



## Area Planning Committee (Central and East)

**Date** Tuesday 10 September 2024  
**Time** 9.30 am  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 9 July 2024 and Special meeting held 22 July 2024 (Pages 3 - 42)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central and East)
  - a) DM/24/01045/FPA - 63 Frank Street, Gilesgate Moor, Durham, DH1 2JF (Pages 43 - 62)  
Change of use from dwellinghouse (C3) to a house in multiple occupation (C4) including single storey extension, cycle parking and bin storage to rear and formation of car parking area to front.
6. Such other business as, in the opinion of the Chair of the meeting, is of sufficient urgency to warrant consideration

**Helen Bradley**

Director of Legal and Democratic Services

County Hall  
Durham  
2 September 2024

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

**DURHAM COUNTY COUNCIL**

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

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Tuesday 9 July 2024** at **9.30 am**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

Councillors A Bell, J Cosslett, S Deinali, J Elmer, C Kay, B Kellett (substitute for J Clark), D McKenna, I McLean (substitute for K Shaw), R Manchester, K Robson and A Surtees

**Also Present:**

**1 Apologies for Absence**

Apologies for absence were received from Councillors D Oliver, L Brown and I Cochrane.

**2 Substitute Members**

Councillor B Kellett substituted for J Clark and Councillor I McLean substituted for K Shaw.

**3 Minutes**

The minutes of the meeting held on 11 June 2024 were confirmed as a correct record by the Committee and signed by the Chair. The Committee Services Officer asked the Committee to note that, in respect of the Special Meeting held on 17 May 2024, the appeals report had incorrectly referred to the appeal regarding 58 Bradford Crescent as being allowed and that this was not in fact the case, the appeal having been dismissed.

#### **4 Declarations of Interest**

Councillor D McKenna declared an interest in Item 5b - DM/23/01771/FPA - The Horse Boxes, The Village, Seaton, Seaham and noted he would speak in relation to the application and leave the Council Chamber during the consideration of the application.

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

##### **a DM/23/03271/FPA - Land to the North of Mill Road, Langley Moor, Durham, DH7 8HL**

The Senior Planning Officer, Gemma Heron gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that some Members of the Committee had previously visited the site and were familiar with the location and setting. The application was for the demolition of existing industrial building and erection of a retail unit (Class E) with associated car parking, hard and soft landscaping and associated works and was recommended for approval, subject to the conditions and Section 106 Legal Agreement as set out in the report.

The Senior Planning Officer noted in terms of representations, the Highway Section and Flood Authority had offered no objection. She added that the Ecology Section had offered no objections, subject to biodiversity net gain (BNG) on-site, and a financial contribution towards off-site mitigation. She explained there had been 14 representations received, with primary concerns raised relating to the principle, highway safety and ecology. She noted those in support welcomed new jobs, a boost to the local economy and reuse of industrial land. The Senior Planning Officer noted that since the publication of the report, two further representations had been received from the Lidl and Tesco stores at Langley Moor, noting issues in terms of the Retail Impact Assessment, siting and querying the mechanism in relation to BNG.

The Senior Planning Officer noted that the previous use of the site was industrial, and the site had been on the market for two years and had remained unsold. She added that therefore Policy 2 of the County Durham Plan (CDP) was engaged in relation to employment land. She explained a sequential assessment had been undertaken by the applicant which noted no sequentially preferable sites and that there would not be significant impact upon other retail.

The Senior Planning Officer explained that in terms of the highway safety concerns raised, a protected crossing would be improved to the satisfaction of the Highways Section. She added that the application would reuse a previous used site, with some trees to be retained, and with some additional planting and landscaping. She concluded by noting some biodiversity gain on-site, together with a contribution towards off-site toward BNG, to be secured by a Section 106 Legal Agreement.

The Chair thanked the Senior Planning Officer and asked Councillor P Taylor, Local Member, to speak in relation to the application.

