85. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## CONCLUSION

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86. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan in this case relates to the County Durham Plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (paragraph 11 c).
87. The proposed change of use is considered acceptable in principle and would accord with the requirements of Policy 16 of the CDP. Specifically, it would not result in more than 10% of the properties within 100 metres of the site being Class N exempt from Council Tax as being wholly occupied by students.
88. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the introduction of a HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs, and nor would it result in any unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of HMOs or highway safety in accordance with policies 6, 16, 21, 29 and 31 of the County Durham Plan or parts 9, 12 and 15 of the NPPF.
89. In addition, it is considered that on balance the development is acceptable in that it provides appropriate levels of amenity space for residents, protects the privacy and amenity of existing and future residents whilst also being acceptable in terms of highway safety and flooding, in accordance with Policies 6, 16, 21, 29, and 31 of the County Durham Plan and Parts 2, 4, 8, 9, 12 and 15 of the National Planning Policy Framework.

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## RECOMMENDATION

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

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

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

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 6, 16, 21, 29, and 31 of the County Durham Plan and Parts 2, 4, 8, 9, 12 and 15 of the NPPF.

3. The small HMO hereby approved shall not be occupied by a total of no more than 5 persons at any one time.

Reason: To ensure that adequate internal space is provided to serve the number of occupants in the interest of residential amenity in accordance with the aims of Policy 31 of County Durham Plan.

4. Notwithstanding the details shown on the submitted application, the external building materials to be used shall match the existing building.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

5. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0730 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

6. The cycle and bin storage arrangement as proposed on proposed site plan shall be made available prior to the use hereby approved being brought into use and shall remain available for as long as the property is in use as a small HMO.

Reason: In the interests of visual amenity of the area and to encourage sustainable modes of transport in accordance with Policies 21, 29 and 31 of the County Durham Plan and Parts 9, 12 and 15 of the National Planning Policy Framework.

7. Prior to the first occupation of the property for the purposes of C4 (Small HMO) the sound proofing detailed on Drawing No. 131503 entitled 'Proposed Floor Plans and Elevations' received 18th April 2023 shall be fully installed and thereafter retained at all times during which the property is in C4 use.

Reason: In the interests of the amenity of the surrounding areas in accordance with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

8. The small HMO hereby approved shall be managed in accordance with the Student Management Plan, submitted 18.04.2023.

Reason: In the interests of residential amenity in accordance with the aims of Policy 31 of County Durham Plan.

9. The car parking identified on Drawing Entitled 'Proposed Floor Plans and Elevations' No. 1315-03 shall be installed and available for use prior to the first occupation of the small HMO hereby approved. Thereafter the spaces will be retained for the parking of motor vehicles.

Reason: In the interests of highway safety in accordance with policy 21 of the CDP.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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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.)

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance Notes.
- County Durham Plan 2020
- Statutory, internal and public consultation responses
- County Durham Parking and Accessibility Standards 2019
- Residential Amenity Standards SPD (2020)



<b>Planning Services</b>	37 Moor Crescent Gilesgate Moor Durham DH1 1PB	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright.</p> <p>Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.</p> <p>Durham County Council Licence No. 100049055 2005</p>	Change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including formation of new parking area to front, cycle parking, bin storage and associated alterations	
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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/23/01173/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including formation of new parking area to front, bin storage and associated alterations
<b>NAME OF APPLICANT:</b>	Mr Gary Swarbrick
<b>ADDRESS:</b>	38 Moor Crescent Gilesgate Moor Durham DH1 1PB
<b>ELECTORAL DIVISION:</b>	Belmont
<b>CASE OFFICER:</b>	David Richards Planning Officer 03000 261955 <a href="mailto:david.richards@durham.gov.uk">david.richards@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site comprises a 3 bedroom, linked semi-detached dwelling located on Moor Crescent within a residential area. The property benefits from an existing attached garage and driveway which can accommodate one car.

