



Area Planning Committee (Central and East)

Date Tuesday 12 September 2023

Time 9.30 am

Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 11 July 2023 (Pages 3 - 22)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central and East)
 - a) DM/21/01789/FPA - Land At St John's Road Nevilles Cross
(Pages 23 - 58)
Construction of 12 townhouse dwellings with associated works.
 - b) DM/23/01520/FPA - Highfield House, Sycamore Terrace, Haswell, Durham, DH6 2AG (Pages 59 - 72)
Change of use from former nursing home to 2 separate dwellings (use class C3) (retrospective application).
 - c) DM/23/01237/FPA - 41 Fieldhouse Lane, Durham, DH1 4LT
(Pages 73 - 94)
Change of use from five bed dwellinghouse to seven bed HMO (sui generis).
 - d) DM/23/01167/FPA - 5 Lyndhurst Drive, Crossgate Moor, Durham, DH1 4AE (Pages 95 - 112)
Change of use from dwellinghouse (Use Class C3) to small House in Multiple Occupation (Use Class C4) with alterations to existing bay window.

- e) DM/23/01429/FPA - 1 Hailsham Place, Peterlee, SR8 1AB
(Pages 113 - 126)

Change of use of building from betting office (Sui Generis) to drinking establishment (Sui Generis).

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
4 September 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

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DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Tuesday 11 July 2023** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

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

Also Present:

Councillors E Mavin and L Mavin

1 Apologies for Absence

Apologies for absence were received from Councillors I Cochrane, C Kay and A Surtees.

2 Substitute Members

Councillor I McLean substituted for Councillor K Shaw.

3 Minutes

The minutes of the meeting held on 13 June 2023 were confirmed as a correct record by the Committee and signed by the Chair.

4 Declarations of Interest

There were no Declarations of Interest submitted.

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

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 application was for the 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 and was recommended for approval subject to the conditions and Section 106 Legal Agreement as detailed within the report.

The Principal Planning Officer noted that the application was for a site where a previous application had been refused by the Committee, and the decision of the Committee to refuse the application had been upheld by Planning Inspectorate. The Principal Planning Officer noted that the current application was for three floors, the previously refused application having been set over four floors. He noted internal consultees had responded with no objections subject to conditions. It was explained that Seaham Town Council has objected to the application, and 19 letters of objection had been submitted. The Principal Planning Officer concluded by noting that Officers felt the application was acceptable and therefore was recommended for approval subject to the conditions and Section 106 Legal Agreement in respect of CAMMs Tier 2 Beachcare and Wardening programmes.

The Chair thanked the Principal Planning Officer and asked the Committee Services Officer to read out a statement from Councillor K Shaw, Local Member, who was unable to attend the meeting.

The Committee Services Officer read out the statement on behalf of Councillor K Shaw:

"I am writing in my absence to raise my objection to this planning application on behalf of myself and Councillor L Kennedy and to further support the concerns and objections from and on behalf of my local community.

This application which has been resubmitted by the applicant was formerly refused by committee and the decision to refuse was upheld by the Planning Inspector in his decision dated 14th April 2023.

The Planning Inspector in paragraph 4 of his report states that when visiting the site, he “paid special attention to the desirability of preserving or enhancing the character or appearance of the Seaham Conservation Area”

And he states quite clearly that:

The main issues are:

(i) The effect of the proposed development on the character and appearance of the Seaham Conservation Area (CA)

(ii) The effect of the proposed development on the living conditions of the occupiers of nearby dwellings

(iii) The effect of the proposed development on highway safety, with reference to parking demand and provision

I agree totally on the Inspector’s concise reasoning on what the issues are for this proposed development and the character and appearance of the Seaham Conservation area and support his reasons to refuse based upon primarily issue 1.

These concerns which led to refusal have not been addressed in any significant way other than to imply a slight reduction in the building’s height.

However, the new proposal is that building will cover an even greater area of the proposed site than previously so in relation to its actual size mass and scale these impacts will as proposed be even greater and as previously outlined in the Inspectors report formed only a part of the much wider concerns and the reasoned refusal he provided.

The Inspector reasons within his report in paragraph 7:

7. The Seaham Conservation Area Character Appraisal and Management Plan 2019 (CAMP) identifies the appeal site as falling within Character Area 2 – North Area, with the significance of this part of the CA being primarily defined by buildings of architectural interest. Reference is made specifically to North Terrace in the CAMP, where it is noted that properties are largely two-storied terraces, with some extending upwards an additional level, through an extra storey or dormer windows. It is further noted that the roofline is relatively even, with only a few variations in the length of the terrace. Whilst reference is made to the former Harbour View Hotel as having been demolished, there is no explicit reference in the CAA to its replacement, which has subsequently been constructed. Figure 56 of the CAMP highlights a key vista in which the appeal proposal would be clearly seen.

And this key vista is clearly still impacted therefore destroying a key aspect of the Seaham Conservation Area Management Plan reason for being which is to protect maintain and ensure the Conservation Area is not impacted by inappropriate development and maintaining the Vistas and Views from key locations.

Also, clearly due to the building's location size mass and scale and it being incongruous in its setting.

The inspector continues and states:

8. The reference point given on the plans submitted for the height of the proposal is the new development at No 18. It is self-evident that this is not only a high building, but one of some considerable bulk and massing in how it occupies its plot. By reason of its height, width and depth, the appeal proposal would itself be of a comparable scale, but it would have a greater visual impact, being located on a corner. Whilst there are buildings of height in the immediate vicinity of the appeal site, notably the terrace at 1-7 Tempest Road and Barclay House which are identified as non-designated heritage assets, and the listed buildings that form Bath Terrace, those buildings do not have the same combination of height and depth as the appeal proposal would. They are, as a result, buildings that have a much lesser massing and bulk, and as a result they have a far less dominant impact. The proposal would not relate well to these existing buildings in terms of its massing, bulk and overall visual relationship.

9. The impact of the appeal proposal would be readily apparent from many vantage points in the surrounding area, including from the expansive open area in which the listed Seaham War Memorial is located and from near to the harbour looking back along the coastline and the town's sea front. As a result of its scale, the proposal would not sit well within the row of properties on the North Terrace frontage or in the context of the aforementioned properties at Tempest Road and Bath Terrace, even noting the presence of the new development at No 18. There would be an equally harmful impact when viewed from along Tempest Road and from the road between Nos 7 and 9 Tempest Road. This would be in particular in terms of its comparative scale and massing when compared to the adjacent building at 4 Tempest Road, itself identified as a non-designated heritage asset, and the modern residential block that is located next to it. There would also be views of the proposal taken down North Road in between the terraces at Nos 1-7 and Barclay House/Bath Terrace, where the proposal too would appear as a visually dominant feature in the context of its surrounding buildings.

10. It is suggested that the proposal would 'book-end' this part of North Terrace, in conjunction with the development at No 18. However, whilst there is a highway running to the side of No 18, it is narrow in width and due to the scale of the newly built building, the road is not read as a visual break along the frontage. Instead, North Terrace is seen as a much longer frontage, and the appeal proposal would not form a book-end within such a context. But in any event, book-ending would not overcome the harmful impact that would arise from the overall scale of the proposal, and in particular its visual dominance and its harmful visual relationship to the buildings and street scenes that I have identified.

11. The proposed development would therefore, 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 CA. 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, I consider that less than substantial harm to the CA would be caused. This being the case, it is necessary to weigh the public benefits of the proposal against the harm that would arise to the CA, in accordance with Paragraph 202 of the National Planning Policy Framework (The Framework)

In this regard, public benefits have been outlined which relate to the recycling of a disused site in a sustainable location and the provision of an active frontage at ground floor level, in addition to economic and social benefits through both construction jobs and jobs once in use, with an expectation of 80 full and part time jobs being created in addition to other indirect employment. These benefits carry moderate weight in favour of the proposal, in the context of the size of the development that is proposed. However, I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and the harm that I have found would arise to the designated area is a matter which carries considerable importance and weight. Therefore, whilst there would be some public benefit from the appeal proposal, this does not outweigh the harm to the CA that would arise.

13. For the above reasons, I conclude that 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.

The Planning report has attempted to justify the decision to approve based upon an implied reduction of height which is very minor and indeed contradictory to the evidence produced within the application itself which shows no such thing from different vantages as this mitigates and is meeting the concerns upheld by the Planning Inspector as impacting the CA.

Size greater mass than previously submitted scale and incongruous to the location and destroying Vistas and views clearly all remain and public benefit outweighing the harm caused to the CA is purely based upon the aspirational provision of jobs. The number of which has also been reduced from the previous application significantly therefore reducing the previous benefit to balance the harm caused which whilst higher in number was, in itself, insufficient weighting to convince the Planning Inspector at that time.

The previous building of which this was to be the other bookend remains empty despite having being completed two years ago creating no jobs and providing no benefit whatsoever to any harm it may have caused and whilst that was successful in planning terms if benefit to harm was a consideration evidence exists that through the previous development no such benefit may exist with this and my fears are that the previous development was merely speculation.

I therefore request that the planning committee uphold the decision of the Planning Inspectors previous decision due to its impact on the CA with no benefit outweighing the harm and refuse this application” .

The Chair thanked the Committee Services Officer and asked Gary Maughan, local resident, to speak in relation to the application.

G Maughan explained that he was speaking on behalf of local residents that objected to the application. He noted that it was felt to be a carbon copy of the application that the Committee had previously refused, with the Planning Inspector having agreed with that decision, rejecting the appeal. He noted that the reasons for that decision had been in terms of the height, bulk and massing of the proposals, the proposals being incongruous in the surrounding area and would cause harm to the CA.

G Maughan noted that height had been a significant factor in the refusal and noted that the reduction in one floor in the current application still left some uncertainty in terms of the height of the proposed development. He referred the Committee to a slide highlighting the current roof line of North Terrace, with a line drawn across from the top of the proposed development.

He noted that while it was unclear what the final height of the proposed three storey development would be, it would still be significantly higher than the other neighbouring two and three storey properties and therefore not addressing the concerns raised by the Committee and Inspector in their refusal and dismissal.

G Maughan noted that in terms of the bulk and massing of the new proposals, the three-storey building proposed included retail and flats and represented a footprint of around 525m², while the previously refused proposals had represented a footprint of 450m². He added that therefore this represented a 75m² increase across three floors, reduced from four. He noted that in terms of the previously refused application the Committee and Planning Inspector had noted that the 450m² had been deemed as overly dominant and therefore the larger proposed development did not seem to have mitigated the concerns raised.

G Maughan noted that the Planning Inspector had stated that the site fell within the Seaham Conservation Area Character Appraisal and Management Plan area and that the visual impact of development of that scale and massing on the prominent corner site would not sit well within North Terrace and surrounding area. He reiterated that the Committee and Planning Inspector had noted that the scale and visual dominance would not be in accord with the surrounding area and CA. He noted that the Seaham Conservation Area Character Appraisal and Management Plan was a document that industry, businesses and the Council must take notice of and be sure that any plans were able to demonstrate as being harmonious with the Plan. He noted that 173 page document was material and noted that the Case Officer had not once referred to the Plan within their Committee Report. He noted that appeared to be an oversight and given the reasons stated he did not see how the current application could be approved and therefore he would encourage Members to refuse the application, else the decision would fly in the face of the previous decisions by the Committee and Planning Inspector.

The Chair thanked G Maughan and asked Andrew Moss, Planning Consultant for the Applicant, to speak in support of the application.

A Moss thanked the Chair and Committee and noted that as there was a detailed Committee report he would keep to the main points.

He explained that the proposed development was materially different from that which the Committee considered in 2021 and noted that the footprint was not as large as described, with an element including under cover parking which had been included in original calculations.

He noted that the current application sought to make use of a disused parcel of brownfield land surrounded by existing development in a range of uses close to the centre of Seaham, a main town in the County with a consummate range of services and facilities. He noted that therefore it was a highly sustainable site and one that should be reused.

A Moss referred Members to the analysis in Paragraph 87 of the Committee Report which found that the proposals represented a positive reuse of the vacant gap within the Seaham Conservation Area and that the development was acceptable in design and heritage terms when assessed against the CDP and National Planning Policy Framework (NPPF). He added that the paragraph continued, noting that the proposal accorded with Sections 66 and 72 of the Listed Buildings Act.

A Moss noted he agreed with the analysis within the Committee Report that the proposed development was suitable in principle, residential amenity, highway safety, ecology, connectivity, contamination and drainage terms.

He confirmed that the applicant was agreeable to the payment of a financial contribution in respect of Coastal Access Management Measures, to be secured through a Section 106 Agreement.

A Moss noted that in relation to conditions the applicant was, in principle, agreeable to the imposition of the recommended 26 conditions, albeit he would ask that Condition 22 be tweaked such that it was not a pre-commencement condition. He added that in that respect, he would suggest that it be amended to require the submission of details before any development above the base course, similar to a number of the other recommended conditions.

A Moss concluded by requesting the Committee follow the recommendation and grant planning permission, subject to conditions and entry into a Section 106 Agreement in respect of Coastal Access.

The Chair thanked A Moss and asked the Committee for their comments and questions.

Councillor I McLean noted the reduction by one storey in comparison to the previously refused application. He noted that Planning Officer had noted in detail how they had come to their conclusion, however, when looking around about, the proposals would still be above the level of other buildings.

The Principal Planning Officer noted that the removal of the uppermost storey by definition had reduced the bulk and mass of the proposed development in comparison to the previous application.

He noted that Planning Officers took advice from other professional Officers within the Council, in this case from those in the Design and Conservation Team who had noted that the proposals were acceptable in principle. Accordingly, the reduction in height was a factor in which Officers had felt reduced impact was to a point such the proposals were acceptable.

Councillor A Bell asked if there was a comparison of the current proposals' height to that of the previously refused application. He noted that Seaham Town Council, the two Local Councillors and many residents had objected to the application. He noted the Planning Inspector's decision dismissing the appeal against refusal of the previous application had made reference to the massing of the proposals. He noted that while it was a brownfield site, it was in a beautiful area, and he felt it was a shame that such an application came to Committee without all people being in agreement. He added that, given the nature of the refusal by the Inspector of the application at appeal, he felt visual depictions of the proposals rather than simple black and white elevations would have been useful.

The Principal Planning Officer explained that he understood the reduction of one storey was from 14 metres to 10 metres, a reduction of 4 metres. He referred Councillor to a 3D image and associated site photographs on the projector screen. He reiterated that Officers felt that the reduction in height made the proposals acceptable.

Councillor L Brown asked as regards separation distances from 27 North Terrace and whether they met the minimum requirements. She noted a site visit would have been helpful to see the site in context. The Principal Planning Officer noted that the elevation referred to was not a facing elevation and therefore such minimum separation distances did not apply, and it was not felt it would have an adverse impact. He noted that all other separation distance requirements were met. Councillor L Brown asked as regards the height of the proposals compared to properties at Tempest Road. The Planning Officer noted the proposals were taller than the proposals at Tempest Road.

Councillor L Brown referred to CDP Policy 6 and noted she was not happy in terms of 4.115 which stated that "*...proposals should not significantly increase the size or impact of the original building...*". She noted that should the application be approved, Condition 13 should be implemented the whole way through.

Councillor J Elmer noted that clearly there would be an impact in terms of design and heritage, and noted that the Local Councillors, Seaham Town Council and residents in objection, clearly cared about the site.

He noted it was another case of where the position of the Council's Design and Conservation Team was the polar opposite of that of Local Councillors and local residents. He explained he felt development on the site was not the issue, however, the location and residents deserved a building that respected the heritage of the area. Councillor J Elmer noted that, given the two different opinions in this regard, it may be helpful in future, if an Officer from the Design and Conservation Team could attend Committee to explain how they had come to their conclusions.

Councillor D McKenna note he lived at Seaham, however, he was not one of the Local Members for the Dawdon Division. He noted that all wanted Seaham to do well and the redevelopment that had taken place to date and the increase in tourism to the area had been very important. He noted he felt that the proposed height was not in keeping with the character of the area and that this would have an impact upon residents, adding he felt the proposals would not sit well in the location. He noted that had there been a site visit, Members would have only seen an area of waste ground, however, he noted it was important to have the right development for that area of land. He reiterated that Seaham now had a lot of visitors, and they were coming to the areas in part due to that heritage and therefore that heritage should be kept in mind.

Councillor I McLean noted the reduction in height by one floor in comparison to the previously refused application, however, the proposed height still bothered him.

Councillor I Roberts noted she agreed with the comments from other Members in respect of the height of the proposals and asked as regards any parking or traffic issues and how that might impact visitor safety in the area, adding she felt that any development should be in keeping with the heritage of the area.

Councillor L Brown proposed that the application be refused, contrary to the Officer's recommendation.

The Principal Planning Officer noted that in terms of highway safety, he would draw Member's attention to the comments from the Planning Inspector in reference to the previous application, where he had noted proposals were acceptable in highways terms, with the current application being the same in that regard, though Highways colleague may wish to comment. He asked, should the proposal for refusal be seconded, if Policy reasons for refusal were set out by Members. Councillor L Brown noted Policy 44 in respect of the CA, Policy 6, and Policy 31 in terms of residential amenity.

The Lawyer, Planning and Highways, Neil Carter noted that matters of scale and massing and how that impacted upon the CA and heritage assets was subjective, and while Members had heard the Officer's view on the issue, Member were able to take the contrary view should they choose. He noted that he would be concerned in respect of any refusal based upon impact to residential amenity and asked what for specific reasons. Councillor L Brown noted within Policy 31 it referred to visual dominance and she felt that the proposal would be visually dominant.

The Chair noted the motion for refusal had been proposed, however, there had been no seconder. Councillor I McLean noted he would second the refusal of the application as referred to be Councillor L Brown. The Principal Planning Officer reiterated that the Planning Inspector had felt the previous proposals had been acceptable in highway safety terms, and the current proposals in that regard had not changed, only a reduction in height by one floor.

Upon a vote being taken it was:

RESOLVED

That the application be **REFUSED** as the proposal would, by virtue of its design, appearance, characteristics, mass and scale appear as an incongruous addition to the streetscene that would have a detrimental impact upon Seaham Conservation Area resulting in less than substantial harm to the designated heritage asset which would not be outweighed by public benefits. The proposal is therefore in conflict with County Durham Plan Policies 29 and 44, Parts 12 and 16 of the NPPF and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

b DM/23/01084/FPA - 37 Moor Crescent, Gilesgate Moor, Durham, DH1 1PB

Councillor J Elmer raised as a point of order, noting he felt the next two items for change of use to homes in multiple occupation (HMO) should be considered together as the issues with both of them impacted on each other. The Chair noted they were separate Planning Applications for separate sites and therefore were listed to be heard separately. The Lawyer, Planning and Highways reiterated the point made by the Chair, separate applications and therefore separate items for consideration. The Principal Planning Officer noted the applications had been submitted separately and the Local Authority did not have the ability to combine the applications, however, there would be some elements of duplication between the two applications.

Councillor L Brown noted her dissatisfaction with the wording in both of the reports, namely: *“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”*. She noted that in this case there were two HMOs being proposed. The Lawyer, Planning and Highways reiterated that there were two separate applications, and there would only be two after the first application, should it be granted.

The Principal Planning Officer 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 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 and was recommended for approval, subject to the conditions as detailed within the report.

The Principal Planning Officer noted the Article 4 Direction in place which removed permitted development rights in terms of change of use for HMO, and noted the application was at Committee as it had been called-in by Local Members, Councillors E Mavin and L Mavin. He noted that the percentage of HMOs, using Council Tax exempt properties, within 100 metres of the property were 2.6 percent, rising to 6.9 percent if previously approved HMO application not yet taken forward were included. He added if both 37 and 38 Moor Crescent were granted permission, the number would rise to 8 percent, still below the 10 percent threshold within policy. He concluded by noting the condition limiting the number of occupants contained a double negative and, should the Committee be minded to approve the application, that would be amended accordingly.

The Chair thanked the Principal Planning Officer and asked Councillor L Mavin, Local Member to speak in relation to the application.

Councillor L Mavin thanked the Chair and Committee and noted that she and Councillor E Mavin formally objected to the application. She noted that Councillor E Mavin and herself would not normally contest HMO applications when in line with CDP Policy 16, however as stated in the Committee Report, the proposal was for an additional HMO in an area already with a number of existing HMOs the issue was that of cumulative harm. She noted the report stated there was not the over-proliferation of HMOs and stated a single HMO. She reiterated that this was a pair of HMOs, and the cumulative impact was the issue that needed to be considered.

Councillor L Mavin noted the points raised by Councillor L Brown and the Principal Planning Officer that there were two HMO applications before the Committee today, and she noted that other properties at 15, 18, 45 and 110 Moor Crescent had been converted to HMOs. She added that numbers 37 and 38 Moor Crescent were within a cul-de-sac, and both being converted to HMOs would mean over 10 percent of the cul-de-sac would be HMOs. She added that the 100 metre radius considered when assessing HMOs was arbitrary and did not take the local layout and context into account. Councillor L Mavin noted that should the application be approved, there would be a reduction in residential amenity for the neighbouring properties and the character of the areas would be adversely impacted, including issues such as parking. She reiterated that the percentage of HMOs within the cul-de-sac would be greater than 10 percent if the applications were approved.

Councillor L Mavin concluded by noting that she and Councillor E Mavin felt the applications were contrary to Policy 21 in terms of sustainable transport, 31 in respect of residential amenity and the NPPF and they would strongly suggest that the Committee refuse the applications.

The Chair thanked Councillor L Mavin and asked Parish Councillor Patrick Conway to speak of behalf of Belmont Parish Council who had registered their objection to the application.