Councillor P Taylor thanked the Chair and Committee for the opportunity to speak and thanked the Senior Planning Officer for her excellent report and presentation, which he felt answered all relevant questions. He commended the work of the Planning Department and thanked Aldi for their plans for a store at Langley Moor. He explained that the proposals were overwhelmingly welcomed by the residents of Browney, Brandon and Langley Moor. He added the post-COVID Langley Moor was beginning to thrive, with a Tattoo Parlour, Ironing Service and a Bakers, and the additional of an Aldi store would only be a boon to the area. He noted he fully supported the proposals, and while there had been some slight concerns from some residents in relation to highways safety, he felt the comments from the Highways Section within the report helped to demonstrate there would be no issues in relation to traffic. He welcomed the pedestrian crossing over the A690, and reiterated the application would be excellent for the local area, reused land, was good for the local economy and with around 40 jobs was good news all round.

The Chair thanked Councillor P Taylor and asked Helen Simms, Regional Property Director for Aldi Stores, to speak in support of the application.

H Simms noted she was pleased to have the support of the Local Member and explained Aldi had looked at the area for some time, deciding upon the site after it had been vacant for two years, failing to be brought back into industrial use. She emphasised that the proposals represented a high-quality development providing a modern shop which had 90 percent support from consultation carried out. She added the store would provide improved choice for residents, competitive pricing, and jobs for the local economy. She noted it would serve both Langley Moor and commuters, helping with the cost-of-living crisis with its prices.

H Simms explained the location of the store would help in terms of travel time for local residents, reducing traffic overall as well as other spin-off benefits for Langley Moor.

She noted that the development would be to BREEAM standards and would include improved footpaths and links over the A690. She explained that the modest scale of the site meant the store would compliment existing shops and would work with local retailers, not against them. She noted that Aldi would be a good neighbour, with the Construction Manager's contact details to be available. She added that Aldi would look to try and recruit staff from the local area.

H Simms noted that during the pre-application stage, Aldi had looked to engage with key stakeholders and local residents. She explained that professional third-party consultants had been engaged in respect of construction, transport, noise and drainage issues, with thorough details provided. H Simms concluded by reiterating that the proposals represented a modern store of around £6 million investment, offering 40 jobs and would look to open in September 2024, should permission be granted, and would be a store Aldi would be proud of.

The Chair thanked H Simms and asked the Committee for their comments and questions.

Councillor J Elmer noted he was the other Local Councillor for the area and noted that it had been fantastic that Aldi had reached out early in the process to canvass residents' views. He added that Aldi had listened to the one issue repeated raised, in respect of the Mill Road/A690 junction and with thorough assessment with Aldi and Durham County Council (DCC) he was happy with the new A690 crossing, that would also hopefully calm traffic, as would another signal further along the road. He noted the site currently was unoccupied and looked awful, with demolition being welcomed to improve the visual landscape. He added it was important in terms of regeneration of the area, noting overwhelming support locally for the development.

Councillor J Elmer noted, for the benefit of H Simms, that Lidl Stores had an informal arrangement in terms of their car park, allowing customers from smaller shops nearby to use their car park. He noted he would be grateful if a similar arrangement could be used, helping to free up parking on the Front Street. Accordingly, he moved approval of the application as per the Officer's report.

Councillor A Bell noted it had been very evident on the site visit the previous day that the current building was unsightly and the site in need of regeneration. He noted he would second the motion for approval, adding that he felt a solution to issues with the junction could include a roundabout, however, that would be for Highways Officers to consider.

A motion for approval was proposed by Councillor J Elmer, seconded by Councillor A Bell and upon a vote being taken it was;

## **RESOLVED:**

That the application be **APPROVED**, subject to the conditions set out within the report and a Section 106 Legal Agreement.

### **b DM/23/01771/FPA - The Horse Boxes, The Village, Seaton, Seaham, SR7 0NA**

The Senior Planning Officer, George Spurgeon gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that some Members of the Committee had previously visited the site and were familiar with the location and setting. The application was for the construction of 37no. dwellings (amended 24.11.2023) and was recommended for approval, subject to the conditions and Section 106 Legal Agreement as set out in the report.

The Senior Planning Officer explained the application was reduced from an initial application for 46 properties, after working with Planning Officers in respect of the application. He noted the application represented around one quarter of the previously developed land, with existing barns and stables to be demolished, leaving three-quarters of the site as greenfield. He noted a proposed development to the north east of the site for 75 houses had been refused at Committee, in respect of the scale and density of the proposed layout.