#### The Proposal

2. The application seeks full planning permission for the change of use from a dwellinghouse (Use Class C3) to a house in Multiple Occupancy (Use Class C4) including formation of new parking area to the front, bin storage and associated alterations. The existing garage would be converted to an additional bedroom. Planning permission is required for this change of use because the site is located within an area which is subject to an Article 4 direction withdrawing PD rights for such changes of use.
3. The application is reported to Planning Committee at the request of Belmont Parish Council who consider the proposal to be contrary to relevant local plan policies, in particular Policies 16 and 21 and as such requires consideration by the committee.

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## **PLANNING HISTORY**

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4. No relevant planning history.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

#### National Planning Policy Framework

5. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
6. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
7. NPPF Part 4 Decision-Making - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
8. NPPF Part 8 – Promoting healthy and safe communities. The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
9. NPPF Part 9 – Promoting sustainable transport. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
10. 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.
11. NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of

existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

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 several 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; historic environment; design process and tools; determining a planning application; healthy and safe communities; neighbourhood planning; noise; and use of planning conditions.

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

#### **LOCAL PLAN POLICY:**

##### **The County Durham Plan**

14. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
15. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration
16. Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation) seeks to provides a means to consider student accommodation and proposals for houses in multiple occupation to ensure they create inclusive places in line with the objective of creating mixed and balanced communities.
17. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.

18. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards
19. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

<https://www.durham.gov.uk/media/34069/County-Durham-Plan-adopted-2020-/pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=637424969331400000>

#### Neighbourhood Plan

20. The application site is not located within an area where there is a Neighbourhood Plan to which regards is to be had.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

21. Highway Authority - From a Highways perspective, with 2 off-street parking spaces proposed, the development would be in accordance with the DCC parking standard of 2 spaces for a 4 bed property. To allow for provision of the additional space, the existing dropped crossing would require widening and this would require the applicant to enter into a S184 agreement with the Local Highway Authority. All works to the adopted highway would be at the applicant's expense.
22. Belmont Parish Council object to the application for the following reasons:
  - Over proliferation of HMO properties within a residential area of family homes.
  - No evidence of how the development meets sustainable development.
  - Increased waste.
  - Class N Exemption used in the Policy 16 is not sufficiently robust a measure.
  - Insufficient parking.
  - No demonstration of need for additional HMOs within the area.
  - Increased noise and disturbance.
23. County Councillor Christine Fletcher - Objection citing concerns at the over proliferation of HMOs within the area.

## **Internal Consultee Responses:**

24. HMO Data Section – have confirmed that within 100 metre radius of 38 Moor Crescent, 2.3% of properties are presently Class N exempt from Council Tax Records. There are four properties within 100m with unimplemented planning permission, which would increase the percentage to 6.8% if all were implemented, there is one additional application pending determination.
25. HMO Licensing - Advice on legislation provided and confirmation that the property will not be required to be licensed.
26. Environmental Health and Consumer Protection (Nuisance Action Team) – No objection subject to the approval by condition of a tenant management plan.

## **Non-Statutory Consultee Responses:**

27. Police Architectural Liaison Officer – Raises no objection but provides some advice in relation to secured by design.

## **PUBLIC RESPONSES:**

28. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents.
29. To date, 5 letters of objection have been received. The City of Durham Trust also commented and raised no objection but wishes to see a planning condition attached if the application is approved for the creation of a new parking area to the front in accordance with the County Durham Parking and Accessibility Standards 2019. The letters of objection raise the following concerns:
  - Large numbers and clustering of HMO properties in a small area
  - Demand for accommodation is likely to be reduced in coming years
  - Detrimental to amenity of neighbouring properties
  - Detrimental to the character of the area including balance of the community
  - Lack of need for this type of accommodation.
  - Parking issues

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>*

## **APPLICANT'S STATEMENT:**

30. The application proposals relate to a change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including formation of new parking area to front, bin storage and associated alterations at 38 Moor Crescent, Gilesgate.
31. Durham University is a member of the Russell Group of leading research intensive universities and placed sixth in the UK in The Sunday Times Good University Guide 2023 with continued strong demand for places to study at the university. The adopted County Durham Plan recognises that Durham University is a major asset to the city, shaping the built environment, contributing to the cultural and heritage offer, developing highly skilled individuals as well being a major employer and a purchaser of local goods and services.