Parish Councillor P Conway thanked the Chair and Committee and explained that Belmont Parish Council were against the applications in principle, noting they felt that the two applications for HMOs should have been considered together. He noted that in both cases the Parish Council had wrote to the Planning Department asking that the applications were taken as one item at Committee.

Parish Councillor P Conway noted that for the residents of Moor Crescent, for this case, there were particular circumstances. He noted that the NPPF states that one must take as a material consideration the particular circumstances of an area. He noted that notwithstanding the Article 4 Direction and CDP Policy 16 relating to student properties, it should be noted that the 100 metre radius considered was arbitrary and did not look at clusters of HMOs that were created. He added that the Officer's report included phrasing such as "in judgement", "broadly acceptable", and "considered on balance". He noted that Belmont Parish Council think those statements were contestable and noted there was no evidence that the applications represented sustainable development. He noted that occupancy of 30 weeks per year did not meet the sustainable criteria within the NPPF and reiterated there was no evidence in terms of environmental sustainability or in respect of climate change, such as the installation of heat pumps.

Parish Councillor P Conway explained that in relation to parking, the application would require 4.8 parking spaces, rounded up to five and the proposals did not meet that criteria or include any electric vehicle (EV) charging point. He added that any visit to the site on an evening or weekend would show vehicle congestion, contrary to the CDP.

In reference to the Article 4 Direction, Parish Councillor P Conway noted that granting the two applications would in fact exceed six HMOs in a 50 metre radius and in fact more if other Class N properties were taken into account. He explained that the cul-de-sac was a self-contained area, with no throughway, and therefore the 100 metre radius considered for HMOs was an inappropriate measure. He noted that there was not a demonstrated need for such HMOs and there would be adverse impact upon residential amenity, with the Council's Environmental Health Officer having expressed concern in their consultation response. He concluded by noting that other HMO management was questionable and reiterated that the Parish Council felt the application should be refused on Policies 16 and 21 of the CDP as the development did not represent sustainable development and take local circumstance into account.

The Chair thanked Parish Councillor P Conway and asked Gary Swarbrick, Agent for the Applicant to speak in support of the application.

G Swarbrick noted that as numbers 37 and 38 were separate properties, separate units, they were submitted as separate applications. He noted that should both be approved the percentage of HMOs within the required area would not exceed the 10 percent threshold as per policy. He explained that the 10 percent threshold had been agreed by the Inspector when considering the CDP and as in this case the 10 percent would not be breached, the area had not reached that 'tipping point'. G Swarbrick noted that the application was for a larger HMO for students and noted that there would be clauses within agreements as regards noise and behaviour, with termination of tenancy where issues are not addressed. He added that the applicant was a member of a national landlord accreditation scheme and Durham Student Landlord, working with the University, Police and Local Authority in terms of any issues. G Swarbrick noted that recent similar applications for 1 and 3 St. Monica's Grove that had been approved by the Committee and that in terms of any highways or parking issues, the likelihood of students having a vehicle were low, however, there was sufficient in-curtilage provision with the Highways Team noting the application was in line with policy and presented no highway safety issues. He concluded by reiterating the application was in line with Policy and was recommended for approval.

The Chair thanked G Swarbrick and asked the Committee for their comments and questions.

Councillor A Bell noted he was disappointed with such applications, given the purpose build student accommodation that existed within the city, and the spread out of HMO into the suburbs. He asked for clarity on the percentages of HMOs within the 100m radius of the application site. The Principal Planning Officer explained that the current percentage was 2.3 percent, with unimplemented existing planning permissions increasing that to 6.9 percent. He added that should both applications for 37 and 38 Moor Crescent be approved that would represent 8 percent, still below the 10 percent threshold.

The Chair noted that while 8 percent was less than 10 percent, objectors had made reference to the area being within a cul-de-sac and asked if there was any implication from this in terms of any greater impact. The Principal Planning Officer noted that the policy and the 100 metre radius had been discussed at length by Committee, and noted that any particular circumstance could be material and it would be for Members to decide if they outweighed an application that was policy compliant, noting the pending application for 38 Moor Crescent as the next item of business.

Councillor L Brown noted that the average family in 2021 was 2.4 people, the two properties in question would house 9 people in total. She asked if Policy 6 applied in terms of a garage being converted. She asked if Condition 5, if the application was approved, could be changed to have a start time for works of 8.00, and being up to 14.00 on Saturdays. She asked for the distance to the nearest bus stop and if the parking surface would be permeable. She noted that, in reference to 1 and 3 St. Monica's Grove, they were considered at separate meetings of the Committee. The Principal Planning Officer noted that the conditions regarding construction times were the standard ones based upon feedback from Environmental Health.

Councillor I McLean noted comments as regards students looking to rent further out into the suburbs being 'different' than those looking for city centre accommodation and asked how this would be ascertained, whether it was they were older, better dressed. The Chair noted that, as Member for a city centre division, he had not noticed a difference, and asked G Swarbrick for further information. G Swarbrick noted that there were no specific conditions in place, rather that anecdotally from experience, those students in their second year may wish to take advantage of the night life offered in the city centre, and other students may wish to take advantage of quieter areas. He noted that in fact he had lived in St. Monica's Grove, and he had felt the students at that time in the street had been considerate and part of the community, with one having taught his daughter piano, others helping with events at Halloween and Christmas. He reiterated that there were conditions within student tenancies for termination should students be in breach of those conditions.

Councillor I McLean noted that effectively there was no way to 'police' the types of students occupying a property, rather there were processes in place to try to tackle issues that could arise. He added that there was still an issue in terms of bringing students into non-student areas.

Councillor L Brown asked if properties further out from the city centre were less expensive than those close to the city. She noted that while G Swarbrick had encountered very conscientious students in his experience, they changed every few years as the students moved through their education and beyond. Accordingly, it was not necessarily the same individuals each year.

The Principal Planning Officer noted that the nearest bus stop was 200 metres away and that Officer felt the location was broadly sustainable. He reiterated that the HMO data from Council Tax in terms of exempt properties did not specify specific properties, rather gave the percentage of properties within a 100 metre radius. He noted that the end-user of such an HMO, whether that was an undergraduate, postgraduate was not enforceable and therefore material weight should not be given in that regard.

Councillor L Brown noted that there were other policies other than Policy 16 that could be referred to be the Committee. The Principal Planning Officer noted that Parish Councillor P Conway had referred to Policy 16 in terms of the Parish Council's opinion on the applications, however, noted the Committee could look at all relevant policies. He reiterated, however, that Officer felt that the application was in accord with all the relevant CDP policies and the NPPF.

The Chair noted that a proposal was required to progress the meeting. Councillor A Bell noted that Officers had been clear in their responses, and he could not see any grounds for refusal so therefore he proposed the application be approved. Councillor J Elmer seconded the proposal, noting he found it very frustrating that the Committee could not refuse the application, however, he noted for the record that this type of development was not desirable and indeed the University were keen for students to stay within their accommodation. He noted that such applications impacted upon the settled communities within Durham and while they could not be stopped, they were not wanted. The Chair noted he agreed with the comments from Councillor J Elmer. The Principal Planning Officer asked for clarification, whether Councillors A Bell and J Elmer wished for the amended conditions referred to by Councillor L Brown. They both noted that was the case.

Upon a vote being taken, it was:

RESOLVED

That the application be **APPROVED** as per the conditions set out within the report, subject to amended conditions relating to construction times and permeable parking surface.

Councillor A Bell left the meeting at 11.00am

c DM/23/01173/FPA - 38 Moor Crescent, Gilesgate Moor, Durham, DH1 1PB

The Planning Officer, David Richards 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 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 and was recommended for approval, subject to the conditions as detailed within the report. The Planning Officer noted some updates in terms of conditions, with Condition 8 no longer requiring 'prior to commencement' and details of soundproofing had now been provided, with amended wording displayed upon the projector screen. He noted Condition 7 was a duplicate of Condition 3 and would be deleted.

The Chair thanked the Planning Officer and asked Councillor L Mavin, Local Member, to speak on the application. Councillor L Mavin noted her previous statement in relation to 37 Moor Crescent was also applicable to this application and would not reiterate for the sake of brevity.

The Chair thanked Councillor L Mavin and asked Parish Councillor P Conway to speak in respect of the application.

Parish Councillor P Conway noted he too would not reiterate the points from the previous application, however, he would make a few comments. He noted that firstly, the issue of local circumstances were material considerations for the Committee. He added that the Article 4 direction referred to a 100 metre radius, however, in this case the area was a cul-de-sac, not a throughfare. He added that the Article 4 Direction was welcomed 10 years ago, however, there had been substantial creep in terms of HMOs and the situation now was that other Class N exempt properties were not being taken into account, with other types of HMOs. He noted that a nearby purpose build student accommodation (PBSA) at Ernest Place had places available and the nearby former cinema generate no demand and was for sale. He noted that local families were being priced out of purchasing properties in the area.

Parish Councillor P Conway noted that terms used by the Officers such as 'broadly' and 'on balance' were judgements and explained that the Parish Council contested those judgement and felt the application should be refused on CDP Policies 6, 19, 21 and 31 and the NPPF.

The Chair thanked Parish Councillor P Conway and asked G Swarbrick to speak in support of the application.

G Swarbrick noted the points to consider were similar to those raised in respect of the previous application. He noted that should this application also be approved, it would result in a percentage of HMOs of 8 percent, still below the 10 percent threshold. In terms of demonstrating need, he noted that Policy 16 did not require a demonstration of need, however, his client noted a need in terms of students enquiring as regards properties in the area. He added that while taking on board the points raised as regards PBSAs, their still remained a demand for such properties by students.

The Chair noted the conditions relating to working hours and parking surface that had been amended in terms of the previous application. Councillor L Brown noted she agreed with those as agreed for the previous application. She added that she was surprised that Policy 44 had been referred to noting she was not aware the application was within a Conservation Area and was also surprised Policy 6 had note been mentioned. She noted the issue raised by Parish Councillor P Conway in terms of the price premium for such properties due to their demand as student HMO lets. She noted that the CDP would be reviewed in 2024 and she noted she had made several representations in term of supplemental planning documents (SPDs) and reiterated that other policies were available to the Committee.

Councillor R Manchester noted his comments on this application were similar to those of Councillor A Bell in terms of the previous application. He added, however, that he would echo the comments of Councillor J Elmer and while the application did not go against policy, he felt it was not in the spirit. He moved approval of the application, subject to the amended and deleted condition referred to by the Officer and amended conditions as referred to by the Chair and Councillor L Brown. Councillor K Robson seconded the motion for approval.

Upon a vote being taken, it was:

RESOLVED

That the application be **APPROVED** as per the conditions set out within the report, subject to deletion of a duplicate condition, amended conditions as referred to in terms of soundproofing, construction times and permeable parking surface.

6 Special Meeting

The Chair noted that the special meeting proposed for 24 July 2023 was not required and therefore the next meeting of the committee would be 12 September 2023.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/21/01789/FPA
FULL APPLICATION DESCRIPTION:	Construction of 12 townhouse dwellings with associated works.
NAME OF APPLICANT:	Jenkins
ADDRESS:	Land At St Johns Road Nevilles Cross
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Lisa Morina Senior Planning Officer Telephone: 03000 264877 Lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is a former petrol filling station located on Newcastle Road which was demolished sometime between 2006-2008 and as such the site has been vacant for around 15 years.
2. Residential properties are located to the north, east and west of the site with the A167 located to the south and then residential properties located beyond that. The site is also located on the edge of, but within, the Durham City Conservation Area.

Proposal:

3. Planning Permission is sought for the erection of 12 town houses which are proposed in two separate blocks of 6 dwellings each. One located on Newcastle Road, the other being located on St Johns Road.
4. Access to the site for all dwellings is proposed off St Johns Road. Originally access was also proposed from Newcastle Road however this has been removed from the proposal.
5. Various changes/additional information has also been provided in respect of the design of the proposed dwellings with a reduction in height being achieved from the originally submitted scheme and also the removal of a car lift within the garage area and the introduction of balcony features.
6. The application is to be heard at committee due to it being a major application however a call in has also been received from the City of Durham Parish Council

who consider the development to present serious concerns in relation to design, residential amenity and highway safety

PLANNING HISTORY

7. DM/17/01785/FPA - Temporary use of land for a site construction compound including provision of welfare and storage facilities, parking and new access. Approved 19/7/17.
8. Various consents have been in place regarding alterations to the filling station however, these are not relevant to the current application.

PLANNING POLICY

NATIONAL POLICY

9. 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.
10. *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.
11. *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.
12. *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.
13. *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.
14. *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.

15. *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.
16. *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.
17. *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.
18. *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.
19. *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.
20. *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:

21. 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

22. Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
23. 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.
24. Policy 15 (Addressing housing need) establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.
25. Policy 19 (Type and mix of housing) advises that on new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self build or custom build schemes.
26. 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.
27. 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.
28. Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
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 sites 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 the 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. 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.
32. 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.
33. 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.
34. 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 wastewater 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.
35. Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted

where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts

36. Policy 40 (Trees, woodlands and hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
37. 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.
38. 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.
39. 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.
40. Policy 45 (Durham Castle and Cathedral World Heritage Site) seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal values (OUVs) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances
41. Residential Amenity Standards SPD – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.

Neighbourhood Plan

42. The application site is located within the Durham City Neighbourhood Plan (DCNP) area and as such the following policies are considered relevant:
43. *Policy G1 – Protecting and Enhancing Green and Blue Infrastructure* seeks to support developments that retain existing green or blue assets with significant recreational, heritage, cultural, ecological, landscape or townscape value and developments that provide additional green or blue assets, particularly if there is an identified deficiency. Any new or replacement assets must be appropriate to the context and setting. The policy requires developments to protect and enhance public rights of way and footpaths and green corridors. It offers support to proposals that

provide net gains for biodiversity. The policy requires features of geological value to be protected. The policy seeks to protect and enhance the banks of the River Wear by supporting proposals with desirable access that do not have significant impacts on current assets. The policy also seeks to protect dark corridors by ensuring developments minimise lighting in such areas.

44. Policy S1 - Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet
45. *Policy H1: Protection and Enhancement of the World Heritage Site* requires development within the Durham Cathedral and Castle World Heritage Site to sustain, conserve and enhance its outstanding universal value and support the current adopted management plan. Development within the WHS must take account of the historical and present uses of the site, propose high quality design, use appropriate materials and seek balance in respect of scale, density, massing, form, layout, landscaping and open spaces. Development proposals within Our Neighbourhood will need to sustain, conserve, and enhance the setting of the WHS where appropriate, by carrying out an assessment on how the development will affect the setting, including views to and from the WHS, protect important views and take opportunities to open up lost views and create new views and vistas.
46. *Policy H2 - The Conservation Areas* expects development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness.
47. *Policy T1 - Sustainable Transport Accessibility and Design* seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility and design.
48. *Policy T2 – Residential Car Parking* supports developments with or impacting on car parking provided that car parking is designed to reduce vehicle movements on residential streets and is in designated bays or small groups separated by landscaping or features and designed with safety in mind. Consideration should be given to communal off street parking for dwellings without garages. Any EV requirements should not hinder movement by pedestrians or disabled people and should be in keeping with area character. The policy supports the use of car clubs. Should the parking demand require parking controls these will need to be funded through developer contributions.
49. *Policy T3 – Residential Storage for Cycles and Mobility Aids* requires residential development including change of use to seek to provide storage facilities for cycles and, where appropriate mobility aids. Cycle parking should meet DCC standards and should be adaptable for other types of storage with access to electricity. Where there is communal storage and a travel plan this should be managed appropriately in terms of removal and capacity needs. Design and location of storage should accord with the style and context of the development.

50. *Policy D2: Housing for Older People and People with Disabilities* requires 10% of housing to be appropriate for older people on sites of 10+ homes or over 0.5ha. Housing schemes that are solely for older people would be supported. Provision should be close to shops and services or public transport with appropriate footpaths and pavements. Extensions to dwellings to facilitate care at home are supported provided that they are in keeping with building and surroundings.
51. *Policy D3: Affordable Housing* requires 25% of housing to be affordable on sites of 10+ homes or over 0.5ha unless an off-site contribution is justified or deemed appropriate by the LPA.
52. *Policy D4 (Building Housing to the Highest Standards)* states all new housing, extensions and other alterations to existing housing should be of high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and improvement of energy efficiency and the reduction of carbon dioxide emissions

New residential development should meet the Building for Life 12 standards provided for in County Durham Building for Life Supplementary Planning Document (2019)

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

53. Highway Authority – No objection
54. Northumbrian Water LTD – Condition requested however information has been received therefore condition is no longer relevant.
55. DCC as Lead Local Flood Authority – Drainage scheme is acceptable.
56. Durham Constabulary – Advice provided on secured by design policies.
57. NHS – No contribution required
58. City of Durham Parish Council objects to the proposal for the following reasons:
 - Overdevelopment of the site
 - Height of the proposed dwellings being entirely out of character with the surrounding area and residential properties.
 - As a result of the inappropriate scale and massing of the proposed development, it would result in harm to the significance of the Conservation Area as it would not reflect the positive characteristics of the area.
 - The application also fails the requirements of CDP Policy 6d) which requires developments in such sites as this to be “appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement.”
 - The proposed development also fails to meet the guidance of the NPPF Part 12, especially paragraph 127 sub-paragraphs a), b) and c). which require developments to “add to the overall quality of the area”, be “visually attractive”

and be “sympathetic to local character and history, including the surrounding built environment and landscape setting.”

- The application remains contrary to CDP Policy 29 and the Council’s adopted Residential Amenity SPD. CDP Policy 29 a., c. and e. also require developments to “contribute positively to an area’s character, identity [and] townscape”, further to “achieve zero carbon buildings” which are underpinned by core principles 5.292 to 5.296, and provide high standards of amenity and privacy”. There is no evidence in the application that these constraints have been adequately addressed or even in places considered.
- Justification of an amended submission, the developer once again justifies the over massing of this site by suggesting that the financial viability demonstrates that the site needs to accommodate 12 units in order to be deliverable, stating that the scheme would be financially unfeasible if the site delivered less than 12 units.
- The level of financial gain is not a material planning issue relevant to this proposed development.
- The developer has indicated that he is unwilling to make any planning contribution to meet additional community costs, contrary to CDP Policy 25
- No provision has been made for M4(2) standards, the scheme is therefore considered contrary to CDP Policy 15.
- The removal of the connecting road from the development to the A167 and thereby a ‘rat-run’ is welcomed.
- The development however will result in a significant traffic increase to St. Johns Road.

INTERNAL CONSULTEE RESPONSES:

59. Environmental Health (Contamination) – No objection subject to conditions regarding a phase 2 contamination report being provided.
60. Environmental Health (Noise) – No objection subject to conditions regarding noise mitigation levels.
61. Environmental Health (Air Quality) – No objection.
62. Ecology – No objection bat and bird boxes required.
63. Affordable Housing – Affordable housing required to be provided.
64. Spatial Policy – Advised that policy 6 should be considered which relates to development on unallocated sites and confirmed the level of open space contributions required.
65. Education – The proposal would generate 4 pupils of primary school age and 2 pupils of Secondary age. Therefore, a payment is required in respect of providing additional spaces at both primary and secondary level.
66. Viability - Note that a viability assessment has been submitted which was subject to several amendments and updates during consideration of the application which has sought to demonstrate that the scheme would not be viable in the event that financial contributions are applied in relation to Open Space, Education and Affordable Housing Provision. Having assessed that initial report and additional information officers consider that whilst it would be unviable to apply the full contribution in terms of the affordable housing contribution, a reduced sum in this regard can still be sustained. In relation to contributions for Open Space and Education provision they consider both requirements can be paid in full.

PUBLIC RESPONSES:

67. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. To date, 79 letters of objection and 2 letters of representation have been received including the City of Durham Trust with the following comments:

- No objection in principle to the land being developed sensitively
- Density of the Proposal and overdevelopment of the site being overbearing due to height and massing including impact on conservation area
- Visual amenity - Design and House types out of keeping with the area
- Contrary to Part 12 of the NPPF- para. 127, the architecture, the clustered layout of the buildings and the landscaping are visually unattractive.
- Contrary DCC County Plan- Policy 45: The proposed development is unsympathetic with the local character, scale of neighbouring "town houses" and the landscape setting.
- Highway Safety Concerns due to the access proposed between Newcastle Road and St Johns Road so a rat run will be created
- Overuse of St Johns Road in terms of vehicular movements
- DCC County Plan- Policy 22: The A167 is a part of the "Strategic Highway Network" and is already "over-trafficked" at peak times.
- Concern the dwellings would be used as HMO's
- The dismissive attitude of the developer who seemingly justifies the development on the grounds of it being the only financially viable plan to satisfy the owner of the land – financial gain
- The homes will not be 'affordable' for local residents - The price guide would put the houses out of the financial reach of many families
- Loss of privacy and overshadowing
- Lack of S106 Payments
- Concern regarding consultation with public from the developer
- Level of consultation carried out
- Insufficient parking due to the number of dwellings.
- Lack of amenity space
- Privacy distance between the properties falls below the standards in the Residential Amenity Standards in the SPD
- Contributes nothing to the Conservation area
- Toxic Chemicals on the site
- Trees supposedly the trees are protected by a tree preservation order (TPO)
- An apparent contradiction in the application concerning ownership of the site
- The assessment of the viability of the proposed scheme is questioned
- Sustainability of the scheme
- Lack of open space - nearest parks and playgrounds to the current site a MerryOaks and Allergate, some distance to walk, therefore the majority of children's play in this area is in private gardens and shared open space, both of which are insufficient within the proposed development
- This is the wrong development in the wrong place
- There is no way that the developer will be able to retain the existing beech hedge to St John's Road as shown on the plans, as a retaining wall will need to be constructed to that boundary of the site to form the North-facing areas which appear to be the only external seating spaces for the properties fronting St John's Road.