*Councillor A Surtees entered the meeting at 10.01am*

The Senior Planning Officer noted the proposed site access would be via the existing access point, opposite to the existing village green. He noted a SUDS pond was proposed at the south of the site, noting some trees would be retained, some to be removed to allow for the proposed layout and roads.

The Senior Planning Officer noted Seaton with Slingley Parish Council had objected to the application, noting issues in respect of highway safety, including the narrowness of Hillrise Crescent, impact upon wildlife and on nearby schools and healthcare. He noted that the Highways Section had no objections subject to junction widening, citing no impact upon highway safety. He added the Flood Authority offered no objections, subject to conditions. It was noted the Design and Conservation Team noted no objections to the layout or house types, noting materials would be in the local vernacular.

The Senior Planning Officer noted the Landscape Officer had noted some adverse impact, noting the site was present in views from the Haswell to Ryhope walkway, though noted a suitable landscaping scheme was possible. He added that the Ecology Team had offered no objections, subject to conditions and contributions towards off-site BNG. He noted Environmental Health had offered no objections, subject to conditions, and added that 6no. affordable houses were proposed in the form of 2no. discounted market sale properties, 2no. first homes, and 2no. properties for affordable rent. The Senior Planning Officer noted contributions were sought in respect of school places and the NHS.

The Senior Planning Officer noted 202 objections had been received in relation to the original application for 46 dwelling, with a 283-signature petition in objection also received. He noted that following amendment of the scheme to 37 dwellings, a further 363 objections had been received. He noted details of the objections were set out within the Committee report, including objections from the local MP, Grahame Morris, Local Councillor D McKenna and Seaton with Slingley Parish Council.

The Senior Planning Officer noted that it was felt the edge of settlement development was well related, bound on three sides with existing residential development, with woodland to the remaining side, and was in line with Policy 6 of the CDP. He added that given there were two Public Houses and a community centre nearby, and with additional services around one kilometre away, with cycle routes and bus services, it was felt, on balance, that was sustainable in terms of the scale of the proposed development. He added that Officer felt the highways issues, as well as design and conservation elements were acceptable, noting separation distances were met. He reiterated as regards affordable housing and ecology, school places and NHS contributions and concluded by noting, while there were a high number of objections to the scheme, Officers felt the application should be approved.

The Lawyer (Planning and Highways), Neil Carter asked Councillor A Surtees, who had entered the meeting following the start of the Officer's presentation, if she felt she was sufficiently sighted in terms of the application to participate in the debate and decision making. Councillor A Surtees apologised for being later, however, noted she was very familiar with the site and local area and would be happy to participate in the debate and vote on the application.

The Chair thanked the Officers and asked Parish Councillor Alison Slater to speak on behalf of Seaton with Slingley Parish Council.



Parish Councillor A Slater thanked the Chair and Committee and explained she was the Chair of Seaton with Slingley Parish Council and also representing Seaton Community Association and was herself a local resident. She noted that the impact of the proposed development on the 'old village' would be absolutely catastrophic, adding that despite the amendment to reduce the number of properties, it was still felt that the proposals were out of character for the area. She noted while affordable housing was proposed, it was felt that the village was not 'affordable' and that such provision would be better suited nearer to Seaham.

She added the proposals would impact the village green opposite the site, and the development would water down the existing community spirit, and she had concerns upon the sustainability of the community centre. Parish Councillor A Slater noted concerns that elderly residents would be forced to use cars to access the community centre, rather than walk along the narrow Hillrise Crescent, and would likely not be able to park given construction traffic. She added those residents were the 'bread and butter' for the community centre and it would be a disgrace if the community centre was lost.

Parish Councillor A Slater noted loss of farmstead use, with tractors and combines usually left overnight, which would in future not be able to be left, rather would have to travel back into the area each day, increasing traffic and mud left on the road. She added two farmers worked all year round in the area. She reiterated that Hillrise Crescent was very narrow and that the proposals would exacerbate issues in terms of pedestrians using the road, and despite Highways stating the width was acceptable, it would be problematic with farm and delivery traffic. She explained that public transport was spasmodic at best, and cited examples of people having to use taxis in the area.

Parish Councillor A Slater noted there was significant development in the Seaham area and noted that residents of the area were not adverse to development, however the scale and impact of the proposal had not be taken into account and residents and the Parish Council were opposed to the development as proposed.