32. The Durham University Strategy 2017-2027 sets out clear goals to deliver world class research, education and a wider student experience and it is clear that the provision of a sufficient range and supply of high quality affordable and accessible residential accommodation options that meet the current and future aspirations of the student population will be key to supporting the wider student experience and the overarching strategic objectives of Durham University.
33. The County Durham Plan acknowledges that students make up a significant proportion of the term time population of the City contributing greatly to its culture, economy and vibrancy. However, it is also recognised that there can be adverse impacts on the amenities of residents in areas where student HMOs are dominant and Part 3 of Policy 16 of the adopted County Durham Plan sets out the adopted policy approach towards HMO related development to support the Council's objectives of maintaining and creating sustainable, inclusive and mixed communities in Durham City by balancing the contribution that such a development will make to meeting housing demand against the potential harm that might be caused to the character and amenity of the surrounding area.
34. Policy 16 confirms that proposals for new HMOs will not be supported where more than 10% of the total number of residential units within 100 metres of the application site are Class N exempt, which is the point where it is considered that there is an existing imbalance between HMOs occupied by students and homes occupied by other non student residents. Whilst we acknowledge the concerns raised by local residents in relation to the concentration of student properties within the local area, the current application proposals, in combination with approved schemes and applications under consideration in the area, will not lead to more than 10% of properties within a 100m radius being Class N exempt and, as such, would not conflict with Policy 16 of the adopted CDP.
35. The proposals relate to the provision of a small 4-bedroom HMO and it is not considered that the proposed use would generate levels of noise and disturbance and general activity that would unacceptably impact on neighbouring residents and it is noted that no objections have been received to the proposals from the Council's Nuisance Action Team. Furthermore, the property will be managed by a well-established student housing provider with a Student Management Plan in place with firm measures in place to address any issues that may arise.
36. The proposed HMO will also be served by sufficient levels of car parking and will not give rise to any unacceptable impacts on the local highway network, with no objections raised by the Council's Highways Department.
37. The current application would therefore fully accord with the requirements of Policy 16 of the adopted County Durham Plan delivering high quality student accommodation that meets the standards of the well-established Durham Student Accreditation Housing Scheme supporting the provision of a range of high quality student accommodation options to support the identified growth of Durham University, which is a key objective of the adopted Development Plan.
38. The application proposals therefore represent an entirely acceptable form of development in this location that would fully accord within the adopted County Durham Plan.

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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39. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
40. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, the impact on the character of the area, impact on residential amenity, and impact on parking and highway safety.
41. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area which is the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP. Paragraph 11(d) of the NPPF is not engaged.

### Principle of Development

42. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses falling within Class C4 (houses in multiple occupation HMOs). HMOs are small, shared houses occupied by between three and six unrelated individuals, as their only or main residence and who share basic amenities such as a kitchen or bathroom.
43. The proposed floor plans submitted with the application indicate that the proposal is such that the development would normally benefit from the provisions contained within the GPDO. However, an Article 4 Direction is in effect withdrawing permitted development rights in this regard and as such planning permission is required.
44. Policy 6 (Development on Unallocated Sites) of the County Durham Plan (CDP) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
45. In addition, Policy 16 of the County Durham Plan (CDP) is also of relevance to this application which relates to student accommodation/HMOs. It states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and sui generis), extensions that result in specified or potential additional bedspaces and changes of use from any use to a Class C4 (House in Multiple Occupation), where planning permission is required or a House in Multiple Occupation in a sui generis use (more than six people sharing) will not be permitted if:
  - a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);

- b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area; or
- c. less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.