APPLICANT'S STATEMENT:

68. The proposals have been developed on behalf of Modobloc to provide larger residential accommodation within the City of Durham. Few opportunities are available in the City to provide accommodation of this type to meet the needs of residents.
69. Detailed consideration has been given to the design of the proposed residential units in response to the site orientation, gradient and relationship to the highway network. The ambition is to create a new community in this part of Durham that will take pride in the space and integrate themselves with the existing residents.
70. The design information submitted in support of the application presents the carefully considered approach to the creation of two rows of townhouses on the site with a central courtyard space to be used for parking and private space. This approach provides a good level of amenity for both existing and future residents. It also allows for residential frontages onto St John's Road and Newcastle Road, so connecting the development to the existing community.
71. The overall scale of the townhouses has been designed to sensitively respond to that of the neighbouring properties, utilising the site levels with rooms in the roof space. The elevational detail also respects the local vernacular with simple detailing to the brickwork ensuring the scheme has its own character.
72. The applicant has worked hard with officers from the Local Planning Authority during the application stage to ensure that the proposals meet the requirements of all the statutory consultees, including highways and the local lead flood authority. Significant efforts have also been made to engage with the local community to secure their support for the proposals.
73. The applicant welcomes the recommendation for approval subject to a legal agreement to make financial contributions to open space, education and affordable housing.

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>

PLANNING CONSIDERATIONS AND ASSESSMENT

74. 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.
75. 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 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.
76. The County Durham Plan and City of Durham Neighbourhood Plan are now both adopted and 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.

77. In this context, it is considered that the main planning issues in this instance are as detailed below:

Principle of the Development

78. Policy 6 of the County Durham Plan (CDP) supports development on sites which are not allocated in the Plan, but which are either within the built-up area or outside the built up area but well related to a settlement, stating that such development will be permitted provided it is compatible with the following:
- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
 - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
 - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
 - f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
 - g. does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
 - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
 - i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
 - j. where appropriate, it reflects priorities for urban regeneration
79. As detailed above CDP Policy 6 permits development on unallocated sites provided it meets the criteria set out within the policy. In this regard it is considered that the proposal can draw in principle support from this policy given that it sits outside but adjacent to a built-up area so is well related to a settlement and that the site is located within close proximity to compatible residential uses and would not be prejudicial to any existing or permitted adjacent uses (criteria a). Consideration of the impact of the proposals upon residential amenity will be considered in more detail elsewhere in this report.
80. The site being an infill development on a former petrol filling station would not lead to coalescence with neighbouring settlements (criteria b), would not result in a loss of open land that has any recreational, ecological or heritage value (criteria c) and has easy access to sustainable transport and local facilities (criteria f). The site has been vacant for a number of years and therefore, it is not considered that the proposal would result in the loss of any valued facility (criteria g).
81. In respect of criteria h, the site is not contained within Flood Zones 2 or 3 of the Environment Agency mapping layers associated with the Local Lead Flood Authority (LLFA) there are also no noted flood risk areas within the application site. The application was submitted with full drainage details which have been assessed by the LLFA and as such there is considered to be no conflict with this part of the policy.

82. The site is considered to be previously developed land (criteria i). It is not considered that criteria j is appropriate in relation to this proposal. Criteria d and e, of policy 6 are considered in more detail elsewhere within this report. It is therefore considered that the principle of residential use in this location is acceptable subject to the relevant material considerations set out below.
83. CDP Policy 15 establishes the requirements for developments of 10 or more dwellings to provide a percentage of affordable housing. Whilst this will normally be delivered on site the policy does make provision for the payment of a financial contribution in this regard in lieu of on-site provision. The policy also stipulates requirements in relation to tenure mix and the requirement for new developments to meet the needs of older people and people with disabilities.
84. The site lies within a high value area within which sites of 10 or more units must deliver 25% of the homes as affordable home ownership (starter homes, discount market sale housing and other affordable routes to home ownership).
85. Policy D2 of the Durham City Neighbourhood Plan (DCNP) also requires new residential development to provide affordable housing which can be accepted in the form of a financial contribution for off-site provision.
86. Whilst on-site provision is usually sought for developments of more than 10 units, in this instance an off-site contribution was agreed as acceptable given the small scale nature of the site and the fact that it was considered that it would be unlikely that the units would appeal to a registered provider. Policy 15 of the CDP states that in certain circumstances where it can be robustly justified and it would contribute to the objective of creating mixed and balanced communities, we will accept off-site contributions in lieu of on-site provision. This includes, but is not limited to, circumstances where: a. there would be five or fewer affordable homes on the site; b. there is clear evidence that a greater number of off-site, in a more suitable location; or affordable homes could be delivered c. the resulting financial contribution would contribute to specific regeneration activity including bringing viable vacant housing back into use. It is considered that the applicant has provided sufficient supporting information in this regard to demonstrate that an offsite contribution is appropriate in this instance.
87. Colleagues in the Housing Delivery Team have advised that the financial contribution required in this regard is £776,250 to be secured via S106 Agreement.
88. CDP Policy 15 also aims to meet the needs of older people and people with disabilities. On sites of 5 units or more, 66% of dwellings must be built to Building Regulations Requirement M4 (2) (accessible and adaptable dwellings) standard. Based on a scheme of 12 units, 7 units would be required to be built to M4(2).
89. In addition, on sites of 10 units or more, a minimum of 10% of the total number of dwellings on the site are required to be of a design and type that will increase the housing options of older people. These properties should be built to M4(2) standard and would contribute to meeting the 66% requirement set out above. They should be situated in the most appropriate location within the site for older people.
90. Appropriate house types considered to meet this requirement include level access flats, level access bungalows; or housing products that can be shown to meet the specific needs of a multi-generational family. Concern has been raised from the Parish Council that the proposal would not achieve this however, it is considered that the rooms as shown on the submitted house types could be adequately altered to

achieve this and as such a condition will be required to ensure that the required number of properties will be built to M4(2) standards with details submitted to and agreed in writing by the Local Planning Authority.

91. CDP Policy 19 requires that developments secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self-build or custom build schemes.
92. Whilst the application proposes the same house type across the development, it is considered that family homes are acceptable in this area and given the site is constrained with limited opportunity to provide a variety of dwellings the approach adopted by the applicant is acceptable.

Developer Contributions

Open space / Green Infrastructure

93. CDP Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
94. In accordance with CDP Policy 26 and having regards to the Councils Open Space Needs Assessment (OSNA). Based on the OSNA and an average occupancy of 2.2 people per dwelling (Co. Durham average household size, 2011 Census), a scheme of 12 dwellings would generate 26.4 people (12 x 2.2). Table 16 of the OSNA sets out the costings, therefore the contribution should be: $26.4 \times \text{£}790.50 = \text{£}20,869.20$.
95. A contribution to improving existing facilities within the Neville's Cross areas would amount to £20,869.20 to be secured by Section 106 legal agreement.

Education Provision

96. Paragraph 95 of the NPPF confirms that the government places great importance to ensure that sufficient choice of school places is available to meet the needs of existing and new communities and requires LPAs to proactively meet the requirement.
97. The Local Education Authority has confirmed that based on the methodology set out in the Council's adopted Securing Developer Contributions towards Education Provision in County Durham, the proposed development of 12 dwellings would produce demand for 4 pupil places of primary school age and 2 pupil places of secondary school age.
98. In relation to primary school pupils and based on the projected rolls of the two nearby schools being Neville's Cross Primary and Durham St. Margaret's C of E Primary School, as well as taking into account the likely implementation timeframe of the development, build rates and other committed development, there would not be sufficient space to accommodate the pupils generated by the development, whilst maintaining a 5% surplus.

99. Therefore, in order to mitigate the impact of the development a contribution of £58,812 (4 x £14,703) would be required to facilitate the provision of additional teaching accommodation.
100. In relation to secondary schools and again, based on the projected rolls of Durham Johnston Comprehensive School, taking into account the likely implementation timeframe of the development, build rates and other committed development, there would not be sufficient space to accommodate pupils generated by the development, whilst maintaining a 5% surplus.
101. Therefore, in order to mitigate the impact of the development a contribution of £33,108 (2 x £16,554) would be required to facilitate the provision of additional teaching accommodation.
102. Taking all the above into account, it is considered that Section 106 contributions of a total of £91,920 would be required to be secured towards Education Provision.

Health Contributions

103. Paragraph 34 of the NPPF required Local Authorities to set out the contributions expected from development within the Local Plan. In this regard Policy 29(f) of the CDP requires that developments should contribute to healthy neighbourhood and consider the health impacts and needs of the existing and future users.
104. The NHS have been consulted and advised that the development would not have an unacceptable impact to existing healthcare provision and as such there is no requirement for any commuted sum in this regard.

Affordable Housing Contribution

105. Interested parties have raised objection to the scheme in that the properties themselves would not be affordable to families and questioned the conclusions of the submitted viability assessment, acknowledging that the Council have also raised concerns in this respect.
106. As stated above, an off-site affordable housing contribution of £776,250 is required to be used in providing affordable housing within the locality and this was considered acceptable given the small-scale nature of the site and that it was unlikely that a Registered Provider would be willing to take on the site.
107. Paragraph 58 of the NPPF advises that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker. The developer has questioned the viability of the scheme with an appraisal having been submitted to consider this. In these circumstances the developer will be required to demonstrate to the Council's satisfaction that this is the case.
108. The Council's Spatial Policy officers have reviewed the submitted development appraisal, which included scrutiny of baseline costs against industry standards, and a review of the likely income generated from the development.
109. In conclusion, they note that whilst it is acknowledged the development would be unviable if the full developer contribution was to be applied in relation to affordable housing provision, it is nevertheless considered that the scheme could sustain a reduced contribution in this regard. Assessment of the submitted information

indicates that a reduced contribution of £114,826 could be provided without undermining development viability. Similarly, the assessment has concluded that the development could sustain full payments of both the open space and education contributions, which it is noted are required in order to accord with Policies 25 and 26 of the County Durham Plan.

Developer contribution conclusion

110. As detailed above, subject to the applicant entering into the Section 106 Agreement to secure payments for off-site affordable housing provision, education and open space, the development would be considered to accord with CDP Policies 25 and 26. The applicants have agreed to this.

Layout / Design / Impact on Conservation Area

111. Local Authorities have a duty to preserve or enhance the Conservation Area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 of the same Act requires a similar duty to have special regard to preserving Listed Buildings or their setting or any features of special architectural or historic interest which it possesses. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas and Listed Buildings to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
112. CDP Policy 44 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.
113. CDP Policy 45 seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal value of the site in terms in relation to the immediate and wider setting and important view into, and out of the site.
114. Both approaches display a broad level of accord with the aims of Part 16 of the NPPF which states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).
115. CDP Policy 29 relating to sustainable design states that all proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.
116. The Durham City Neighbourhood Plan Policies H1 and H2 seeks to ensure that proposals within the Durham Cathedral and Castle World Heritage Site, Durham City Conservation Area, and affecting heritage assets should sustain, conserve, and enhance its Outstanding Universal Value, the significance of the Conservation Area and not have detrimental impact on the assets and their setting.

117. CDP Policy 29 also requires that new major residential development are 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. It also states that all new residential development should meet Nationally Described Space Standards (NDSS). DCNP Policy D4 states new residential development should meet the Building for Life 12 standards provided for in County Durham Building for Life Supplementary Planning Document (2019).
118. In addition, DCNP Policy D4 states all new housing, extensions and other alterations to existing housing should be of high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and improvement of energy efficiency and the reduction of carbon dioxide emissions.
119. Significant concern has been raised from local residents, the City of Durham Trust and the Parish Council with regards to the proposal in that the scale, massing and layout would be unacceptable, and that the proposal would be too dense for the area. Given this, they consider the proposal to have an unacceptable impact on the streetscene and Conservation Area in which the site is located and that a lower density should be considered, and this proposal is in the wrong place.
120. In terms of design, concerns from both residents, the City of Durham Trust and the Parish Council have been raised that the proposal is too modern and would be contrary to Part 12 of the NPPF in that the clustered layout of the buildings and landscaping are visually unattractive. The height of the proposal also raises concern in that they are too high and would form a major eyesore thereby being contrary to CDP Policies 29, 44 and 45.
121. In line with the DCNP, the proposal was considered by the Council's Design Review Panel and received a score of 6 green, 1, amber, 4 red and 1 unknown at its latest score. Further discussions have taken place which has resulted in the amber now being considered as a green subject to appropriate bin storage arrangements being provided which is considered in more detail below. The viability issue has also been resolved in respect of the unknown in that the scheme is not entirely viable in that only a proportion of the affordable housing payment can be made. The remaining red scores relate to character and layout including impact on the streetscene which is considered in more detail below.
122. In respect of layout, the site is considered to respond positively to the existing plan form of the area, proposing two rows of terraced housing, positively addressing both Newcastle Road and St John's Road which are rows of existing terraces.
123. At St John's Road, the proposed terrace closely follows the dominant building line of the existing dwellings. The applicant has also submitted a character study of the area which demonstrates that the proposed scheme is of locally inspired character, and therefore the architectural approach is welcomed. Some concern however was raised with regards to the developments relationship to Newcastle Road in respect of height.
124. Details of materials and samples for consideration are to be controlled via pre-commencement conditions. In terms of the courtyard layout the site is less focused on visitor parking spaces and provides whilst limited some landscaping proposed as part of the proposal. Full details of the landscaping scheme is proposed to be submitted along with full boundary treatment details at condition stage.

125. Turning to the impact of the proposal upon designated heritage assets, it is noted that the site lies within the Crossgate sub area of the Durham City Centre Conservation area, where it is prominently sited facing Newcastle Road at the end of the historic terraced housing c.1923.
126. In addition, the site lies approximately 20m to the east of the Battle of Neville's Cross 1346 historic battlefield, approximately 120m north of Neville's Cross which is a Scheduled Monument and Grade II Listed. The site also lies approximately 140m from a milestone 5m south of the junction with Newcastle Road which is Grade II Listed.
127. The sites significance lies purely in the fact that it is within the Conservation Area and the setting of the abovenamed designated heritage assets, where its current contribution is not positive. The street is characterised by a small group of mid-Victorian buildings such as Cross House and Rokeby Village, further into the street the architectural style changes to Edwardian terraces which are then followed by interwar terraces and 1950s properties. The site forms an unsightly gap in the existing street scenes and was formerly occupied by a petrol filling station dating from the 1960s, which has since been demolished some time ago. Since this time the site has been vacant and generally unmaintained.
128. Concerns in relation to scale and massing have been raised and concern was originally raised in respect of the overall impact on the Conservation Area and how this could be positively achieved. The proposed scheme as amended is considered to respond positively to the existing context and therefore the scale of development in this location is not opposed.
129. However, concern was raised with regard to the Newcastle Road elevation in that further understanding of the scale of the development in relation to the existing terrace was required. A streetscene visual was therefore provided, along with a reduction in the overall height and this was considered a positive improvement however it was felt that a further reduction in height would be a more appropriate design solution.
130. Further discussions continued with regard to reducing the overall height and reviewing the density of development. However, as part of those discussions the applicant provided a viability statement which demonstrated that the scheme would not be viable if a reduction to the overall number of units proposed was applied. As detailed above, in the most part the conclusions of that assessment are accepted in so far as they demonstrate that the quantum of development proposed is the minimum required to ensure the scheme is viable.
131. Whilst there would be some harm to the Conservation Area due to the scale of the proposal, this is considered very limited and as such, less than substantial for the purposes of Paragraph 202 of the NPPF. This states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
132. This being the case, it is necessary to weigh the public benefits of the proposal against the harm that would arise to the Conservation Area and this is discussed in more detail in the planning balance section below.
133. In respect of the requirements as outlined within Section 66 of the Town and Country Planning (Listed Building and Conservation Area) Act 1990, which requires an LPA to have regard to the desirability of preserving the building or its setting or any

features of special architectural or historic interest which it possesses when undertaking its planning function, with this mind, and noting the advice received from the Council's Design and Conservation Section, it is considered the development would preserve the setting of the Listed building as identified elsewhere in this report.

134. With regard to more general design aims, it is noted that CDP Policy 29 states that all new development should minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation and include connections to an existing or approved district energy scheme where viable opportunities exist. Where connection to the gas network is not viable, development should utilise renewable and low carbon technologies as the main heating source. It is considered that sufficient information has been provided to demonstrate that suitable measures could be incorporated into the proposal to accord with the requirements of the policy. Therefore, precise detail in this regard could be secured through planning conditions requiring the submission and agreement of precise details.

Impact on Residential Amenity

135. CDP Policies 6 and 31 seek to prevent development that would have an unacceptable impact upon the amenity of existing neighbouring residents and only allow development where adequate amenity for future occupiers is provided. Part 11 Paragraph 119 of the NPPF requires planning decisions to ensure healthy living conditions and Paragraph 124 emphasises the importance of securing healthy places. Paragraph 174 of Part 15 requires decisions to prevent new development from being put at unacceptable risk from, or being adversely affected by, unacceptable levels of pollution such as noise pollution.
136. Paragraph 185 seeks to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions. In terms of noise, paragraph 185 advises that planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life.
137. CDP 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 (NDSS), subject to transition period. 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.
138. The above policies and SPD are in broad accordance with Paragraph 130 of the NPPF which 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.

139. Concern has been raised from residents regarding insufficient separation distances being in place, the impact on the residential amenity of the future occupants in that there is no green space available and that the nearest open space is some distance away.
140. The dwellings are proposed to be located within a primarily residential area and with residential properties located to the north east and west of the site. The main Newcastle Road (A167) is located to the south with residential properties at slightly further distance beyond. A purpose built student accommodation (PBSA) facility is also situated within close proximity.
141. The amenity of future residents is considered to be an important factor and as stated above CDP Policy 29 states that all new residential development will be required to comply with the NDSS. Information has been provided to support this and as such it is considered that the proposal is acceptable in this respect with the dwellings meeting NDSS requirements.
142. The proposed development is within close proximity to the A167 Newcastle Road, St John's Road and the East Coast main rail line. Traffic noise will be the dominant noise source, which the applicant has acknowledged within the supporting documents, however no specific detail has been provided in relation to ensuring the protection of future occupants from such noise sources therefore, as such a pre-commencement condition requiring an acoustic report to be submitted and any identified mitigation implemented is required.
143. In addition to the above policies within the CDP, the Local Authority has adopted a residential design SPD which sets out the Councils expectation in relation to privacy distances and private outdoor amenity space (gardens) which requires the following to be achieved:
- Main facing elevation to main facing elevation containing window/s serving a habitable room
- 21 metres between two storey buildings
 - 18 metres between bungalows
- Main facing elevation to gable wall which does not contain a window serving a habitable room
- 13 metres to two storey gable
 - 10 metres to single storey gable
- Garden depths should be a minimum of 9m.
144. Separation distances in excess of 21m can be achieved between the main facing elevations of the dwellings located to the east and west of the site and those terraces proposed as part of this application therefore, the proposal is not considered to cause any loss of light, overshadowing or overlooking to these properties.
145. In respect of properties located to the north and south of the site (those being on St Johns Road and George Street - separation distances of 13m can be achieved between the windows contained within the gable elevation of no. 17 St Johns Road and as such separation distances are considered to be met. However, a condition can be included to ensure that no additional windows are contained within the side elevation of the dwelling known as Plot 6 to ensure no unacceptable impact occurs in the future. In respect of no, 19 St Johns Road, no windows are contained in the side elevation therefore, separation distances are considered to be met.

146. In respect of those at no. 17 George Street - Windows are contained in the side elevation which are considered as habitable room windows, and these would be positioned at first floor approximately 10 metres from the south-eastern boundary of the site. However, given the position and orientation of these units, views would be over the proposed courtyard area and as such it is not considered that a significant loss of amenity would occur through overlooking, overshadowing or loss of light. Again, conditions could be attached restricting the addition of future windows to the gable elevation of plot 12.
147. It is noted that the garden depths provided do not fully meet the requirements of the SPD in that they are less than 9m in depth. Nevertheless, the SPD does note that site specific circumstances may allow for garden depths to be reduced and an alternative solution adopted where it is deemed that privacy and amenity would not be adversely affected. In this instance, rear gardens do fall below the minimum depth advised by the SPD and deliver an elevated terraced area. The proposed arrangement is considered acceptable and would deliver sufficient amenity space typical of the locality, noting that existing properties typically have rear garden depths below 9 metres given their terraced nature.
148. In addition, whilst it is a fully hardstanding area between the two terraces, it has been designed in a way to be a multi-use area and as such, it is considered that an appropriate level of amenity has been provided for future residents of the site. In addition, it is noted that existing terraced properties within the area have a lower level of garden space available which is typical of terraced properties and existing properties within the area.
149. Notwithstanding the conditions mentioned above relating to individual plots, it is considered that a further condition removing permitted development rights which are the subject of Schedule 2, Part 1, Classes A, AA and B of the Town and Country Planning, General Permitted Development Order 2015 should be included across all dwellings due to the constrained nature of the site.
150. With regards to noise, it is noted that during the construction phase the development could lead to some disruption to existing residential receptors, due to their close proximity, however it is considered that this can be mitigated by the submission of a Construction Management Plan which would be required as a pre-commencement condition and also a condition regarding the hours of construction. It is noted that a Construction Management Plan has already been provided however this does not contain all the relevant information required and therefore further information is required to be submitted. This could be required by a condition.
151. Taking the above into consideration, it is considered that the proposal, therefore, is considered acceptable in respect of Policies 29 and 31 of the County Durham Plan in respect of residential amenity of both existing and future residents subject to conditions.

Highway and Pedestrian Safety

152. CDP Policy 21 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
153. In addition, DCNP Policy T1 seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility and design along with Policy T2 which states development should provide sufficient residential parking.

154. Concern has been raised from residents, the City of Durham Trust and the Parish Council regarding highway safety concerns in that the proposal would result in major traffic and parking concerns in that the access road off Newcastle Road is unnecessary and would be used as a short cut to avoid the signalised crossroads which is already over trafficked at peak times.
155. Originally an access was proposed from the main A167 as well as St Johns Road however, given concerns raised by the Highway Authority, this has been amended to provide access from St Johns Road only, which is considered acceptable in respect of highways safety, however, concern was raised from residents and the Parish Council that this would result in St Johns Road being overused. Whilst concern has been noted, the application has been assessed fully by highway colleagues and they do not consider that any adverse impact would occur in this regard.
156. Appropriate parking for both residents and visitors is considered to have been provided in accordance with the Council's current Parking Standards, however this would be subject to the removal of permitted development rights to ensure that the garages would remain as parking spaces and not be converted to habitable accommodation. It is considered that a condition can be added in this respect. Each property would require an electric charging point to be provided and this again can be added as a condition of the application.
157. It is noted that the Council is likely to have adopted updated Parking Standards at the point this application is reported to the planning committee. As such it was considered appropriate to assess the development against those updated standards. In this regard it is noted that the application would not meet with the revised standards in that each property would be deficient in parking provision by 1 parking space. However, noting that at the present time these standards have not been formally adopted only very limited weight can be afforded to them. Nevertheless, it is considered that in this instance the property is located within a highly sustainable area, within close proximity to both primary and secondary schools, as well as walking distance to Durham City Centre, which has excellent transport links by both bus and train as well as a large range of shops and services, a reduced level of parking is considered acceptable.
158. The DCC Adoptions Engineer has confirmed that the layout is not to a standard which would be adoptable and would therefore remain private. Given this, and for liability issues, the Councils refuse collection would not enter the site.
159. Due to this, it was considered that the site would need to be amended to bring the site up to adoptable standards or a suitable bin storage arrangement would need to be provided. The applicants however have confirmed that a private refuse contractor would be employed. The Highway Authority have no objection to this approach providing full details are secured by condition, and this remains in perpetuity. It is considered that this can be controlled via planning condition. In addition, it is considered appropriate to include requirement within the S106 Legal Agreement for the submission and agreement for the management of all shared areas of access and hardstanding noting that these will not be subsequently adopted by the Highway Authority. The applicant has agreed to the inclusion of this requirement within the S106 Agreement.
160. There are existing vehicular accesses on the A167 from the historic use of the petrol station which will require reinstating to verge and footway/cycleway with full height kerbs, grass and smooth tarmac surfacing to the footway/cycleway therefore, an informative will be added in this respect.

161. Therefore, subject to conditions as identified above, and a further condition securing the submission and agreement of a construction management plan, the proposal would be considered acceptable in accordance with Policies 21 and 22 of the CDP, Part 9 of the NPPF and Policies T1, T2 and T3 of the Durham City Neighbourhood Plan.

Land Contamination

162. 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.
163. Concern has been raised from residents regarding toxic chemicals on the site due to the previous use. The application has been assessed by the Land Contamination Officer and the phase 1 has identified past industrial uses on the site and made recommendations for a phase 2. The phase 2 has identified elevated levels of contamination in the soils and ground gas protection measures are required. A phase 3 remediation strategy is therefore required detailing the remedial works to be undertaken which can be controlled by a pre-commencement condition.
164. The proposal subject to conditions is therefore, considered acceptable in respect of contaminated land issues in accordance with Policy 32 of the County Durham Plan and Part 15 of the NPPF.

Drainage

165. CDP 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.
166. Whilst CDP 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.

167. Drainage information has been provided which has been assessed by the LLFA and it is considered that the proposal is acceptable. The scheme is therefore acceptable in relation to Policies 35 and 36 of the County Durham Plan.

Ecology

168. Part 15 of the NPPF seeks to ensure that when determining planning applications, Local Planning Authorities seek to conserve and enhance biodiversity. CDP Policy 41 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. CDP Policy 25 seeks to ensure that new development is only approved where any mitigation necessary to make the development acceptable in planning terms are secured through appropriate planning conditions or planning obligations.

169. The Ecology report submitted by OS Ecology is considered acceptable and no further surveys are required subject to a condition requiring the recommendations to be carried out and integrated bat and bird boxes installed to provide enhancement.

170. Details of these integrated bat and bird boxes have not been provided therefore, a condition will be added for the details to be provided and to control their installation. Subject to this, the proposal is considered acceptable in respect of Policy 41 of the County Durham Plan and Part 15 of the NPPF.

Archaeology

171. CDP Policy 44 states in determining applications which would affect a known or suspected non-designated heritage asset with an archaeological interest, particular regard will be given to the following:

- i. ensuring that archaeological features are generally preserved in situ; and
- j. in cases where the balanced judgement concludes preservation in situ should not be pursued, it will be a requirement that they are appropriately excavated and recorded with the results fully analysed and made publicly available.

172. Paragraph 194 of the NPPF states in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

173. The proposal sits opposite the site of a registered battlefield therefore, discussions have taken place with the Archaeology Team who have assessed the proposal and consider that a condition requesting a watching brief to be submitted is required.

Trees / Landscape

174. CDP Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
175. CPD Policy 40 (Trees, Woodlands and Hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
176. Concern has been raised regarding the trees on site which objectors understand are protected by a tree preservation order and that there is no way the developer would be able to retain the beech hedge on St Johns Road.
177. The trees in question on the site are not protected by a tree preservation order although they are subject to some protection by virtue of their position within the conservation area. However, no objection has been raised by the Council's Arborist who has confirmed that the trees within the site do not warrant individual tree preservation orders.
178. Some of these trees situated to the south-east boundary will need to be removed to facilitate drainage and whilst these are the most mature on site their location and longevity would be limited despite the proposed development and as such their removal is not considered to conflict with CDP Policy 40.
179. Protective fencing must be in place to protect those trees which are outlined to be retained, and fencing must comply with BS 5837 2012 which is shown in Section 5 of the Arboricultural Tree Constraints Assessment Document.
180. Full details are also required with regards to the boundary treatment along the front of the site facing onto Newcastle Road and St John's Road which includes a wall and hedging, and this is also the case with boundary treatment to St Johns Road which again proposes a replacement hedge. Therefore, the submission and agreement of full details of both proposed arrangements should be secured via a condition.
181. Therefore, subject to conditions the proposal is considered acceptable from a landscape viewpoint in accordance with Policy 39 of the County Durham Plan and from an Arboricultural viewpoint in accordance with Policy 40 of the County Durham Plan.

Other Issues

182. Concerns have been raised from some respondents that the proposal would be occupied as houses in multiple occupation (HMO's). The current application relates to dwelling houses falling within Class C3 of the Town and Country Planning (Use Classes) Order 2015. As the site lies within the area subject to an Article 4 Direction removing permitted development rights relating to changes of use from C3 to C4 (HMO), any future change of use would be subject to control and require planning permission.

183. Concerns have been raised in relation to land ownership. However, it is understood that the applicant has served notice on the relevant owners which accords with the procedural requirements contained within the Town and Country Planning (Development Management Procedure) (England) Order 2015.
184. Concerns have been raised from residents that the applicant has failed to act responsibly in their approach to other developments. However, this is not a material planning consideration in the determination of the current application.
185. Some respondents have raised concern at the extent to which the Council publicised the planning application and that it was biased towards temporary residents due to Duresme Court being consulted. Whilst the concerns are noted the application was advertised by means of a site notice and letters sent to adjoining occupiers which exceeds the minimum statutory requirements as contained in the Town and Country Planning (Development Management Procedure) (England) Order 2015.
186. Concern has been raised with regards to the level of consultation by the Developer. Whilst applicants are encouraged to engage with the local communities prior to the submission of any planning application this is not a mandatory requirement and any failure to do so, whilst disappointing, cannot be afforded weight in the determination of this planning application.
187. Concern has been raised that the proposal is for financial gain only and that the proposals will not be affordable for local residents. Issues surrounding affordable housing provision have been considered in more detail elsewhere in this report. The perceived financial motivations of the applicant are not a material consideration in the determination of this planning application.

Planning Balance

188. As noted, given the concerns regarding the height of some of the units there would be some harm to the character and appearance of the conservation area as a result of the development. However, that harm is considered limited given it relates to one design aspect of a larger scheme which itself provides notable benefit in bringing a vacant and unmanaged site in a prominent location towards the western edge of the Conservation Area, back into positive use.
189. The development would also provide some benefit in terms of providing a modest boost to housing supply although this could be considered limited at 12 dwellings and particularly in the context that the Council is currently able to demonstrate a 5 year supply of housing land. As such only limited weight should be afforded to the benefits of delivering new housing than would be the case if a shortfall in supply existed.
190. To a degree, the development would also provide direct and indirect economic benefits within the locality in the form of expenditure in the local economy. This would include the creation of construction jobs, as well as further indirect jobs over the lifetime of the development. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area. Such benefits can again be afforded limited weight.
191. Whilst it is noted that the development would result in some harm to the Conservation Area this is limited and confined to one design aspect of a wider proposal. Even though this amounts to a conflict with Policy 44 of the County Durham Plan, Policy H2 of the Durham City Neighbourhood Plan and the requirements of Section 72 of the Planning (Listed Buildings and Conservation

Areas) Act 1990, for the reasons detailed above it is considered that the public benefits outweigh the that minimal localised harm. As such the proposal is considered acceptable in this regard.

Public Sector Equality Duty

192. 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.
193. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

194. The development is considered acceptable in principle and the site represents a sustainable location capable of accommodating the quantum of development proposed noting the viability position demonstrated in support of the application.
195. Whilst there would be some localised harm to the Conservation Area it is considered there are sufficient public benefits that would outweigh that harm in accordance with Paragraph 202 of the NPPF. In other respects, it is not considered that the development would undermine the aims of Policy 44 of the County Durham Plan or H2 of the Durham City Neighbourhood Plan or the duty of the LPA to have regard to preserving the character of the Conservation Area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
196. In all other respects the development could be accommodated without adverse impact upon residential amenity, highway safety, design, trees and landscape, contaminated land, ecology, archaeology and drainage in accordance with relevant policies of the County Durham Plan, Durham City Neighbourhood Plan and National Planning Policy Framework subject to inclusion of the planning conditions listed below and the requirements of the legal agreement as detailed.
197. The objections and concerns raised have been taken into account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application.
198. The proposal therefore is considered acceptable in respect of Parts 2, 4, 5, 6, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework, County Durham Plan Policies 1, 6, 15, 19, 21, 25, 26, 27, 29, 31, 32, 35, 36, 39, 40, 41, 43, 44, 45 and Durham City Neighbourhood Plan Policies G1, S1, H1, T1, T2, T3, D2, D3 and D4.

RECOMMENDATION

That the application be **APPROVED**, subject to a s106 agreement to require payments of:

- £20,869.20 towards Open Space Provision
- £91,920 towards Education Provision
- £114,826 towards Affordable Housing Provision

- The submission, agreement and full implementation thereafter of a management plan (in perpetuity) including but not limited to, details of the following;
 - street sweeping within the privately owned maintained areas
 - how the roads within the development will be maintained and repaired.
 - how car parking on street within the development will be managed
 - how refuse collection from the dwellings will be managed and operated
 - graffiti, stain, spillage and chewing gum removal
 - snow clearing and gritting
 - clearance of gullies and street weed control
 - street name plate maintenance, repair and replacement
 - maintenance of soft landscaping areas.

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 Policies 6, 21, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

3. Notwithstanding any details of materials submitted with the application no development about damp proof course shall commence until details of the make, colour and texture of all walling 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.

4. Prior to occupation of any dwelling hereby approved, details of an electric car charging point for each dwelling shall be submitted and approved in writing by the Local Planning Authority. The charge point shall be installed, prior to occupation of the dwelling in accordance with the approved details.

Reason: To comply with parking guidelines in line with requirements set out in Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

5. Prior to first occupation of any of the dwellings hereby approved a scheme detailing the precise means of broadband connection to the site shall be 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.

6. Prior to the first occupation the development hereby approved, details of all means of enclosure of the site shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details thereafter.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

7. 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), no development under Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) shall take place without the grant of further specific planning permission from the Local Planning Authority. The garages hereby approved shall be maintained for the storage of motor vehicles at all times.

Reason: In the interests of the amenity of the surrounding area in accordance of Policies 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

8. Prior to the commencement of the development hereby approved details of the specification and location of 1 bat access ridge tile unit and 1 bird breeding box (such as a house sparrow terrace or swift brick) per property shall be submitted to and approved in writing and shall be retained in perpetuity.

Reason: In the interests of protected species in accordance with Policy 43 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

9. Prior to the commencement of the development hereby approved, details of a private bin collection agreement shall be submitted to and agreed in writing. The approved scheme shall be brought into use prior to the occupation of any dwelling hereby approved and shall remain in perpetuity.

Reason: In the interests of highway safety in accordance with Policy 21 of the County Durham Plan and Part 4 of the National Planning Policy Framework.

10. No development shall take place until an acoustic report, carried out by a competent person in accordance with all relevant standards, on the existing noise climate at the development site has been submitted to and been approved in writing by the Local Planning Authority. The aim of the report will be to establish whether sound attenuation measures are required to protect future residents from the transferral of sound from road traffic/commercial noise. In the event that the acoustic report finds that the following noise levels would be exceeded a noise insulation scheme shall be submitted to and approved in writing by the Local Planning Authority.

- o 35dB LAeq 16hr bedrooms and living room LA during the day-time (0700 - 2300)
- o 30 dB LAeq 8hr in all bedrooms during the night time (2300 - 0700)
- o 45 dB LAmax in bedrooms during the night-time
- o 55dB LAeq 16hr in outdoor living areas

The approved scheme shall be implemented prior to the beneficial occupation of the development and shall be permanently retained thereafter.

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.

11. Prior to occupation of the dwellings hereby approved, verification details to ensure that 66% of the properties have been constructed to M4(2) Standards shall be submitted to and approved in writing.

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

12. 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:

1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.

2. Details of methods and means of noise reduction/suppression.

3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.

4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.

5. Designation, layout and design of construction access and egress points.

6. Details for the provision of directional signage (on and off site).

7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.

8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.

9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.

10. Routing agreements for construction traffic.

11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

13. Management measures for the control of pest species as a result of demolition and/or construction works.

14. 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.

13. 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.

14. 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 3 remediation strategy 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 suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

15. 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.

16. No development shall take place until intrusive site investigations have been undertaken to assess the ground conditions and the potential risks posed to the development by past shallow coal mining activity. A report shall thereafter be submitted to and agreed in writing by the Local Planning Authority setting out the findings of the intrusive site investigations including a scheme of remedial work where required. Thereafter the development shall take place in accordance with the agreed details.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with Policy 32 of the County Durham Plan and Paragraphs 178 and 179 of the National Planning Policy Framework.

17. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above.

Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

The landscape scheme shall include accurate plan based details of the following:

Trees, hedges and shrubs scheduled for retention.

Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.

Details of planting procedures or specification.

Finished topsoil levels and depths.

Details of temporary topsoil and subsoil storage provision.

Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.

The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The Local Planning Authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

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

18. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Replacements will be subject to the same conditions.

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

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking and/or re-enacting that Order with or without modification) no change of use of the hereby approved residential accommodation from use class C3 (dwelling houses) to use class C4 (houses in multiple occupation) shall be carried out without planning permission having been granted by the LPA.

Reason: In order that the local planning authority may exercise further control to prevent overconcentration of houses in multiple occupation having regard to the need to deliver inclusive and mixed communities as identified in Part 5 of the National Planning Policy Framework.

20. Prior to commencement of development hereby approved, details of a scheme to minimise greenhouse gas emissions, with the aim of achieving as close as possible a zero carbon building, shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, provision of renewable and low carbon energy generation and electric car charging points. The renewable and low carbon energy measures shall be installed in accordance with the approved details thereafter.

Reason: To comply with requirements to minimise greenhouse gas emissions in line with details set out in Policy 29c and d) of the County Durham Plan.

21. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a mitigation strategy document that shall be submitted to, and approved in writing, by the local planning authority. The strategy shall include details of the following:

- i) Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
- ii) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
- iii) Post-fieldwork methodologies for assessment and analyses.
- iv) Methodologies for a programme of building record, to be compliant with Historic England standards to be carried out prior to any demolition or conversion works, or any stripping out of fixtures and fittings.
- v) Report content and arrangements for dissemination, and publication proposals.
- vi) Archive preparation and deposition with recognised repositories.
- vii) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.

- viii) Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
- ix) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications. The development shall then be carried out in full accordance with the approved details

Thereafter the development shall be carried out in accordance with the agreed strategy.

Reason: To comply with Policy 44 of the County Durham Plan and Paragraphs 203 and 205 of the National Planning Policy Framework and because the site is of archaeological interest being located within close proximity to a registered battlefield.

STATEMENT OF PROACTIVE ENGAGEMENT

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.

BACKGROUND PAPERS

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

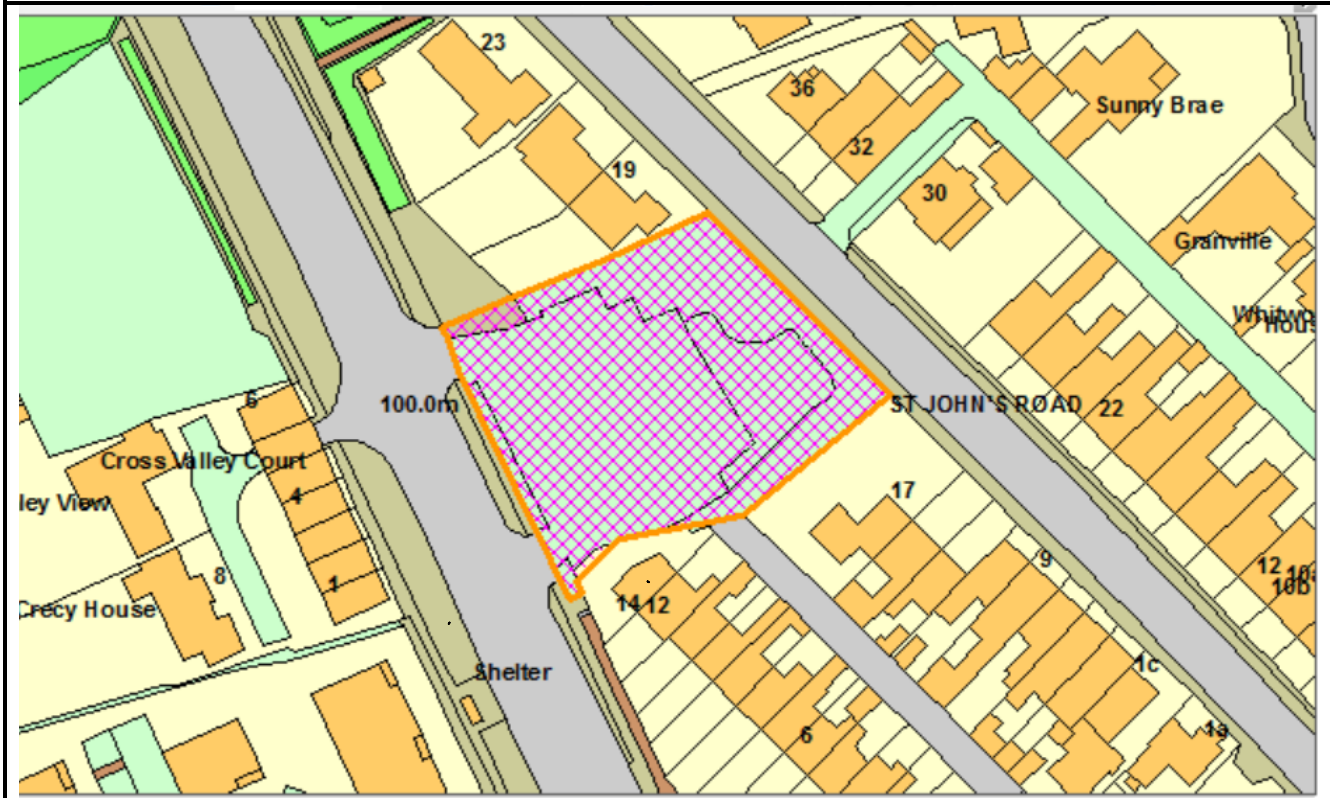
The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan

Durham City Neighbourhood Plan

Statutory, internal and public consultation responses



<p>Planning Services</p>	<p>Construction of 12 townhouse dwellings with associated works at Land At, St Johns Road, Nevilles Cross</p> <p>Application Reference: DM/21/01789/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>Date: September 2023</p>	<p>Scale NTS</p>

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/23/01520/FPA
FULL APPLICATION DESCRIPTION:	Change of use from former nursing home to 2 separate dwellings (use class C3) (retrospective application).
NAME OF APPLICANT:	Tina Robinson
ADDRESS:	Highfield House Sycamore Terrace Haswell Durham DH6 2AG
ELECTORAL DIVISION:	Shotton and South Hetton
CASE OFFICER:	Lisa Morina Senior Planning Officer Telephone: 03000 264877 Lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is a former care home which was purchased by the applicant in 2017. It is understood that since the time of purchase the property has been occupied as a single dwelling by the applicant but more recently has been occupied as an air B&B/holiday let known as Lucan Lodge. A current enforcement case is pending investigation reference EN/21/00810 which relates to an unauthorised change of use of the property to self-contained residential units.
2. The site is located in Haswell on the edge of the western side of the village on the main route through the settlement (Pesspool Lane), which is a classified road. Access to the site is from this road with access to a residential estate located immediately to the west of the property. Residential properties are located on all sides of the property.
3. Trees are located on the site which are protected by a tree preservation order, no works however are proposed to these trees are part of this planning application.