46. This is in line with paragraph 92 of the NPPF, which also seeks to achieve healthy, inclusive and safe places which promote social interaction and community cohesion and with paragraph 130 which seeks to ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
47. In the supporting text of Policy 16 it is stated that Part 3 of the policy uses a threshold of 10%. This has been derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', which was published in 2008. The policy approach recognises that it is the cumulative impact of HMOs that has an impact upon residential amenity and can change the character of an area over time.
48. In addition policy 16 also states that such applications will only be permitted where:
  - d. the quantity of cycle and car parking provided has regard to the council's adopted Parking and Accessibility Supplementary Planning Document (SPD);
  - e. they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues;
  - f. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and
  - g. the applicant has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.
49. Objections received from local residents and Belmont Parish Council have raised concern with respect to the principle of the development in that given the properties in the area that have received permission to change their use to C4, there is a perception that the percentage of properties within the area which are exempt from Council Tax is already in excess of 10% and thereby the proposal would be contrary to Policy 16 and the aims of the Article 4 Direction, resulting in an over proliferation of HMOs in the area, creating an unbalance in the community. Objections received have also raised concerns about the need for this type of accommodation in the area and the demand is likely to fall given that the number of students is expected to reduce. Specifically, the concern in this regard is that the use of Council Tax data alone is not a sufficiently accurate representation of all HMOs present within the area. Whilst the concern in relation to the use of Council Tax Exemption Data is noted it is the case that all properties registered as class N exempt within 100 metre radius of the property are captured within the data collection, and this information is gathered twice a year. The policy and the methodology contained within it was considered sufficiently accurate and robust during examination in public of the CDP in 2020, and the policy adopted as presently exists within the adopted CDP. The policy has proven sufficient robust in this regard and the Council has successfully defended several appeals against refusal of similar changes of use where these were in clear conflict with the policy.



50. The most recent up to date Council Tax information identifies that if planning permission was granted for the change of use of the dwellinghouse into a small HMO that within 100 metre radius of, and including 38 Moor Crescent, 2.3% of properties are class N exempt properties as defined by Council Tax records. There are however four unimplemented consents, which would take the percentage up to 6.8%, in addition to an application pending determination which if approved would take the percentage to 8%. As this concentration would be below the 10% threshold stated in the CDP, the proposal would comply with criteria 'a' and 'b' in this respect. In terms of criteria 'c' the application site is within a residential area but is not on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus. Therefore, the development can be considered to comply with policy 16, Part 3, criteria a), b) and c) and is acceptable in principle, subject to further consideration of the proposal against other criteria on Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.
51. It is noted that objections have been received citing that the application fails to demonstrate need for accommodation of this type in this location, and that there is a perceived surplus of student accommodation within the city as a whole. Whilst these points are noted there is recognition that market forces will, in the main, deliver the level of student accommodation required without resulting in a significant oversupply of accommodation, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration.
52. Notwithstanding this, it nevertheless remains that whilst Part 2 of Policy 16 requires an application for PBSA to demonstrate need (along with several other requirements) this is not mirrored in Part 3 of the Policy which relates to applications for changes of use to HMO and is the part of the Policy which is relevant to the current application. For that reason, it is considered that the proposal would accord with the requirements set out in Part 3 of Policy 16 of the CDP and that the lack of any specific information within the application with regards to need, is not sufficient to sustain refusal of the application in this instance.
53. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). Given that less than 10% of properties within 100m of the application property are Class N exempt and this would remain the case post development, should permission for the current change of use be granted the aims of Paragraph 62 would be considered to be met.
54. Objections have been received citing that the development would have an adverse impact upon social cohesion and unbalance the community. Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of Policy 16 which includes a threshold of no more than 10% of properties being in HMO use.
55. As already noted above, in light of the low level of Class N exempt properties within 100m radius of the site at present, it is not considered that this proposal would be contrary to the NPPF or CDP in this regard.
56. In summary and whilst concerns are noted, the principle of the development could be supported subject to proper consideration of the impact of the proposal upon residential amenity and highway safety. Whilst it is noted that tenants would likely

change on a yearly basis this is unlikely to have any adverse impact capable of sustaining refusal of the planning application.