Proposal:

4. Planning Permission is sought to change the existing property into two dwellings. These would be a 5 bed two-storey dwelling and a 4 bed single-storey dwelling with a shared driveway.

5. The applicant has confirmed that both would be occupied as C3 dwellinghouses with the second property known as Lucan Lodge sold to facilitate works to the main property that would remain in their ownership as a family home.
6. Parts of the existing property are uninhabitable and currently used as storage areas and these are proposed to remain as such as part of the conversion proposals. A large parking area is located to the front of the site with parking for at least 6 vehicles and again this would remain unchanged as part of the proposal.
7. Amendments were received in respect of the internal layout of the properties which clarified the number of bedrooms per each property as well as an amended site layout plan which clearly marks out the number of parking spaces at the front of the site. Given the minor nature of the amendments it was not considered that further re-consultation/ publicity was required.
8. The application is reported to planning committee at the request of Cllr Chris Hood due to concerns relating to noise and disturbance.

PLANNING HISTORY

9. There is no relevant planning history on this site.

PLANNING POLICY

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 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:

20. 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

21. 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.

22. 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.
23. 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.
24. 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.
25. Policy 40 (Trees, woodlands and hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
26. 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.

Neighbourhood Plan

27. 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>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

28. Highway Authority – No objection sufficient parking provided.

INTERNAL CONSULTEE RESPONSES:

29. Environmental Health (Noise) – No objection.
30. Ecology – No objection, contributions required in respect of HRA payment, total of £1,513.22.
31. Trees – Protected trees are on site however no work to be carried out which affects the protected trees.

PUBLIC RESPONSES:

32. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. To date, 22 letters of objection and 5 letters of representation have been received with the following concerns:
 - The proposal appears to be for a hotel not a family dwelling
 - Noise and disturbance issues already occur and will become worse
 - The site is already used as a holiday let for stags and hens
 - Parking Issues will be exacerbated
 - Highway Safety Concerns due to increase in parking and blocking of access/entrance to the nearby estate
 - Littering is an issue
 - No supervision of the property
 - Is the correct council tax rates etc being paid
 - Hot tub and patio area is not shown
 - Questions raised regarding the Councils policy on letting rooms as holiday lets
 - No consultations for the property to be used as an Air B&B
 - Security issues
 - The use of external areas late at night
 - Devaluation of properties
 - Lack of Notification
 - The Council have not acted on previous complaints

APPLICANT'S STATEMENT:

33. I have lived in Highfield house since the 7th July 2017, it has been used as our family home.

In July 2019 after the death of my husband I put all my saving to convert part of the building in to Lucan Lodge at the time it was dilapidated due to lead being ripped from the roof and copper pipes being ripped out, my builder restored the building to new and I started my holiday let business, so I had an income to be able to remain in my house.

I have had nothing but problems with guests, not respecting house rules and with neighbours complaining about the noise instead of ringing me so I could nip it in the bud, as I can not hear noise from my property which is attached. I have now decided to close down my business.

To enable me to remain in my property I have decided to apply for residential planning permission to split Lucan Lodge from Highfield House creating a 3/4 bedroomed (I expect the smaller bedroom would be used as a dining room) bungalow with a shared drive so creating 1 extra property and not 2 as stated.

My intentions are to use the money generated by the sale of Lucan Lodge to upgrade Highfield House and continue to live in the property and be an active member of Haswell and support the local businesses as I always have.

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>

PLANNING CONSIDERATIONS AND ASSESSMENT

34. 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.
35. 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.
36. 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.
37. In this context, it is considered that the main planning issues in this instance are the principle of the development, impact on residential amenity, highway and pedestrian safety, impact on trees, ecology and any other issues which are considered relevant.

Principle of the Development

38. The site is considered to be within the built-up area of Haswell however is not allocated for housing within the CDP. CDP Policy 6 supports development on sites which are not allocated in the Plan, but which are either within the built-up area or outside the built-up area but well related to a settlement, stating that such development will be permitted provided it is compatible with the following:
- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
 - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
 - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
 - f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
 - g. does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
 - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
 - i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
 - j. where appropriate, it reflects priorities for urban regeneration
39. The proposal is surrounded by other residential properties and as such, would accord with criteria a). Whilst concern has been raised regarding the occupation of the property as a trade/business (i.e. an Air B&B/holiday let), the applicants have confirmed that the application proposes use of the resulting dwellings solely for uses falling within Class C3 of the Town and Country Planning (Use Classes) Order. The specific intention being that the applicant would retain the proposed 5 bedroomed dwelling as their family home, disposing of the second property to facilitate/finance works to the retained dwelling.
40. With regard to other criteria listed there is no concern that the site would lead to coalescence with neighbouring settlements or ribbon/ backland development (criteria b) due to the proposal being a change of use of a property and does not extend beyond the northern boundary of the existing settlement, also making use of previously developed land (in accordance with criteria i). The proposal would also not result in a loss of open land that has any recreational, ecological or heritage value (in accordance with criteria c).
41. The site is considered to have easy access to sustainable transport and local facilities (in accordance with criteria f). No extensions are proposed to the properties and as such the proposal accords with criteria d).
42. In respect of criteria h), the site is not contained within Flood Zones 2 or 3 of the Environment Agency mapping layers associated with the Local Lead Flood Authority (LLFA) there are also no noted flood risk areas within the application site.

43. Consideration of criteria e) of policy 6 is considered elsewhere within this report. It is not considered that criteria j) is appropriate in relation to this proposal.
44. It is therefore considered that the principle of residential use in this location is acceptable subject to the relevant material considerations as set out below.

Impact on Residential Amenity

85. CDP Policies 6 and 31 seek to prevent development that would have an unacceptable impact upon the amenity of existing neighbouring residents and only allow development where adequate amenity for future occupiers is provided. Part 11 Paragraph 119 of the NPPF requires planning decisions to ensure healthy living conditions and Paragraph 124 emphasises the importance of securing healthy places. Paragraph 174 of Part 15 requires decisions to prevent new development from being put at unacceptable risk from, or being adversely affected by, unacceptable levels of pollution such as noise pollution.
86. Paragraph 185 seeks to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions. In terms of noise, Paragraph 185 advises that planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life.
87. CDP 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, subject to transition period. 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.
88. Concerns have been raised that the property is already in use as a hotel, used particularly for stag and hen parties and this forms much of the basis of respondent's concerns in relation to noise, disturbance and antisocial behaviour. The concern is that the proposal would result in a level of noise and disturbance that would continue to be harmful to existing residents. Objections have also raised concern that littering is presently an issue and that existing security provision is inadequate given that there appears to be no formal supervision of the property. Concern is also raised in relation to a hot tub area which is understood to be currently in use and not shown on the submitted plans. Use of the external areas late at night are also raised as a concern.
89. Whilst objections around noise and disturbance are noted, these appear to be in relation to the properties current use as a holiday let. The applicant has confirmed that both properties would be occupied as C3 dwellings as a result of the proposals, and that all existing holiday let use would cease. As such they consider that this would remove any existing concerns in relation to noise and disturbance, as well as concerns relating to the security and management of the site. However, it should be noted that the existing use is currently unauthorised and as such, the removal of any

perceived harmful impact in this regard cannot be afforded weight in determination of this planning application.

90. In this regard it is noted that in terms of noise and disturbance the proposed C3 Use is considered entirely compatible with adjacent uses which also fall within this class. There is no indication that the proposed use would result in any harmful impact from increased noise, disturbance or antisocial behaviour, and in this regard the Council's Environmental Health Team offer no objection.
91. However, it should be noted that the use of a dwelling (falling within Class C3) for short term holiday let would not generally be considered a material change of use falling within Class C1 (Hotels/Guest Houses) and as such would not require planning permission, although this would of course depend upon the specifics of how the property was occupied in each case, but for the most part, uses of this nature (where let either as a complete unit (akin to a holiday cottage) or as a single room (much like a traditional bed and breakfast), would usually remain in a C3 use where they are not the main residence of the guest occupants. Therefore, should planning permission be granted for the use as proposed in this instance, it would remain that each dwelling could be occupied as a short-term holiday let without the need for planning permission.
92. It is noted that the current unauthorised use of the property as holiday lets has generated significant concern with surrounding occupiers that has generated complaint to the Council's Planning Enforcement and (Noise) Nuisance Action Team(s). With this in mind, and noting the property is located within close proximity to existing dwellings, a condition should be included requiring the submission and agreement (to the LPA) of a management plan, prior to the commencement of any use of either property for the purposes of holiday let accommodation.
93. Notwithstanding the above, it should also be noted that in the event that planning permission is granted, and a material change of use does occur beyond that described above, this would be subject to planning control. Any planning application submitted in this regard would be determined upon its planning merits and assessed against appropriate planning policy.
94. In other respects, the 2 No. proposed dwellings are both considered to comply with minimum NDSS Space Standards and have appropriate garden depths. As such an appropriate level of living accommodation is considered to be provided for future residents. In addition, the relationship between the two properties is acceptable in respect of window positions to the extent that an adequate level of privacy would be provided for the residents of both properties and those already present in the surrounding locality in accordance with the Council's Residential Amenity Standards SPD and CDP Policy 29.
95. The proposal is therefore considered acceptable in respect of Policies 29 and 31 of the County Durham Plan in that it would not have an adverse impact upon residential amenity from loss of privacy, noise or disturbance, for both existing and future residents. As noted, an appropriate condition regarding the management plan of the site should it be used as a short-term holiday let is considered to adequately control potential future noise issues.

Highway and Pedestrian Safety

96. CDP Policy 21 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.

97. CDP Policy 6e requires proposals not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity.
98. Concern has been raised that parking issues will be exacerbated and that there are highway safety concerns due to increase in parking and blocking of access/entrance to the nearby estate.
99. As stated, the proposal is for 2 No. C3 dwellings and in each case appropriate parking provision, including electric charging points, have been provided in accordance with the Councils current Parking Standards. Whilst it is noted that the Council is likely to have adopted updated Parking and Standards prior to this being reported to the Committee. After assessment against those revised standards, it is noted that the application would accord with the revised requirements. However, noting that at the present time these standards have not been formally adopted and as such only very limited weight can be afforded to them.
100. In respect of the blocking of access/entrance to the nearby estate, the use of the property as two residential dwellings is not considered to impact on the adjacent highway and overspill parking should not occur given the use of the properties and the level of parking provided within the curtilage of these dwellings. Should obstruction occur, then this would be a matter for the police. The Highway Authority raise no objection to the application in this regard.
101. The proposed development is not considered to result in any adverse impact in terms of highway safety and the use could be satisfactorily accommodated in this regard in accordance with Policy 21 of the County Durham Plan and Part 9 of the NPPF.

Impact on Trees

102. CDP Policy 40 seeks to avoid the loss of existing trees and hedgerows unless suitable replacement planting is provided. Parts 12 and 15 of the NPPF promotes good design and sets out that the planning system should contribute to and enhance the natural and local environment by (amongst other things) recognising the intrinsic character and beauty of the countryside and optimise the potential use of the site.
103. Whilst trees on the site are protected by tree preservation orders, the application does not propose work to the trees and as such, the proposal is considered acceptable in accordance with Policy 40 of the County Durham Plan.

Ecology

104. CDP 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.
105. 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.

106. 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.
107. The Council's Ecologist notes that the proposed development is within the 6km Durham Coast HRA buffer therefore a financial contribution to the Coastal Access and Monitoring Measures Programme is required to mitigate impacts as a result of new housing development in lieu of onsite mitigation.
108. 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. 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.
109. The previous use of the property was as a care home and therefore the change of use to two dwellings would be considered to have an impact in this regard. However, this impact could be adequately mitigated subject to a payment of £756.61 per dwelling (total of £1,513.22) towards Coastal Access and Monitoring Measures Programme Tier 2 being paid which should be secured through a S106 Legal Agreement/Unilateral Undertaking. Subject to the applicant entering into an agreement in this regard (which they have confirmed) it is considered that the proposed development would accord with Policy 42 of the CDP and Part 15 of the NPPF, both of which seek to protect and enhance the natural environment.

Other Issues

110. Whilst concern has been raised in relation to previous Council Tax payments this is not a material planning consideration in the determination of this application with any incorrect or lack, of payments previously, being subject to separate legislative control. Similarly, any impact upon existing property prices is not a material planning consideration to which weight can be afforded in the determination of this application.
111. Concern has been raised regarding lack of consultation. Whilst these concerns are noted, the Council publicised the planning application by means of a site notice and notification letters sent to adjoining occupiers. This approach exceeds the minimum statutory requirements as contained in the Town and Country (Development Management Procedure) Order 2015. Consequently, it is considered that the Local Planning Authority discharged its responsibilities in this regard.
112. Concern has also been raised that the Council has not acted on previous complaints and no formal notification was given for the use of the property as an Air B&B. In respect of statutory nuisance from excessive noise, this would be controlled via separate legislation administered, by the Environmental Health Department. It should also be noted that the current planning application is a result of an

enforcement complaint for which a planning contravention notice was served and established that a breach of planning control had occurred. This application is submitted as a result of that process with the applicant looking to explore alternative uses at the property.

Public Sector Equality Duty

113. 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.
114. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

115. In summary, it is considered that the principle of development is acceptable and the proposed use commensurate with other surrounding residential accommodation present in the locality. In addition, the site is considered to occupy a sustainable location capable of accommodating the modest increase in residential units proposed.
116. In all other respects it is considered the proposed development could be accommodated without adverse impact upon residential amenity, the character and appearance of the surrounding area including existing trees, ecology and highway safety subject to the conditions and requirements of the Legal Agreement as set out below.
117. Therefore, it is considered that the development would accord with the requirements of Parts 9, 12 and 15 of the National Planning Policy Framework and Policies 6, 21, 29, 31, 40 and 42 of the County Durham Plan. The application is therefore, recommended for approval.

RECOMMENDATION

That the application be **APPROVED**, subject to a Legal Agreement (Unilateral Undertaking) to provide:

- **£1,513.22** towards the Coastal Access and Monitoring Measures 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 Policies 6, 21, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

3. Prior to the first use of either dwelling hereby approved for the purposes of short term holiday let accommodation, details of an accommodation management plan shall be submitted to and approved in writing by the Local Planning Authority. The use shall thereafter be carried out in accordance with the agreed details at all times.

Reason: In the interests of 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.

STATEMENT OF PROACTIVE ENGAGEMENT

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.

BACKGROUND PAPERS

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

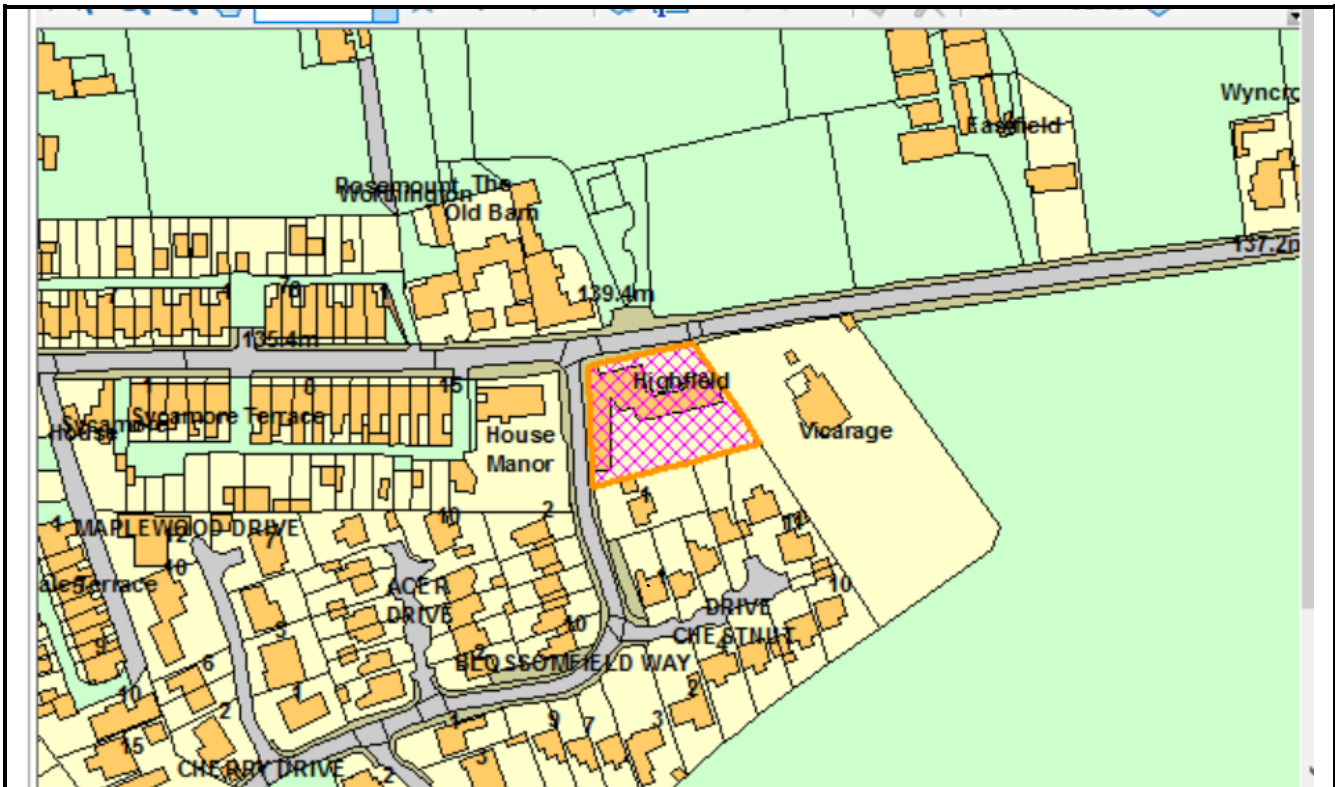
The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan

Statutory, internal and public consultation responses

Durham County Council Parking and Accessibility Standards (2019)



<p>Planning Services</p>	<p>Change of use from former nursing home to 2 separate dwellings (retrospective application) at Highfield House, Sycamore Terrace, Haswell, Durham, DH6 2AG Application Reference: DM/23/00532/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>Date: September 2023</p>	<p>Scale NTS</p>

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/23/01237/FPA
FULL APPLICATION DESCRIPTION:	Change of use from five bed dwellinghouse to seven bed HMO (sui generis).
NAME OF APPLICANT:	Mrs Gabrielle Moore
ADDRESS:	41 Fieldhouse Lane Durham DH1 4LT
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	David Richards Planning Officer 03000 261955 david.richards@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises a 5-bedroom, semi-detached dwelling located on Fieldhouse Lane within a predominantly 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 Large House in Multiple Occupancy (Sui Generis) including formation of new parking area to the front, bin storage and other associated alterations. The existing garage and dining room would be converted to additional bedrooms to create seven bedrooms in total.
3. The application is reported to Planning Committee at the request of the City of Durham Parish Council who consider the proposal to be contrary to local plan policies 6, 16, 29 and 31, Durham City Neighbourhood Plan Policy S1 and the NPPF and as such requires consideration by the committee.

PLANNING HISTORY

4. No relevant planning history.

PLANNING POLICY

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 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.
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 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

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 to 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 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

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.
21. The Council's Residential Amenity Standards Supplementary Planning Document January 2023 provides detailed guidance in relation to extensions and other works to dwellinghouses to ensure that these do not have an adverse impact upon the host dwelling, the character of the wider area and residential amenity.
22. The Council's Parking and Accessibility Standards 2019 provides detailed guidance in relation to parking and design principles and residential parking size standards.

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

Neighbourhood Plan

23. The following policies of the Durham City Neighbourhood Plan (DCNP) are considered relevant to the determination of this application.
24. Policy S1 (Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions) seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet.
25. Policy D4 (Building Housing to the Highest Standards) states all new housing, extensions and other alterations to existing housing should be of high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and improvement of energy efficiency and the reduction of carbon dioxide emissions.
26. Policy T2 (Residential Car Parking) supports developments with or impacting on car parking provided that car parking is designed to reduce vehicle movements on residential streets and is in designated bays or small groups separated by landscaping or features and designed with safety in mind. Consideration should be given to communal off-street parking for dwellings without garages. Any EV requirements should not hinder movement by pedestrians or disabled people and should be in keeping with area character. The policy supports the use of car clubs. Should the parking demand require parking controls these will need to be funded through developer contributions.
27. Policy T3 (Residential Storage for Cycles and Mobility Aids) requires residential development including change of use to seek to provide storage facilities for cycles and, where appropriate mobility aids. Cycle parking should meet DCC standards and should be adaptable for other types of storage with access to electricity. Where there is

communal storage and a travel plan this should be managed appropriately in terms of removal and capacity needs. Design and location of storage should accord with the style and context of the development.

<https://www.durham.gov.uk/media/36020/Durham-City-adopted-neighbourhoodplan/pdf/DurhamCityNeighbourhoodPlan.pdf?m=63763004206650000>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

28. The Highway Authority considers the proposal acceptable, subject to the applicant entering into a S184 agreement with the Local Highway Authority for provision of the widened vehicular crossing to create an additional off-street space. All works to the adopted highway would be at the applicant's expense.
29. The dwelling falls within the North End controlled parking area, and so the residents of the property would be eligible to apply for permits to park on street. This eligibility for a permit to park on street, together with the 2 off-street spaces which would be provided means the proposal is considered to be in accordance with current DCC parking standards.
30. The City of Durham Parish Council objects to the application citing the lack of a Design and Access Statement, that the proposal would unbalance the existing community, result in an increase in anti-social behaviour and additional noise at anti-social hours, the intensification of residential use, inadequate parking provision (including no provision for EV charging points) and that this would result in increased demand for on-street parking and loss of grassed garden to front of the property.

Internal Consultee Responses:

31. 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 7.7%
32. HMO Licensing – Raise no objection but provide advice on licensing legislation requirements, confirming that the property would be required to be licensed.
33. Environmental Health and Consumer Protection (Nuisance Action Team) – Have undertaken a technical review of information submitted and note that the information submitted demonstrates that the application complies with the thresholds stated within the TANS. Given this, and due to the fact that the existing use is already a noise sensitive receptor, the addition of two further rooms is unlikely to lead to an adverse impact from and disturbance. However, the planning officer should consider the supporting detail for further clarification.
34. The property is a semi-detached house. 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 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 great 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. It should also be noted that bedrooms five and six are on the ground floor with the main living spaces and may, therefore, lead to a greater impact for the individuals residing in that room from noise when those rooms are in use.

35. They therefore should planning permission be granted the following conditions should be applied:

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.

The aim of the insulation should be to ensure the requirements of BS 8233: 2014 in relation to sleeping areas are met within the rooms. An insulation scheme designed to the requirements of Document E of the Building Regulations should prove sufficient.

36. In addition, they advise that in order to help mitigate against relevant impacts a planning condition requiring the submission and agreement of a Construction Management Plan should be secured via planning condition securing the following:
37. *No construction/demolition activities, including the use of plant, equipment, and deliveries, which are likely to give rise to disturbance to residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.*
38. *The best practicable means shall be used to minimise noise, vibration, light and dust nuisance, or disturbance to local residents resulting from construction/demolition site operations. No burning of waste is to be carried out on the development site. It shall be considered that the best practicable means are met by compliance with all current British standards/relevant guidance.*
39. In addition, they confirm that they have assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and are satisfied, based on the information submitted with the application and with the addition of the above condition(s), the development is unlikely to cause a statutory nuisance.

Non-Statutory Consultee Responses:

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

PUBLIC RESPONSES:

41. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents.
42. To date, 116 letters of objection have been received (including a letter from Mary Foy MP). The letters of objection raise the following concerns:
- Impact upon existing residential amenity in that the proposal would adversely affect neighbouring properties from increased noise and disturbance. Failure to meet standards set out in Durham County Council's Standards for HMOs document and loss of privacy and overlooking.

- Impact on parking and highway safety, specifically that the change of use would increase the number of cars and that the widening of the dropped kerb would reduce on street parking, inconsiderate parking obstructing footpath would increase causing safety issues for children, elderly etc.
- Impact upon social cohesion in that the introduction of an additional HMO would imbalance the community contrary to policy 16 of the CDP to the extent that there would be an over proliferation of this type of accommodation in the locality, forcing families out of residential areas within the city. In addition, occupation of the property by students would result in the property being empty for long periods and this would further erode the sense of community.
- There is no identified need for additional student housing in the area which already has PBSAs.
- Applicant not managing their properties to an acceptable standard including unkempt gardens.
- Adverse impact from increased volume of waste, not disposing of waste at end of tenancy causing increase in vermin.
- Increasing size of drive and removing part of the front garden would have a detrimental impact on the character of the area.
- Increased anti-social behaviour and drug use.
- Loss of council tax revenue.
- Impact on ability to sell houses and property value.

43. In addition to the above, one letter of support was received.

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:

44. The proposals relate to the change of use from a C3 family house to a 7 bed HMO with no external difference except the replacement of a garage door with a half brick wall and a window which is arguably visually more appealing).
45. Durham City Council brought into force article 4 to protect the housing stock in Durham City and to stop areas becoming highly concentrated with students. Student landlords cannot add student housing into an area where the HMO population within 100m is above 10%. In this area the percentage is 7.7% which is well below the 10% which the council require.
46. Some of the statements added online by neighbours are prejudging students. I was a student in Durham as is my son and my daughter is a student abroad. I'm sure many of the neighbours have been students and/or have children who are.
47. I certainly didn't behave in an unneighbourly way, nor does my son and his housemates. I have many tenants who are helpful to their neighbours and whose positive behaviour has been commented on.

48. Students looking to party would, in my opinion, look for houses in the more concentrated areas and not in the more family neighbourhoods. Some have stated to me that they want somewhere that feels more like home and that is why they have chosen houses not in the more usual concentrated student areas.
49. The Council's HMO Report states that within a 100m radius of, and including 41 Fieldhouse Lane 7.7% of properties are class N exempt properties as defined by Council Tax records. The property therefore lies in an area where, by the Council's own definition, the tipping point has not been reached to an extent where there would already be concerns about the impact of the student population on the residential amenity of non student residents.

A (12) Anti-Social Behaviour:

To ensure that nothing shall at any time be done within or upon subjects or let that shall offend – nuisance – damage – disturb – annoy – injure or inconvenience any adjoining, neighbouring or conterminous property and / or its occupiers.

50. Durham University also have a “*Students Living Out of College: Code of Conduct*” to ensure that students act as good neighbours and the university also work in partnership with Durham Constabulary, Durham County Council and other bodies with a procedure in place for responding to reports of anti-social noise from students within Durham City with disciplinary measures outlined. It is not considered that the proposed modest increase in occupancy would exacerbate any issues in relation to noise and disturbance to an extent that unacceptable impacts on neighbours would occur, however, the management regimes and powers of external bodies such as the police and Durham County Council will ensure that the amenities of neighbouring residents are adequately protected in any event.
51. We do not therefore consider that allowing 41 Fieldhouse Lane as an HMO would lead to unacceptable impacts on the amenities of neighbouring residents.
52. A previous appeal decision at 1 Wearside Drive also considered the impact of student tenants in terms of noise, disturbance and anti-social behaviour in an area where there was not an existing over concentration of student residents. The property at 1 Wearside Drive was located in an area where 7.1% of properties within a 100m radius were Class N exempt and similarly the 1 Wearside Drive proposal related to the change of use of an existing C3 property to an HMO leading to the introduction of 5 student tenants to the area. The Inspector's conclusions in relation to the impact of the proposed HMO at 1 Wearside Drive upon neighbouring occupiers are set out below with emphasis added where considered relevant to the current appeal proposals:
53. *“The Council seeks to protect residential amenity through application of Policies 29 and 31 of the CDP. These policies seek that the impact of development, either individually or cumulatively, upon both future occupants and nearby properties is minimised. I appreciate that residents have genuine concerns about potential issues often associated with HMO properties. These include an increase in noise, disturbance, litter, anti-social behaviour and potential crime due to the property being empty during student vacations.*
54. **However, these issues are not a predictable consequence of HMO's as opposed to single occupation dwellings, but rather a matter of individual behaviour and suitable management. If such behaviour did occur, as with any resident, the local authority and police have powers to deal with it. I have no evidence to suggest that such control would be insufficient to limit any nuisance to residents. Furthermore, Durham University have a Code of Conduct relating to behaviour of**

students living outwith university accommodation with potentially serious consequences for breaches.

55. **Problems associated with HMOs often occur in areas with relatively high concentrations of this type of housing.** Policy 16 seeks to control the impact of HMOs upon neighbouring occupiers by controlling numbers present within any given area. Consequently, and in accordance with Policy 16, **as the number of HMOs within the vicinity of this proposal would be less than 10%, the impact is unlikely to significantly harm the living conditions of neighbouring occupiers. Moreover, Environmental Health Officers have raised no concerns** and there is existing space for refuse bins.”
56. A large number of applications for new HMOs and extensions to HMOs have been approved by the Council in areas of the city where the 10% threshold set out in Policy 16 would not be exceeded following adoption of the CDP in 2020. In particular, we would highlight an application for a 7 bedroom HMO at 3 St Monica Grove (DM/22/03823/FPA) that was approved by the Planning Committee in April 2023 and, in relation to impacts on residential amenity, the Committee Report states:
57. *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 an 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.***
58. The St Monica Grove property lies within an area where less than 10% of properties within a 100m radius were Class N exempt and, as there was no identified over proliferation of existing HMOs (as is the case at Fieldhouse Lane), it was concluded that the introduction of a single additional HMO in this location would not result in a level of cumulative impact that would be detrimental to residential amenity.
59. The property lies within an area where there is not a pre-existing over concentration of student properties and has an established use as a C4 HMO. The property is located on the outskirts of the city and student tenants seeking a property in this location are generally looking for a quieter residential environment and are largely considerate to neighbouring residents and the wider community. The landlord’s management policies, the university code of conduct and the management regimes and powers of external bodies such as the police and Durham County Council will ensure that the amenities of neighbouring residents are adequately protected in any possible event of a problem arising.
60. We do not therefore believe that the proposed development would lead to adverse impact on the amenity of existing residents through increased noise, disturbance and antisocial behaviour and this position is supported by the conclusions drawn by the Council and Inspectors on proposals for HMO related development in other parts of the

city where there is not a pre-existing over concentration of student properties. We would therefore request that the current Planning Application is allowed.

PLANNING CONSIDERATIONS AND ASSESSMENT

61. 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.
62. 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 the impact on parking and highway safety.
63. 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

64. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a 7-bed Large HMO (Use Class Sui Generis).
65. 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.
66. In addition, CDP Policy 16 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.

67. 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.
68. In the supporting text of CDP 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.
69. In addition, CDP 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 residents.
70. Objections received have raised concern with respect to the principle of the development, specifically that properties in the area that have received permission to change their use to HMOs and as such there is a perception that the percentage of properties within the area which are exempt from Council Tax is already high 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. The Council has sought confirmation from the HMO Data Section who confirms that 7.7% of properties within 100m radius of the application property are Class N exempt from Council Tax.
71. In addition, objections have also been raised that there is no need for this type of accommodation in the area, and that generally demand is likely to fall given the number of students at the university is expected to reduce.
72. Concern is also raised 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 this regard is noted, the methodology contained within the policy (and the policy itself) was considered sufficiently accurate and robust during examination in public of the CDP in 2020, and the current policy adopted, as presently exists within the adopted CDP. It should be noted that the policy has proven sufficiently robust, and the Council has successfully defended several appeals against refusal of similar changes of use where these were in clear conflict with the policy. In addition, it should be noted 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.

73. 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 an HMO that within 100 metre radius of, and including 41 Fieldhouse Lane, 7.7% of properties are class N exempt properties as defined by Council Tax records. 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 (PBSA) 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 CDP Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.
74. 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 reoccupied as family homes without the need for planning permission and limited internal reconfiguration.
75. Notwithstanding this, it nevertheless remains that whilst Part 2 of CDP 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 this 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 CDP Policy 16 and that the lack of any specific information to demonstrate need, is not sufficient to sustain refusal of the application in this instance.
76. 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.
77. Whilst concerns are noted, it is considered the principle of the development could be supported in principle subject to proper consideration of the impact of the proposal upon residential amenity and highway safety.
78. Objections have been received citing that the development would have an adverse impact upon social cohesion and unbalance the community. Part 3 of CDP Policy 16 includes a threshold of no more than 10% of properties being in HMO use. As already noted above, in light of limited number 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 County Durham Plan in this regard. Whilst it is noted that tenants would likely change on a yearly basis this is unlikely to create any community imbalance to the extent that it would have any adverse impact capable of sustaining refusal of the planning application.

Impact on Residential Amenity

79. CDP Policy 31 (Amenity and Pollution) 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 CDP 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.
80. 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.
81. 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 northwest, with further residential properties to all sides.
82. 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 Technical Advice Notes (TANs).
83. In addition, they confirm 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.
84. The application site is located within a residential area predominantly characterised by 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 an 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.
85. The proposals do include the provision of two bedrooms to the ground floor which could lead to a greater impact for the individual residing in these rooms, as well as the potential increase of noise at night-time. Therefore, to mitigate this, soundproofing measures would be required. The submission and agreement of precise details in this regard should be secured through planning condition.

86. 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.
87. Concerns have been raised by objectors in respect of the location of bin and cycle storage with some bin and cycle storage shown to the rear but with no external access to the rear from the front. Whilst these concerns are noted, there is bin storage shown at the front of the property. Whilst the location of the cycle storage is not ideal, it is not uncommon for people to carry bikes through the house to the rear, and given this is a reasonable solution, it alone would not be considered to sustain a reason to refuse the application. 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 CDP Policy 16.
88. It is considered that this is acceptable, and a condition will be added to ensure that this area is made available and always retained for this purpose for the duration that the property is in use as an HMO.
89. 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 enforcement 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.
90. Objections have raised concerns in respect of loss of privacy, however there would be no increase in fenestration to the rear or side elevation. There would be the installation of one additional window to the front elevation, which is currently the garage door, however separation distances to neighbour's habitable rooms would be more than the minimum 21m as set out in the Residential Amenity Standards SPD.
91. 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.
92. 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 CDP Policy 29(e) which requires new development to provide high standards of amenity and privacy.

93. All 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 7 bedspace, 7 person dwellings. However, it does include standards in relation to 7 bedspace 6 bedroom dwellings and it is noted that this requires an overall area of no less than 123sq 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 131sq metres of total internal floorspace.
94. Therefore, based on the above the proposal is considered to comply with Policy 29(e) of the CDP and the principles set out in DCNP Policy S1 in that it provides a suitable amount of internal and external amenity space to meet the needs of future occupiers and delivers a suitable quality of development, and complies with to Policies 16 and 29(e) of the County Durham Plan, Parts 15 of the NPPF and Durham City Neighbourhood Plan S1.

Impact on Character and Appearance of the Area

95. 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.
96. 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". In this instance development was subject to an approved design code agreed as part of the outline application.
97. CDP 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.
98. Minor external alterations are proposed to the front elevation to change the existing garage door to a window with red brickwork to match existing closely as possible. Given the limited scale of these alterations 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 County Durham Plan, Part 12 of the NPPF and S1, H3 and D4 of the DCNP.
99. Objections have been raised about the proposed extended parking and the removal of some front garden and its impact on the character and appearance of the area. These concerns are noted; however, this alteration could be executed without the need for planning permission.

Parking, Access and Highway Safety

100. CDP Policy 16 states that new HMOs shall provide adequate parking and access. In addition, CDP Policy 21 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.
101. 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.
102. Objections have been raised regarding parking and highway safety as the street is congested with parked vehicles, and that the change of use to a 7 bed HMO would exacerbate these issues. Objections have also been raised that no EV charging point has been provided.
103. The property has an existing driveway for one car and a garage. The garage is proposed to be converted into a bedroom however, the Council's current 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 applicant proposes to extend the parking provision to the front to provide space for two vehicles. The dwelling falls within the North End controlled parking area, and so the residents of the property would be eligible to apply for permits to park on street.
104. 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, together with the eligibility for permits to park on the street which would be in accordance with the current DCC Parking standards. It is noted that the Council is currently reviewing the existing Parking Standards and these are likely to have been formally adopted at the point the committee determines this application. As such, assessment of the proposals against those updated standards has been undertaken.. These new standards would require 4 parking spaces for a property with 6+ bedrooms. As the development would only propose 2 spaces and would have 7 bedrooms, it would not be in accordance with the revised Parking Standards. Despite this shortfall, the site is within the North End Controlled Parking Area (CPA) and within this area, each property is entitled to a maximum of three permits. Furthermore, Fieldhouse Lane has traffic calming measures and is considered to have sufficient width to allow parked cars without causing obstruction to the highway. The site is also considered to be in a sustainable location, as it is within walking distance to regular bus links and Durham Railway Station. The application has been discussed with DCC Highways Authority, and whilst it would not be in full accordance with the updated parking standards, based on the above mitigating factors, the shortfall parking provision would not, in this instance, be capable of sustaining refusal of the application.
105. 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.
106. The road outside is a 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 in vehicle movements in this area, 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 legislative control via the Highways Act and cannot be afforded weight in determination of this application.

107. 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.
108. 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 County Durham Plan, Part 9 of the NPPF and Policies T1, T2 and T3 of the Durham City Neighbourhood Plan.

Other issues

109. 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 and community imbalance has been discussed elsewhere in this report.
110. An objector has raised concerns regarding the red line being positioned on top of the boundary line of 42 Fieldhouse Lane. The applicant was asked to confirm that the red line was in the correct position and confirmed that it was and there would be no encroachment to neighbouring land. The LPA has no evidence to dispute this, and any dispute between neighbours regarding boundaries are a civil matter.

Public Sector Equality Duty

111. 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.
112. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

113. 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).
114. The proposed change of use is considered acceptable in principle and would accord with the requirements of CDP Policy 16. 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.

115. 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 and Parts 9, 12 and 15 of the National Planning Policy Framework.
116. 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, Policies S1, D4, T1, T2 and T3 of the Durham City Neighbourhood Plan and Parts 2, 4, 8, 9, 12 and 15 of the National Planning Policy Framework.

RECOMMENDATION

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 and 31 of the County Durham Plan and Parts 8, 9, 12, and 15 of the National Planning Policy Framework.

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 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 Policies 16, 29 and 31 of the County Durham Plan and Parts 12 and 15 National Planning Policy Framework.

5. Prior to the first use of the HMO hereby approved the cycle and bin storage arrangements as shown on the proposed site plan shall be fully installed and available for use. Thereafter this provision shall remain available for use for as long as the property is in use as an 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 and thereafter shall be used and maintained in such a manner as to ensure their availability at all times 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. 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 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. 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:
 - No construction/demolition activities, including the use of plant, equipment, and deliveries, which are likely to give rise to disturbance to residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.
 - The best practicable means shall be used to minimise noise, vibration, light and dust nuisance, or disturbance to local residents resulting from construction/demolition site operations. No burning of waste is to be carried out on the development site. It shall be considered that the best practicable means are met by compliance with all current British standards/relevant guidance.

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.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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



<p>Planning Services</p>	<p>41 Fieldhouse Lane Durham DH1 4LT</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. Durham County Council Licence No. 100049055 2023.</p>	<p>Change of use from five bed dwellinghouse to seven bed HMO (sui generis).</p>	
	<p>Date 12 September 2023</p>	<p>Scale NTS</p>

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/23/01167/FPA
FULL APPLICATION DESCRIPTION:	Change of use from dwellinghouse (Use Class C3) to small House in Multiple Occupation (Use Class C4) with alterations to existing bay window.
NAME OF APPLICANT:	Ms Anika Sarania
ADDRESS:	5 Lyndhurst Drive Crossgate Moor Durham DH1 4AE
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Michelle Penman Planning Officer Michelle.penman@durham.gov.uk 03000 263963

DESCRIPTION OF THE SITE AND PROPOSALS

The Site:

1. The application site is an unlisted two-storey semi-detached property located within Lyndhurst Drive, Crossgate Moor, an established residential cul-de-sac to the east of the A167.
2. The dwelling includes a gravel garden to the front of the property, a concrete driveway to the side, and private garden amenity space to the rear, which is currently enclosed by timber fencing.

The Proposal:

3. Planning permission is sought for the change of use of the property from an existing 3-bed dwelling (Use Class C3) to a small 4-bed House in Multiple Occupancy (Use Class C4). The proposals also include amendments to the roof of the existing ground floor bay window to the front of the property and the formation of a driveway.
4. Planning permission is required in this instance as an Article 4 Direction has withdrawn permitted development rights for such changes of use.
5. The application is being reported to planning committee at the request of the Durham City Parish Council who consider the application raises concerns in relation to impacts on the balance of the community and residential amenity which require consideration by the committee.

PLANNING HISTORY

6. No relevant planning history.

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. 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.
9. 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.
10. 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.
11. 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.
12. 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.
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.

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; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; 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; 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 to 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 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

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.
21. The Council's Residential Amenity Standards Supplementary Planning Document January 2023 provides detailed guidance in relation to extensions and other works to dwellinghouses to ensure that these do not have an adverse impact upon the host dwelling, the character of the wider area and residential amenity.

<https://www.durham.gov.uk/media/41575/Residential-Amenity-Standards-SPD-January-2023-/pdf/ResidentialAmenityStandardsSPDJanuary2023.pdf?m=638107754686670000>

22. The current County Durham Parking and Accessibility Standards Supplementary Planning Document 2019 sets out the Council's approach to vehicle and cycle parking provision on new development and extensions to existing development which includes both residential and non-residential.

<https://www.durham.gov.uk/media/26916/County-Durham-Parking-and-Accessibility-Standards-2019/pdf/CountyDurhamParkingAndAccessibilityStandards2019.pdf>

Neighbourhood Plan

23. The following policies of the Durham City Neighbourhood Plan (DCNP) are considered relevant to the determination of this application.
24. Policy S1 (Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions) sets out the economic, social and environmental criteria that development proposals will be required to meet.
25. Policy H3 (Our Neighbourhood Outside the Conservation Areas) requires development outside of Conservation areas to, where appropriate, demonstrate an understanding of the area of the proposed development and its relationship to the Neighbourhood area. Such development should sustain and make a positive contribution to the character and distinctiveness of the area and avoid the loss of open space and public realm that contributes to the area, to be appropriate in terms of scale, density, massing, form, layout, landscaping and open spaces and use appropriate materials and finishes.
26. Policy D4 (Building Housing to the Highest Standards) states all new housing, extensions and other alterations to existing housing should be of a high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and the improvement of energy efficiency and the reduction of carbon dioxide emissions.