### Impact on Residential Amenity

57. Policy 31 (Amenity and Pollution) of the CDP states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living conditions. In addition, criterion 'e' of Policy 29 (Sustainable Design) states that all development proposals will be required to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
58. This is in line with paragraph 130 of the NPPF which advises that planning decisions should create places that have a high standard of amenity for existing and future users.
59. In this instance the application site is a semi-detached property located within a residential area and as such the nearest residential property adjoins the application site to the west, with further residential properties to all sides. As already noted, the adjoining property also has an application pending consideration for a change of use to a small HMO.
60. Concerns have been raised by neighbouring residents and the Parish Council regarding the impacts on residential amenity including noise and disturbance and the tidiness of these types of properties. The Environmental Health Officer (EHO) has provided comment on the application and considers that the information submitted demonstrates that the application complies with the thresholds stated within the TANS.
61. The Council's EHO has been consulted and confirmed that the development would fall within the thresholds associated with Council's TANS. They have noted that although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO use than a single dwelling. This is due to the increase in household numbers and activity to and from the property. The demographic that use this type of accommodation are often associated with greater use of the night time economy and as such an increased level of night time noise may occur. However, it is anecdotal as the potential for impact is associated with the individuals residing there and as such might differ greatly.
62. It is noted that some information is provided in the Planning Statement relating to the management of the tenants, however no example management plan has been provided and therefore it is recommended a condition is attached to provide an effective tenant management plan.
63. The application site is located within a residential area predominantly characterised by small family homes. The impact of the development upon residential amenity is a material consideration in determination of this application. In most cases it is held that changes of use from C3 dwellinghouses to HMO use can be adequately mitigated to within acceptable levels subject to planning conditions. Where a HMO is proposed within a residential area with an existing high proliferation of HMO accommodation, the cumulative impact of an additional HMO in this context has been considered to have a detrimental impact upon residential amenity from increase in noise and disturbance sufficient to sustain refusal of planning permission. The LPA has refused a number of previous applications in this regard and proved successful in defending subsequent planning appeals. However, in this instance it is noted that there is no identified over proliferation of existing HMOs within 100 metres of the application site,

and as such it is not considered that the introduction of a single additional HMO in this location would result in a level of cumulative impact that would be detrimental to residential amenity.

64. The proposals do include the provision of a bedroom to the ground floor which could lead to a greater impact for the individual residing in this room, as well as the potential increase of noise at night time. Therefore, to mitigate this soundproofing is proposed to the shared party wall. The submission and agreement of precise details in this regard can be secured through planning condition.
65. In addition, the EHO raises concerns regarding the impact on nearby residential properties during the construction phase. Therefore, to help mitigate against relevant impacts have suggested a Construction Management Plan should be submitted based on set criteria. The submission, agreement and implementation of this can be secured through planning condition should planning permission be granted. Subject to the inclusion of a planning condition in this regard, the EHO is satisfied that the development is unlikely to cause a statutory nuisance and the stated mitigation sufficient to ensure that there would not be any unacceptable impact upon residential amenity of nearby occupiers
66. The property includes adequate external space to accommodate sufficient bin and cycle storage facilities as shown on the proposed site plan. In addition, noting the extent of the garden area contained within the curtilage it is considered there is sufficient external amenity space to serve the inhabitants and as in accordance with policy 16 of the CDP
67. It is considered that this is acceptable, and a condition will be added to ensure that this area is made available and retained for this purpose at all times for the duration that the property is in use as a small HMO.
68. In respect of the current state of student properties within the area, it is noted that there are separate powers available to the LPA to resolve instances where properties are considered to amount to untidy land. Should the application site appear as untidy land in the future then this could be addressed through S215 action where appropriate. This however would relate to the external appearance of the property only and cannot control for example, alcohol bottles in windows. As such, it is not considered that this matter could sustain refusal of the current planning application as a consequence.
69. In relation to internal space, the Nationally Described Space Standards (NDSS) is a government introduced nationally prescribed internal space standard which sets out detailed guidance on the minimum standard for all new homes and was created with the aim of improving space standards within new residential development across all tenures. Evidence compiled during formulation of the County Durham Plan identified that many new homes in the county were being built below NDSS and that this was having an impact on the quality of life of residents. As a result, the Council determined that it was necessary to introduce the NDSS in County Durham with the aim of improving the quality of new build development coming forward.
70. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate to the current application. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of Policy 29(e) of the CDP which requires new development to provide high standards of amenity and privacy.