27. Policy T2 (Residential Car Parking) seeks to ensure that proposed development would be served by sufficient car parking spaces.
28. Policy T3 (Residential Storage for Cycles and Mobility Aids) requires residential development including change of use to seek to provide storage facilities for cycles and, where appropriate mobility aids.

<https://www.durham.gov.uk/media/36020/Durham-City-adopted-neighbourhood-plan/pdf/DurhamCityNeighbourhoodPlan.pdf?m=637630042066500000>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

29. The Highway Authority raises no objection noting that there is scope within the front garden area to extend the existing driveway to provide the 2 off street parking spaces required to meet DCC's current parking standards.
30. The City of Durham Parish Council objects to the application on grounds that the development will further imbalance the community and result in an intensification of the residential use of the site, that would have a detrimental impact on surrounding residential amenities through noise and disturbance, contrary to Policies 29 and 31 of the CDP, NPPF (paragraph 130 (f)), and Policy S1(m) of the DCNP.
31. For clarification, it is noted that the current application has been made by a different applicant than the recently refused application at 1 Larches Road (planning ref: DM/22/01650/FPA) and not the same applicant as suggested by the PC in their response. In any event, whether it be the same applicant for both applications is not a material planning consideration to which weight can be afforded in the determination of this application.

INTERNAL CONSULTEE RESPONSES:

32. HMO Data have confirmed that the percentage of properties within the 100m radius of and including the application site that are exempt from Council Tax is 6.0%. Taking account of the 2 no. unimplemented consents at 1 and 3 St Monica Grove the percentage would increase to 9.0%.
33. HMO Licensing confirm that the proposed dwelling will not be required to be licensed when the work is complete, provided that all bedrooms are occupied by a single adult. They also set out works required to ensure compliance with all of Durham County Council's HMO Amenity and Space Standards.
34. Environment, Health and Consumer Protection (Nuisance Action Team) raise no objection to the application, subject to the inclusion of conditions relating to construction works and a scheme of sound proofing measures.

PUBLIC RESPONSES:

35. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. At the time of writing, there have been 53 letters of objection received in relation to the proposals, including from Mary Kelly Foy MP. Reasons for objection are summarised as follows:
 - Consider the methodology to calculate percentages of student exempt properties within 100m to be flawed and data used to inform decisions to be

out of date or misrepresented. In addition, consider that the cumulative impacts of HMOs in a small area i.e. Lyndhurst Drive and St Monica Grove should be considered and that the 100m rule and 10% threshold is inadequate particularly for Lyndhurst Drive which they consider should be considered in isolation.

- There is concern that recent approvals for HMOs in the vicinity have not been taken into account and that there are other unregistered/unaccounted for HMOs, therefore, the actual percentage likely exceeds 10% contrary to Policy 16. In addition, the requirement for additional student accommodation is considered to be questionable due to recent approvals for HMOs and new PBSA in local area.
- Impact on social cohesion and the balance of the community as a result of the development which would lead to an over proliferation of HMOs in this area, impacting on general housing stock, forcing families out of this residential area. In particular, due to the transient nature of student population, properties are often empty outside of term times and do not contribute to the area's character or identity or help to reinforce a distinctive and sustainable community.
- Impacts on residential amenity, health, and well-being, due to likely increased noise and disturbance, particularly at unsocial hours, and concern around anti-social behaviour. There is concern around the poor maintenance of HMOs and that the generation of additional waste may lead to health hazards and problems with vermin. In addition, there is also concern that changing the living/dining room into additional bedroom will impact on amenity/quality of life of occupants.
- Impact on parking and highways safety, in that the site would compound existing parking and access problems in street and would present a danger to safety of residents/ pedestrians. Consider that development will also have Implications for services such as bin collections and emergency services. In addition, concern that the development will increase congestion and pollution on roads in this area, in particular the A167, due to families living further away from the central primary and secondary schools and relying on travel by car, which undermines aims of sustainable travel.
- Concerns have been raised around level of publicity carried out by the LPA which is considered to be inadequate.
- Impact on house prices and loss of revenue from Council Tax.

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=summary&keyVal=RTOHZMGDJXS00>

APPLICANT'S STATEMENT:

36. N/A

PLANNING CONSIDERATIONS AND ASSESSMENT

37. 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.

38. 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, impact on residential amenity and balance of community/social cohesion, impact on the character and appearance of the area, impact on parking and highway safety, and other matters.
39. 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

40. The proposals relate to the change of use of a 3-bed residential dwellinghouse (Use Class C3) to a 4-bed small HMO (Use Class C4) with alteration to the roof of the front ground floor bay window.
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. 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 in this area and withdraws such permitted development rights and as such planning permission is required.
42. 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, 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.
43. In addition, Part 3 of CDP Policy 16 (Houses in Multiple Occupation) is also relevant to the proposal and relates to the conversion of residential dwellings to HMOs. The Policy 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, 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. 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.
44. In addition to the above, applications will only be permitted where:
- a. the quantity of cycle and car parking provided has regard to the Council's adopted Parking and Accessibility Supplementary Planning Document (SPD);
 - b. they provide acceptable arrangement for bin storage and other shared facilities and consider other amenity issues;
 - c. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and
 - d. the application has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.
45. It is acknowledged that objections have been received from local residents raising concerns that the proposed development would result in an over proliferation of HMOs in the area, thereby unbalancing the community, and consider that the 10% has likely already been exceeded and there is no requirement for additional HMOs in this area. There is also concern that the data used to inform decisions is out of date/inaccurate and the methodology used in CDP Policy 16 (3) is flawed. In particular, it is not considered that the Council Tax data accurately reflects the number of HMOs in the area and it is considered that there is a close concentration of HMOs in Lyndhurst Drive which should be considered in isolation.
46. 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. While some objections consider that Lyndhurst Drive and the concentration of HMOs within should be considered in isolation, as already noted, the Policy uses a 100m radius for the purposes of assessing compliance with that Policy and does not refer to individual streets. CDP Policy 16 gives a standard and consistent approach to assess applications for HMOs. The Policy, together with the methodology contained within, was considered sufficiently accurate and robust during examination in public of the CDP in 2020, and the existing policy subsequently included 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 within 100m radius of, and including 5 Lyndhurst Drive, 6.0% of properties are class N exempt properties as defined by Council Tax records. However, there are previous permissions relating to 1 and 3 St Monica Grove for changes of use to HMOs which are within the 100m radius and, if implemented, would increase the percentage to 9.0%. There are no applications within 100m pending determination. This percentage would therefore fall below the 10% threshold. The application site is not considered to be on a primary access route between Purpose Built Student Accommodation and the town centre or a university campus. On that basis, the development would be considered to accord with criteria a), b) and c) of Policy 16(3) and is therefore considered to be acceptable in principle, subject to further considerations of the proposal against other criteria in Policy 16(3) and other relevant policies.

48. 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.
49. As noted, concerns have also been raised that the data does not reflect the actual number of HMOs in the area and objections have suggested there are unregistered/unaccounted for HMOs. The information received from the Council's HMO Data Team represents the most up to date information available for the purposes of CDP Policy 16 and is sufficient to assess the proposals in this regard. Nevertheless, the concerns raised have been passed on to the Council's Planning Enforcement section for further investigation. In addition, while objections have also suggested previous permissions, in particular those relating to nos. 1 and 3 St Monica Grove, have not been taken into account, it is noted that these are reflected in the percentage figures as set out within the comments from the HMO Data team and summarised above.
50. In addition, objections have also been received suggesting that there is no requirement for an additional HMO, with the applicant failing to demonstrate need for accommodation of this type in this area, and that there is a surplus of student accommodation within the city. 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, 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. Notwithstanding this, it remains that whilst Part 2 of CDP 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 CDP Policy 16 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.
51. 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 CDP Policy 16 which includes a threshold of no more than 10% of properties being in HMO use and also reflected in the themes and aims of the Neighbourhood Plan. 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 County Durham Plan in this regard. 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

52. Paragraph 130 of the NPPF requires planning decisions to 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. CDP Policy 31 (Amenity and Pollution) displays broad accordance with the aims of Paragraph 130 in this regard and 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. 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.

53. In addition, criterion e) of CDP 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.
54. The application site is a semi-detached property located within a residential area and the nearest residential property adjoins the site to the east, with other residential properties surrounding the site. It is acknowledged that a significant number of objections have been raised in relation to the cumulative impacts of the proposed development, together with existing HMOs in Lyndhurst Drive and nearby St Monica Grove. In particular, concerns around noise, disturbance and anti-social behaviour have been cited as well as concerns around maintenance of properties and increased waste, which may lead to nuisance from vermin as a consequence.
55. The Council's Environmental Health Officer (EHO) has been consulted on the development and have undertaken a technical review of information submitted in relation to the likely impact upon amenity in accordance with the relevant Technical Advice Notes (TANs). The EHO note 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 single dwelling, due to the increase in household numbers and activity to and from the property. They acknowledge that the demographic that use this type of accommodation are often associated with great 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.
56. The application site is located within a residential area that is predominantly characterised by family homes and the impact on residential amenity is a material consideration in the determination of this application. 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. 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. Nevertheless, as noted in the Design and Access Statement submitted in support of the application, it is considered that a condition could be applied to secure submission of a more general management plan for the property and future tenants to help reduce any potential impacts on the amenities of the surrounding area that may arise.
57. The EHO officer also notes that the proposed bedroom is on the ground floor with the living room and kitchen and may, therefore, lead to a greater impact on the individuals residing in that room from noise when the rooms are in use. On that basis, the EHO recommended that a scheme of sound proofing measures could be implemented to mitigate any harm. A condition could therefore be attached to any permission granted

requiring a sound proofing scheme to be submitted to and agreed by the LPA and, thereafter, implemented prior to first occupation of the development and retained at all times whilst the HMO is in use as such.

58. As already noted, concerns have been raised in relation to additional waste and litter that could be generated by the development and potential issues with vermin as a result. Poor management of rubbish and recycling at HMOs can lead to unattractive frontages, problems with vermin and raise concerns over health and safety. Such issues can affect the amenity of nearby properties and may lead to complaints from neighbouring residents. It is noted that the property includes adequate external space to accommodate sufficient bin and cycle storage and the applicant has indicated that the storage can be accommodated to the rear of the property. Therefore, it is considered that a condition could be attached to any consent granted requiring precise details of that storage to be submitted, agreed, and installed prior to first occupation of the development. In addition, the management of bins and waste could be included as part of a broader management plan which, as already noted, could be secured via condition. There is also sufficient existing private amenity space to the rear of the property to serve the occupants of the development in accordance with CDP Policy 16.
59. A concern has been raised in relation to the loss of the dining/kitchen space to create the fourth bedroom on the ground floor and the impact this would have on the amenity standards of future occupants. In relation to internal space provision, 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. However, it is recognised that this application relates to a change of use from C3 to C4 and, therefore, 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 CDP Policy 29(e) which requires new development to provide high standards of amenity and privacy.
60. All of the bedrooms would comply with the minimum NDSS requirements being in excess of 7.5sq metres per room. With regards to the overall internal space provided across the dwelling as a whole, the guidance does not specifically refer to a 4-bedspace 4-person (4b4p) dwelling. However, it does provide standards in relation to a 3b4p dwelling and requires 84sq metres which the development would appear to exceed, with provision of approximately 87sq metres of gross internal floorspace. In addition, although the HMO would not require a license, it is noted that the remaining kitchen/dining/living space would provide approximately 19sq metres which exceeds the 16sq metres required by HMO licensing. As such, the communal space is considered to be sufficient to serve the occupants of the property.
61. The development includes limited external works to the premises to include alterations to the roof of the bay window and construction of a new driveway. The EHO initially recommended that a Construction Management Plan be required to be submitted. However, following further discussions and taking account of the level of works proposed it was considered that a condition could be attached to ensure that works are kept within suitable hours, to protect the amenity of neighbouring occupants.
62. Taking the above into account, the proposals are considered to provide a suitable quality of development for future occupants, and it is not considered that there would be any significant adverse impacts on neighbouring occupants that would sustain

refusal of the application in this instance, in accordance with Policies 16, 29 and 31 of the County Durham Plan and Part 15 of the NPPF.

Impact on the character and appearance of the area

63. Paragraph 124 of the NPPF advises that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development, creating better places in which to live and work. CDP Policy 29 requires development to contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
64. Policy S1 of the Durham City Neighbourhood Plan (DCNP) requires development proposals, to conserve, preserve and enhance 'Our Neighbourhood' by harmonising with its context and Policy H3 requires development to sustain and make a positive contribution to the character and distinctiveness of the area; use high quality design; and use materials and finishes appropriate to the context and setting of the area. Policy D4 requires extensions to existing housing to be of high-quality design relating to the character and appearance of the local area and aesthetic qualities.
65. As already noted, limited external works are proposed to the property other than alterations to the existing bay window and new driveway. It is noted that other properties in locality have been altered and extended and, given the minor nature of the alterations, it is not considered that there would be any detrimental impact on the character and appearance of the property or surrounding area. The proposed cycle and bin storage will be sited to the rear of the property and the final details will be secured via condition.
66. Taking the above into account, the development would be considered to have an acceptable impact, sustaining and conserving the character and appearance of the dwelling and surrounding area and would accord with the aims of Part 12 of the NPPF, Policies 16 and 29 of the County Durham Plan, and Policies S1, H3 and D4 of the Durham City Neighbourhood Plan.

Parking and Highways Safety

67. CDP Policy 16 requires new HMOs to provide adequate cycle and car parking, having regard to the council's adopted Parking and Accessibility Supplementary Planning Document (DCC Parking Standards). CDP Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. 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. DCNP Policy T2 (Residential Car Parking) supports developments with or impacting on car parking provided that car parking is designed to reduce vehicle movements on residential streets. DCNP Policy T3 (Residential Storage for Cycles and Mobility Aids) requires residential development including change of use to seek to provide storage facilities for cycles which should meet DCC Parking standards.
68. A number of objections have been received which raise concerns in relation to the existing parking and access issues which it is suggested would be exacerbated by the proposed development. There is also concern that due to the narrow street and inconsiderate parking that this may present a safety issue for pedestrians and could

have implications for bin collections and access for emergency services. In addition, concerns have been raised that the development will increase congestion and pollution, in particular on the A167, due to families being pushed into properties further away from the centre of Durham and schools and relying on travel by car.

69. The Highway Authority were consulted on the proposals and initially raised concerns in relation to the level of parking on site, noting that the driveway which runs to the side of the property narrows towards the rear and as such is unlikely to be sufficient width to accommodate 2 cars should the neighbouring property use the corresponding area of adjoining driveway. However, they noted that there would likely be scope to convert part of the front garden to create the additional off-street space that conversion from a 3 to 4 bed requires as a result of the Council's current Parking Standards SPD.
70. Notwithstanding the above, it is noted that the Council is currently reviewing the existing Parking Standards and these are likely to have been formally adopted at the point the committee determines this application. As such, assessment of the proposals against those updated standards has been undertaken. In this regard it is noted that the new standards would require 3 no. in curtilage parking spaces to be provided which is one more than the 2 that it is likely extension of the existing driveway would deliver. Consequently, the applicant provided an updated proposed site plan showing 3 in curtilage spaces and whilst one of those spaces is slightly below the suggested dimensions being shorter in length than 5.5 metres as required by the revised standards, it is noted that this relates to spaces positioned in front of a traditional 'up and over' garage door. In this case the third space would not be position in front of any garage and the Highway Authority have confirmed that a car could safely manoeuvre into and out of this space. Therefore, after assessment against the revised standards, it is considered that the proposals would accord with the revised requirements of the new SPD. However, it is noted that at the present time these standards have not been formally adopted and therefore they can be afforded only very limited weight.
71. No details of cycle storage facilities have been provided. However, it is noted that the Site Plan submitted with the application indicates that these facilities will be located to the rear of the property. Whilst it would have been preferable to have precise details of the specification submitted for consideration with the application there is sufficient evidence to demonstrate suitable provision can be provided. It is therefore considered that a condition requiring the submission of precise details of such storage, to be agreed by the LPA and installed prior to first occupation, would be acceptable in this instance.
72. While concerns have been raised in relation to access and parking, as already noted the proposed level of parking provision is considered to meet the requirements of the parking standards and it is not considered that the number of likely occupants would lead to any significant additional adverse impacts on highway safety or congestion that would sustain refusal of the application in this instance. The proposed use would not be considered to result in significant additional impacts, over and above the C3 use, that could not be accommodated safely on the local and strategic highway network. In addition, while concerns have been raised around the displacement of a family home and implications for sustainable travel, it is not possible to say that a family that could have occupied the property would not be able to live within the surrounding area, particularly in light of the fact that there is not considered to be a proliferation of HMOs in this area, or within another sustainable location.
73. On that basis, it is not considered that the development would result in any unacceptable harm regarding highway safety to a degree that would sustain refusal of the application and the development is therefore considered to accord with the aims

Other Matters

74. Some objections have raised concern with regards to the extent to which the Council advertised the planning application. Whilst the concerns are noted, the application was advertised by means of a site notice displayed at the front of the application property and letters were sent to adjoining occupiers to the application site, which exceeds the minimum statutory requirements as contained in The Town and Country Planning (Development Management Procedure) (England) Order 2015.
75. Objections have also 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 are being pushed out of the area as a result. The loss of council tax and increase of house prices are not a material planning consideration and the issue of social cohesion and sustainable travel have been discussed elsewhere in this report.

Public Sector Equality Duty

76. 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.
77. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

78. In summary, following amendments to the scheme, it is considered that the principle of development is acceptable in planning terms and would accord with the aims of CDP Policies 6 and 16 subject to appropriate planning conditions described within the report and listed below.
79. When assessed against other relevant policies of the County Durham Plan it is not considered that the proposed small HMO in this location would unacceptably imbalance the existing community, nor would it result in any unacceptable impact upon the amenity of existing or future occupants 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 and Parts 9, 12 and 15 of the NPPF
80. In addition, it is also considered that the development would have an acceptable impact on the character and appearance of the area and would, on balance, have an acceptable impact on residential amenity and highway safety in accordance with the aims of Policies 16, 21, 29 and 31 of the County Durham Plan, Policies S1, H3, D4, T2 and T3 of the Durham City Neighbourhood Plan, and Parts 2, 4, 8, 9, 12, and 15 of the National Planning Policy Framework.
81. Whilst the concerns raised by the City of Durham Parish Council, Mary Kelly Foy MP and local residents are noted, for the reasons discussed within this report they are not considered sufficient to sustain refusal of the application and considering the above,

the application is reported to the Committee with a recommendation to approve the application, subject to conditions.

RECOMMENDATION

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 Policies 16, 29, and 31 of the County Durham Plan and Parts 8, 9, 12, and 15 of the National Planning Policy Framework.

3. No development shall commence until a scheme of sound proofing measures has been 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 aim of the insulation should be to ensure the requirements of BS 8233: 2014 in relation to sleeping areas are met within the rooms and the scheme shall be designed to the requirements of Document E of the Building Regulations.

The approved scheme shall be implemented prior to the beneficial occupation of the development and shall be permanently retained thereafter.

Reason: To protect residential amenity in accordance with Policies 6, 29 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

4. 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 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1400 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.

5. Prior to the first occupation of the development hereby approved, details of bin and cycle storage facilities shall first be submitted to and approved in writing by the Local Planning Authority. Thereafter, the bin and cycle storage facilities shall be constructed in accordance with the approved details and shall be retained in perpetuity for the lifetime of the development.