71. All of the bedrooms meet the minimum requirements of the NDSS being in excess of the required 7.5sq metres per room. With regard to the total overall internal space provided across the dwelling as a whole it is noted that the NDSS does not provide guidance specifically relating to 4 bedspace, 4 person dwellings. However, it does include standards in relation to 4 bedspace 5 person dwellings and it is noted that this requires an overall area of no less than 97sq metres. As already noted, whilst the rigid application of NDSS is not considered appropriate for the reasons outlined above the proposed change of use would provide adequate internal space delivering approximately 103.46sq metres of total internal floorspace.
72. Therefore, based on the above the proposal is considered to comply with policy 29(e) of the CDP in that it provides a suitable amount of internal and external amenity space to meet the needs of future occupiers and deliver a suitable quality of development in relation to policy 29(e) of the CDP policy 16 of the CDP and Paragraphs 130 and 174 of the NPPF.

#### Impact on Character and Appearance of the Area

73. The National Planning Policy Framework (NPPF) sets out the Government's commitment to good design. Paragraph 124 states that, good design is a key aspect of sustainable development, creates better places in which to live and work and helps makes development acceptable to communities.
74. Paragraph 126 goes onto highlight that developments should have clear design guides and codes to create distinctive, consistent and high-quality developments, but cautions that they should "allow a suitable degree of variety where this would be justified".
75. Policy 29 (Sustainable Design) of the County Durham Plan requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
76. Minor external alterations are proposed to the front elevation to change the existing garage door to a window with stone cladding to match existing closely as possible. Given the limited scale of these alterations and that other properties in the area have carried out similar works, it is not considered that this would have a detrimental impact on the street scene and would be considered in accordance with Policy 29 of the CDP and Part 12 of the NPPF.

#### Parking, Access and Highway Safety

77. Policy 16 of the CDP states that new HMOs shall provide adequate parking and access. In addition, Policy 21 of the CDP requires all new development to provide safe and adequate access. This displays broad accord with paragraph 110 of the NPPF which requires new development to provide safe and suitable access to the site. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
78. CDP Policy 21 is broadly in accordance with the above and relates to the delivery of sustainable transport and states that the transport implications of development must be addressed as part of any planning application and [in part] that all development

should deliver sustainable transport by ensuring that any vehicular traffic generated by the development, following the implementation of sustainable transport measures, can be safely accommodated on the local strategic highway network.

79. Objections have been raised regarding parking and highway as the cul-de-sac is congested with parked vehicles. Objections have also been raised that no EV charging point has been provided.
80. The property has an existing driveway for one car and a garage. The garage is proposed to be converted into a bedroom however, the Councils Parking Standards do not include garages as in curtilage spaces and as such the loss of the garage would not amount to a conflict of policy. The County Durham Parking and Accessibility Standards 2019 require 2 spaces per 4 bedrooms. The applicant proposes to extend the parking provision to the front to provide space for two vehicles.
81. The Highways Authority was consulted on the application and raised no concerns over road safety on the basis of the two parking spaces being provided, which would be in accordance with the DCC Parking standards. To allow for the additional space, the existing dropped kerb would be required to be widened and this would require the applicant to enter into a S184 agreement with the Local Highway Authority. A suitably worded condition is proposed to ensure that the car parking is extended prior to first occupation of the development and retained thereafter.
82. The road outside is public highway, and whilst the concerns regarding parking congestion are noted, it is not considered that the change of use of this property would create any further significant issues in this respect. With regard to concerns that the development would increase vehicle movements in this area of the cul-de-sac and the presence of parked vehicles would narrow the carriageway width, it is considered that the proposed use would not increase vehicle movements to an extent that it would adversely impact upon existing network capacity or on street parking. In instances where vehicles presently obstruct the adopted footway this is subject to other legislative control via the Highways Act and cannot be afforded weight in determination of this application.
83. Concern has been raised that an EV charging point is not being provided however this is only required for new residential developments and is therefore, not considered necessary in this instance.
84. Whilst the concerns highlighted above are noted, the development is nevertheless considered to provide safe access and adequate parking provision in accordance with the aims of Policies 16 and 21 of the CDP and Part 9 of the NPPF.

#### Other issues

85. Objections have been raised regarding the proposed change of use resulting in the loss of council tax from the Class N exemption from student occupiers and families are being pushed out of the area. Property values and loss of council tax revenue are not material planning considerations in the determination of this application and the issue of social cohesion has been discussed elsewhere in this report.

#### Public Sector Equality Duty

86. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and

persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.

87. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## CONCLUSION

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88. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan in this case relates to the County Durham Plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (paragraph 11 c).
89. The proposed change of use is considered acceptable in principle and would accord with the requirements of Policy 16 of the CDP. Specifically, it would not result in more than 10% of the properties within 100 metres of the site being Class N exempt from Council Tax as being wholly occupied by students.
90. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the introduction of a HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs, and nor would it result in any unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of HMOs or highway safety in accordance with policies 6, 16, 21, 29 and 31 of the County Durham Plan or parts 9, 12 and 15 of the NPPF.
91. In addition, it is considered that on balance the development is acceptable in that it provides appropriate levels of amenity space for residents, protects the privacy and amenity of existing and future residents whilst also being acceptable in terms of highway safety and flooding, in accordance with Policies 6, 16, 21, 29, and 31 of the County Durham Plan and Parts 2, 4, 8, 9, 12 and 15 of the National Planning Policy Framework.

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## RECOMMENDATION

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That the application be **APPROVED**, subject to the conditions detailed below:

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 approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy 16, 29, 31 and 44 of the County Durham Plan.

3. Notwithstanding the details shown on the submitted application, the external building materials to be used shall match the existing building.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy 29 and 44 of the County Durham Plan and Parts 12 and 16 of the National Planning Policy Framework.

4. Prior to the first occupation of the HMO hereby approved, a tenant management plan shall be submitted to and approved in writing by the Local Planning Authority. The tenant management plan shall thereafter be implemented in its entirety and retained for the lifetime of the development.

Reason: In the interest of the amenities of the area in accordance with CDP Policies 16, 29 and 31 and the NPPF

5. The cycle and bin storage arrangement as proposed on proposed site plan shall be made available prior to the use hereby approved being brought into use and shall remain available for as long as the property is in use as a small HMO.

Reason: In the interests of visual amenity of the area and to encourage sustainable modes of transport in accordance with Policies 21, 29 and 31 of the County Durham Plan and Parts 9, 12 and 15 of the National Planning Policy Framework.

6. Before the HMO hereby approved is occupied, two car parking spaces shall be constructed in accordance with the County Durham parking and Accessibility Standards 2019 and the approved plans and details, and thereafter they shall be used and retained for the parking of private motor vehicles.

Reason: In the interests of highway safety in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

7. Notwithstanding the details shown on the submitted application, the external building materials to be used shall match the existing building.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

8. 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 aim of the scheme shall be to ensure that the noise insulation of walls, floors, windows, roofs between the adjoining properties shall be sufficient to prevent excessive ingress, egress of noise. The approved scheme shall be implemented prior to the beneficial occupation of the development and shall be permanently retained thereafter.

Reason: To protect the amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

9. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0730 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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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.)