Reason: In the interests of amenity 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. Prior to first occupation of the small HMO (Use Class C4) hereby approved, the 2 no. car parking spaces as indicated on the approved Proposed Site/Roof Plan (Dwg no. 101 Rev A) shall be constructed and made available for use. Thereafter, the spaces shall be used and maintained in such a manner as to ensure their availability at all times 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. 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 interests of residential amenity of existing and future neighbouring occupants in accordance with Policies 16, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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

Statutory, internal and public consultation responses

The National Planning Policy Framework (2021)

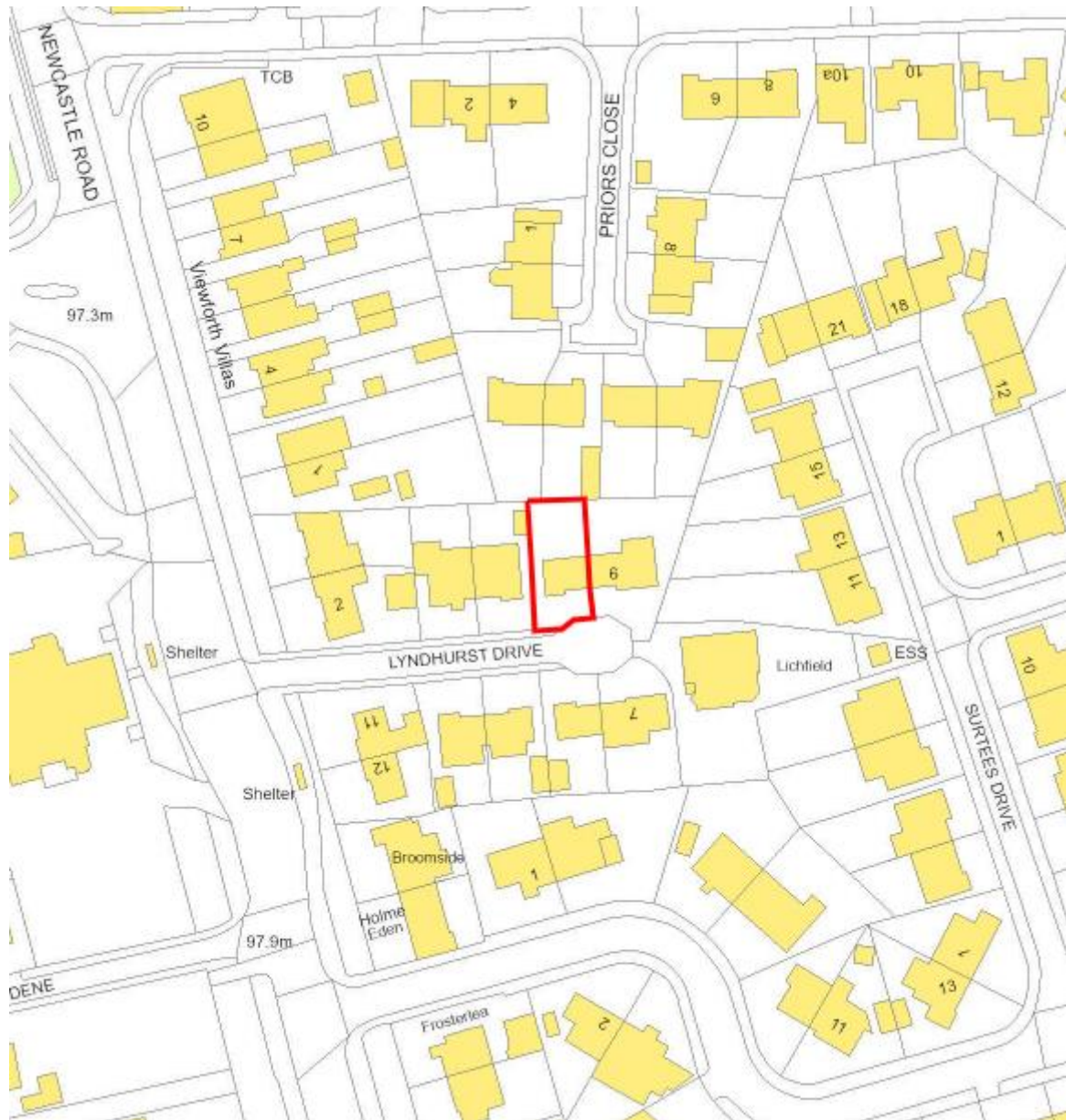
National Planning Practice Guidance Notes

County Durham Plan (2020)

Residential Amenity Standards SPD (2023)

Durham City Neighbourhood Plan (2021)

County Durham Parking and Accessibility Standards



<p>Planning Services</p>	<p>5 Lyndhurst Drive Crossgate Moor Durham DH1 4AE</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.</p> <p>Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.</p>	<p>Change of use from dwellinghouse (Use Class C3) to small House in Multiple Occupation (Use Class C4) with alterations to existing bay window.</p>	
<p>Durham County Council Licence No. 100049055 2023.</p>	<p>Date August 2023</p>	<p>Scale NTS</p>

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/23/01429/FPA
FULL APPLICATION DESCRIPTION:	Change of use of building from betting office (Sui Generis) to drinking establishment (Sui Generis)
NAME OF APPLICANT:	Mr Sean Sayers
ADDRESS:	1 Hailsham Place, Peterlee, SR8 1AB
ELECTORAL DIVISION:	Peterlee East
CASE OFFICER:	Mark Sandford Planning Officer 03000 261156 mark.sandford@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to the ground floor of a vacant commercial unit which was last used as a betting shop (Coral), which is sited to the southwest of Peterlee Town Centre. The building sits within a Large Town Centre that includes a variety of retail, commercial, leisure and other associated services. The property is attached to a Royal Mail sorting office to the east, which also has a vehicle yard to the south of this building. Peterlee Youth Centre is set to the west separated by a small area of grassed land and fencing (It is noted that the building is no longer used as a youth centre and is now used for term time training by Catch 22). To the north is the unadopted access road for this unit, the loading bays of the larger units to the north-east and the public car park which serves this immediate area, which supplies from St. Cuthberts Road.

The Proposal

2. The application seeks full planning permission to change the use of the ground floor of the building from betting office (Sui Generis) to a drinking establishment (Sui Generis). There are no extensions or external alterations proposed as part of the change of use. It is noted that there is no concurrent Advertisement Consent application, which will be required for new signage should planning permission for the proposed change of use be granted.
3. The application proposes opening hours of 10:00 until 00:00, Monday to Sunday. It is proposed to provide a variety of alcoholic and non-alcoholic beverages as well as a small selection of cold food options (e.g. afternoon teas, ploughman's platters, cakes etc). Access arrangements would remain unaltered by the proposal with only internal alterations made to create a bar area, enlarged food prep area and improved toilet facilities. The proposal would create 4no. full time jobs and 3no. part time jobs.

4. The application is reported to the Planning Committee at the request of County Councillor Diane Howarth who considered issues relating to traffic generation, highway safety, road access, adequacy of parking/loading/turning and road access to be such that the application should be determined by the Planning Committee.

PLANNING HISTORY

5. The following summarises planning history at the site:
6. 5/HIST/2004/0769 – Change of use from retail (A1 use) to betting office (A2 use)

PLANNING POLICY

NATIONAL POLICY

7. A revised National Planning Policy Framework (NPPF) was published in July 2021 (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.
8. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
9. *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.
10. *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.
11. *NPPF Part 6 - Building a Strong, Competitive Economy.* The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.

12. *NPPF Part 7 - Ensuring the vitality of town centres.* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
13. *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.
14. *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.
15. *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.
16. *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.
17. *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>

18. 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; determining a planning application; healthy and safe communities; noise and use of planning conditions.

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

LOCAL PLAN POLICY:

The County Durham Plan

19. *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.

20. *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
21. *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.
22. *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.
23. *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.
24. *County Durham Parking and Accessibility Standards (2019)* This document sets out the Council's approach to vehicle and cycle parking provision on new development and extensions to existing development which includes both residential and non-residential.

NEIGHBOURHOOD PLAN:

25. No neighbourhood plan is present in this location.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

26. *Peterlee Town Council* – Objects to the application. Although generally supportive of new business development, the town council (TC) raise concern that it would add a further licensed establishment selling alcohol to the town centre. The TC claim there

are seven other bars in the town centre in addition to off-licence sales premises. The TC feels that this is a disproportionate number of alcohol-focussed establishments and that this undermines the safety and quality of the town centre offer.

27. The TC has concerns that the venue is adjacent to the Peterlee Youth Club building, currently used for activities for young people, and is within close proximity to a nursery and the provision of another drinking establishment is not appropriate.
28. The TC have stated that the NPPF requires planning decisions should aim to achieve healthy, inclusive and safe places which enable and support healthy lifestyles, which they believe is contrary to this requirement.
29. Broad statistics were provided relating to alcohol related harm as well as rates of children and families affected by parental alcohol and drug use in County Durham in comparison to the average for England. As well as highlighting DCCs priority to tackle alcohol and substance misuse use as part of the Safe Durham Partnership Plan.
30. The TC further highlighted the revisions to the Peterlee Masterplan which they state includes provisions for safe pedestrian and cycling route into the town centre at Manor Way which they consider could be adversely affected by this proposal.
31. *Highway Authority* – The building is located in the town centre which is adequately served by public transport. The location is also adjacent to the town centre car parks which can accommodate customer's vehicles however the nature of the establishment is unlikely to generate much parking demand.

The location is served by a number of footways and access roads which are not adopted public highway and these connect to the highway infrastructure. It is considered that pedestrian and vehicular routes are adequate.

There have been 3 personal injury incidents in the previous 5 years which have all occurred on St Cuthbert's Road however it is unlikely that these could be considered to be relevant to the proposal.

As the location is considered to be within a sustainable location in terms of transport the proposal is agreeable from a highways road safety perspective.

INTERNAL CONSULTEE RESPONSES:

32. *Environment Health (Nuisance Action)* – With reference to the planning application, I have undertaken a technical review of information submitted in relation to the likely impact upon amenity in accordance with the relevant TANs (Technical Advice Notes). As such I can provide the following information to assist you in your consideration of any impact upon amenity.

The information submitted demonstrates that the application complies with the thresholds stated within the TANS. This would indicate that the development will not lead to an adverse impact. However, the planning officer should consider the supporting detail for further clarification.

Planners may wish to ensure that the proposed operating hours are restricted through a condition to those stated within the application form; additionally as Sui Generis use is broad ranging planners may wish to ensure that the use is restricted to that applied for, any further change must require planning consent.

In addition, I can confirm that I have assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and would comment as follows:

I am satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance.

33. *Environment, Health (Contaminated Land)* – With reference to the planning application, I would confirm that I have assessed the historical maps and available information with respect to land contamination. I have no adverse comments to make. There is no requirement for a contaminated land condition.
34. *Spatial Policy* – Advises on relevant policies within the County Durham Plan. They further comment that the proposal would see a town centre use come forward in a town centre location, the other impacts of Policy 6 to be further assessed by other consultees.

EXTERNAL CONSULTEE RESPONSES:

35. *Police Architectural Liaison Officer* – No objection. If approved opening hours should be conditioned to those requested by the applicant.

PUBLIC RESPONSES:

36. The application has been advertised by way of a site notice, press notice and individual notification letters to neighbouring properties.
37. No letters of objection have been received save that of the Town Council as detailed above, one letter of support has been received.

The above is not intended to repeat 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=QU6BIIGD0BK00>

APPLICANTS STATEMENT:

38. Planning permission is being sought to convert a former and currently vacant betting office in the town centre of Peterlee into a new drinking establishment which will provide a new lease of life for this currently vacant building which will create employment opportunities for local people as well as supporting the supply chain of local producers.
39. We have worked proactively with the planning officer since the submission of the planning application and welcome their recommendation to approve this application. It is recognised that comments have been made by the local member in relation to highways matters and their concern is noted. However, as concurred by the councils' highways officer, the building is in a location where there is a good provision of public car parking and being in a town centre location there is the provision of good public transport links. Deliveries will be made using the loading/unloading facility that is already there adjacent to the building, this will be done in a safe and timely manner so not to cause any disruption. These deliveries will be small and only happen once to twice each week therefore not generating a traffic concern.
40. The applicant is a long-established resident of Peterlee who will provide investment into turning a vacant building in the town centre into a business which they are passionate about. There are currently four drinking establishments in the town centre

however none offer what the applicant is proposing, which is locally sourced real ales and craft beers; cocktails made by a mixologist; afternoon teas and ploughman platters; and hot beverages.

41. The premises will be tastefully decorated and impose a strict dress code, responsible and fully trained personnel will always staff it. A strict Challenge 25 will be always in place and there will be no external drinking. There will be occasional entertainment from local musicians and there will be no televisions or sports screens. As Peterlee has grown, it now has a population of around 38,000, it does not seem excessive to add another social venue for residents to enjoy which we believe will benefit the towns economic growth and promote local employment and we hope the planning committee can offer their support for this application.

PLANNING CONSIDERATIONS AND ASSESSMENT

42. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) forms the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035.
43. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development, impact on amenity, highway safety and access.

The Principle of the Development

44. CDP 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: a. is compatible with use on adjacent land; b) does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, c) ecological, or heritage value; d) is appropriate in scale, design etc to character of the settlement; e) it is not prejudicial to highway safety; f) provides access to sustainable modes of transport; g) retains the settlement's valued facilities; h) considers climate change implications; i) makes use of previously developed land and j) reflects priorities for urban regeneration.
45. As the property is located within the Peterlee town centre which is in Flood Zone 1, there are no external alterations proposed arts a), e), f), g) and i) are the most relevant. The impact of the proposal would be from its use only, as there are no extensions or other external alterations proposed, this is covered in detail in the amenity section below. An objection has been raised in respect of highway safety, this will be addressed in detail in the highway safety section below. In terms of part f), the property is located within Peterlee town centre and as such has good access to bus services and is within reasonable walking distance of a substantial number of dwellings. The proposal would bring a vacant commercial unit back into use and therefore has support of parts g) and i) of CDP Policy 6.
46. Part 6 (Building a Strong, Competitive Economy) of the NPPF confirms significant weight should be placed on the need to support economic growth and productivity

taking into account both local business needs and wider opportunities for development. Part 7 (Ensuring the Vitality of Town Centres) suggests planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.

47. The site is located within the Peterlee town centre and as such CDP Policy 9 and Part 7 of the National Planning Policy Framework are relevant to the assessment. CDP Policy 9 and Part 7 seek to protect and enhance large town centres such as Peterlee and ensure that, amongst other objectives, that town centre uses are carried out in, or adjacent to, town centre locations. The proposal is for a drinking establishment which the NPPF designates as a town centre use and as such is entirely compatible with the objectives of Policy 9 of the CDP.
48. An objection to the application was received from Peterlee Town Council with concerns raised regarding the number of drinking establishments within the town centre itself, and a perceived dependence upon this type of business. The CDP and NPPF do not specify a number, or otherwise seek to specifically limit the number of pubs, bars or other type of drinking establishment within town centres and note the importance of providing a range of uses and activities to attract people into those centres. This includes leisure services in addition to more traditional retail. In this regard it is noted that there is only one other drinking establishment identified in the Peterlee Master Plan ('The Five Quarter'), which is opposite the application property separated by a car park. The Master Plan appears to be somewhat out of date in this regard as is it noted that three drinking establishments are identified within the boundary of the town centre (The Five Quarter, Bar 23 and The Three Stories). Another drinking establishment, 'the Eden Bar' lies just outside the boundary to the south-west.
49. Given the population size of Peterlee, and its Large Town Centre designation within the CDP, a total of five drinking establishments (to include the proposal), is not considered excessive. The use proposed is a recognised town centre use and the application property is situated within a town centre location and would bring an otherwise empty unit back into use. As such it is considered compliant with the aims of Policy 9 of the CDP. The principle of the development is therefore considered acceptable, subject to detailed assessment against other relevant policies in both the County Durham Plan.

Impact on the Character and Appearance of the Area

50. CDP 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.
51. As no external alterations are part of this proposal, it is not considered there would be any adverse impact to the character and appearance of the town centre which is characterised by a wide variety of commercial units. Whilst it is recognised that the drinking establishment would require some form of signage should planning permission for the change of use be granted, a satisfactory arrangement could be achieved, and in any event, this would be subject to a separate application for the display of Advertisements.

Impacts on Amenity and Pollution

52. CDP Policy 31 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.

53. NPPF Part 15 states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
54. The nearest residential properties to the proposed development are located along Manor Way, some 70 metres to the east and separated by the post office building, highway verges, St Cuthberts Road and a large area of grassed open green space. The town centre is largely cut off and well separated from the nearby residential estates by the horseshoe road which surrounds the town centre. There is both an obvious physical and visual disconnect between the commercial section of the town, and the emanating residential surrounding area.
55. An objection was received from the Peterlee Town Council with concerns raised regarding the proximity of the site to Peterlee Youth Club building and an unnamed nursery (it is presumed this is 'The Sunshine Day Nursery' 90m away to the south of the town centre). The youth club building is located to the immediate west of this site, separated by a small green space which appears to be fenced off from public use. It is understood that the building no longer serves as a youth club, but is operated as an educational and training scheme called 'Catch 22' which operates only during weekdays, within term time and closes at 16:30pm. It is understood that the Catch 22 scheme is operated in a manner whereby staff directly monitor all students during its opening hours, as opposed to a youth club type arrangement which would allow more autonomy of the attendees. The youth club received a direct notification regarding the application, a site notice was posted to its front and the standard public notices provided in the Weekly List. To date, no objections have been received, save that of the town council.
56. The Town Council have raised concern regarding the number of drinking establishments (as well as off-licence outlets) within the town centre, and the impact this additional unit would have on the health and safety of the community, as per Part 8 of the NPPF. As covered above in the principle of development section, the number of drinking establishments in Peterlee (3/4 plus this proposal) is not considered excessive and therefore it is considered there is not such an over proliferation of drinking venues that it would unduly encourage excessive intake for residents or town centre visitors.
57. The Councils Environmental Health (Nuisance Action) team assessed the information provided and recommended the hours of opening be restricted to those applied for (10:00-00:00 Mon-Sun), but otherwise raised no concern or objection to the proposal.
58. The Police Architectural Liaison Officer assessed the proposal and also raised no objection to the use of the unit as a drinking establishment, with only a recommendation regarding the opening hours, which reflected that of the Environmental Health team.

59. Broad statistics were provided by the Town Council with regard to alcohol (and other substance) abuse, with regard to its impact on healthy communities, however no evidence or assertions were made to show why this particular development would be of any greater concern than any of the other licensed providers in the area. The information regarding the operation of the business supplied to date points to a more refined establishment which also provides light meals including ploughman's platters and afternoon teas. It is proposed to operate under a strict Challenge 25 policy for service of alcohol and no outdoor drinking is to be permitted. No evidence was provided that the existing drinking establishments, including the already operational pub to the other side of the road currently negatively impacts either the youth club facility, or town centre in general.
60. Whilst the proximity of potentially vulnerable persons is acknowledged, it is considered given the hours each venture operates (with the busiest times of this development being outside those of the youth club facility), the existing and proposed supervision arrangements, and the lack of objection from the Environmental Health team and Police, that the proposed use as a drinking establishment would not be harmful to safety of the area or other neighbouring businesses/uses.

Highways Safety and Access

61. CDP 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.
62. The NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all people. In addition, 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.
63. The application has been called to committee with concerns raised regarding traffic generation, highway safety, road access and adequacy of parking/loading/turning.
64. The proposal is for a drinking establishment with limited food offer. Whilst the food offer may indeed draw a greater number of drivers to the property than a more traditional public house, the main use does not naturally lend itself to attracting a significant number of private car users. Nevertheless, the area is very well served by free car parking, with a 30no.+ space car park directly to the north, a 60no.+ space car park to the west and an even larger car park to the south. Many of the retail units which are also served by these car parks would have differing opening hours to that of a drinking establishment, ensuring its patrons using private vehicles could be accommodated. The application is therefore considered to accord with the Council's current Parking and Accessibility Standards. It is noted that these standards are likely to have been updated at point at which the committee considers this application. As such the proposal has also been assessed against the updated standards which has confirmed the proposals would also comply with those amendments, again noting the points raised above specifically with regards to existing parking provision. Nevertheless, at present it is noted that those amended standards are not adopted and as such can be afforded limited weight in the determination of this application.

65. Being within the town centre, access to public transport is readily available, with the bus station being less than 250m away to the west. Whilst Peterlee Town Centre suffers from a degree of impermeableness for pedestrians (being 'cut off' along the west, north and eastern fringes of the town centre by a busy road), the premises is within a short walk from several residential estates and as such access on foot is a viable option.
66. Mention was made within the town councils objection regard to a new gateway into the town centre and the possibility of this development negatively affecting it, however specifics as to why this would be the case were not provided. The development does not propose an outdoor seating/drinking area, which may be perceived by some as 'off-putting', and the applicant has confirmed that no outdoor drinking would be permitted. As such there would be no interference with person entering the town centre from this access and as such there is not considered to be any conflict with the Town Centre Master Plan in this regard.
67. Concern has been raised in terms of the loading arrangements for the development and whether there are adequate facilities nearby to achieve it. The applicant has estimated that deliveries would be required approximately twice per week and the existing loading dock which is to the rear of the Sports Direct unit would be used by the delivery vehicles. The goods would then be hand carted to the premises using the existing footpath along the side of the Sports Direct building to the front access of this property. This arrangement appears entirely viable and reasonable.
68. The Highway Authority has assessed the proposal and raised no objections or concerns regarding the proposed use of the building or any linked highway safety issues. It is considered that the proposal would have no harmful impact on highway safety and as such is compliant with Policy 21 of the CDP.

CONCLUSION

69. 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).
70. The proposal relates to a town centre use within the Peterlee town centre and is acceptable in principle. The details of the scheme have been assessed against relevant policies and are considered to accord with appropriate criteria and requirements, and subject to conditions would not have any unacceptable impact upon the character and appearance of the surrounding area, local amenity or highway safety in accordance with Policies 6, 9, 21, 29 and 31 of the County Durham Plan and Parts 2, 4, 5, 6, 7, 8, 9, 11, 12 and 15 of the NPPF.
71. The proposal has generated some limited interest, however whilst the objection and concerns raised have been taken into account, they would not warrant a refusal in this case for the reasons detailed in this report. On balance, it is therefore considered that the proposals are acceptable and the application is recommended for approval.

RECOMMENDATION

That the application be **APPROVED** subject to the 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 Policies 6, 9, 21, 29 and 31 of the County Durham Plan and Parts 2, 4, 6, 7, 8, 9, 11, 12 and 15 of the NPPF.

3. The premises shall not be open to customers outside the hours of 10:00 to 00:00 Monday-Sunday.

Reason: In the interest of amenity and to comply with Policy 31 of the County Durham Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

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.

BACKGROUND PAPERS

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



Planning Services

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Change of use of building from betting office (Sui Generis) to drinking establishment (Sui Generis) 1 Hailsham Place, Peterlee, SR8 1AB
Ref: DM/23/01429/FPA

Comments

Date 21 August 2023

Scale Not to Scale

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