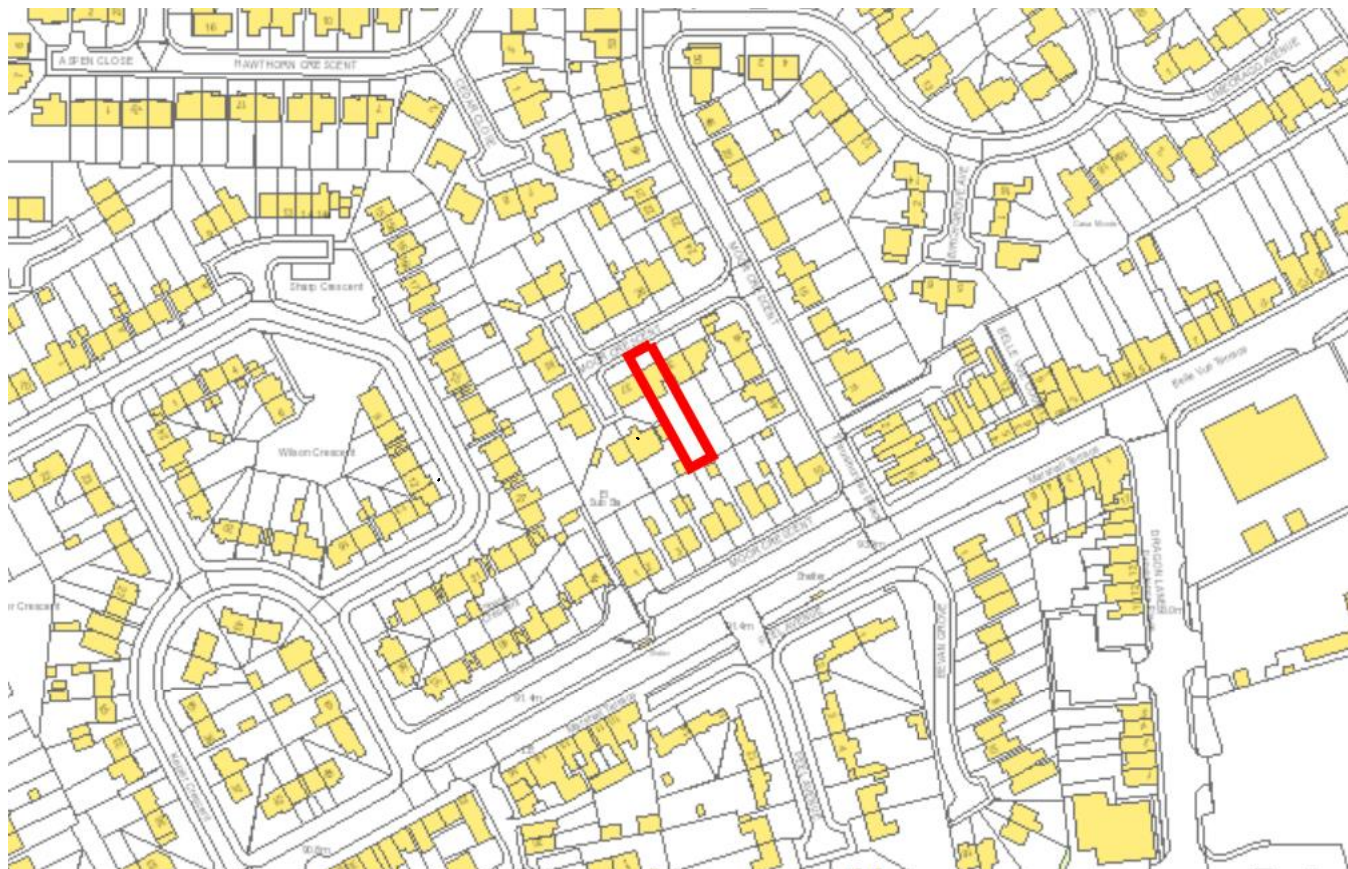
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## **BACKGROUND PAPERS**

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- Submitted application form, plans, supporting documents.
- Statutory, internal and public consultation responses
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance Notes
- County Durham Plan (2020)
- Residential Amenity Standards SPD (2020)
- County Durham Parking and Accessibility Standards 2019





<b>Planning Services</b>	38 Moor Crescent Gilesgate Moor Durham DH1 1PB	
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. 100049055 2005	Change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including formation of new parking area to front, bin storage and associated alterations	
	<b>Date</b>	<b>Scale</b> NTS

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