The Chair thanked Parish Councillor A Slater and asked Local Member, Councillor D McKenna to speak in relation to the application.

Councillor D McKenna thanked the Chair and fellow Committee Members and expressed his disappointment that Believe had pushed forward with the proposals given that they threatened the integrity of the village and community. He added that he expected Registered Social Landlords (RSLs) to act with integrity, however, the proposals mirrored other developments in terms of a quick turnaround for profit.

Councillor D McKenna noted the Strategy Housing Land Availability Assessment (SHLAA) had previously identified issues with the access point, stating no significant development greater than five dwellings. He noted Members would have seen on the site visit that Hillrise Crescent was very narrow and reiterated that farm vehicles used the road, and that the footpath would need to be reinforced, given the number of vehicles requiring to mount the path. He added the impact would be greater still for construction vehicles, making the area unsafe.

Councillor D McKenna noted that public transport was unreliable in the area, and anyone looking to rely on public transport for employment, education or healthcare would not be able to live at the proposed development. He added Planners had quoted distances for cycling, however, that was only possible if one were young, noting the impracticality for older people.

Councillor D McKenna noted there were already issues with school places, with some children from the village having to travel outside of County Durham to Houghton-le-Spring and Sunderland for school. He added that the contributions in this respect, and the NHS would not be sufficient to meet the demands from the proposed development.

Councillor D McKenna noted the biodiversity loss, adding the contributions sought would not make up for the loss of green space for the village. He reiterated that the residents had a caring, tight-knit community and had fought many applications in their area, citing several examples. He added this was a lot for a small community to bear and added that development should be encouraged for brownfield sites, however, of the right type in the right area.

Councillor D McKenna concluded by noting the development as proposed did not sit well with him and reiterated that the SHLAA said the site was 'unsuitable' and urged the Committee to refuse the application.

*Councillor D McKenna left the meeting at 10.30am*

The Chair asked Janet Lowes, local resident in objection, to speak in respect of the application.

J Lowes thanked the Chair and Committee and explained she had been resident for around 21 years and represented around 400 local residents. She reiterated that concerns included issues relating to highway safety, drainage, ecology and protecting local services. She added residents did not agree with the case officer and reminded Members that the Committee had the ability to make a judgement on the application.

She noted Officers had accepted the principle of development; however, she noted residents felt the scale was not appropriate. She noted issues in terms of sustainability and the impact on the character of the area and visual dominance of the proposed scheme. She noted that there were 165 dwellings in the area, two public house and the community centre. She added the proposals represented around a 20 percent increase in dwellings. She explained that the site was not allocated for development, and Policy 6 of the CDP stated that such development should be 'well-related', adding that residents felt this was not the case and therefore the proposals were in conflict with Policy 6.

J Lowes noted the need to access services was effectively via car, and that was also contrary to Policy 6. She noted that it was also felt the proposals were contrary to CDP Policy 10, with impact upon the character of the area, as well as the incursion into the countryside impacting upon the openness of the countryside, especially given the highly visible site.

J Lowes asked the Committee to consider the impact upon residents and the character of the area, with the proposals being contrary to Policies 6, 10 and 31 of the CDP, and given there was greater than four years housing supply was also in conflict with the CDP. She urged Members to refuse the application.

The Chair thanked J Lowes and asked Alexander Franklin, agent for the applicant, to speak in support of the application.

A Franklin thanked the Chair and Committee for the opportunity to speak, explaining he was Associate Director at Hedley Planning, representing the applicant. He explained that the application had represented over 12 months of hard work, working with Officers from the Council to achieve a proposal with a positive recommendation for approval. He added that the applicant, Believe, worked with Homes by Carlton, a Small to Medium Sized Enterprise (SME) based in County Durham, to provide properties in a traditional material palette that would assimilate well into the local area. He noted that the applicant was a local provider, reinvesting profit back into communities, and being one of the key providers of affordable housing in the County, working with the Council throughout the process. He noted pre-application work, with an initial 54 dwellings being sought, however, reduce to 46 and then 37 following discussions with Planning Officers. He reiterated that Officers had been listened to, and the proposals were well-designed and met the requirements of the NPPF and CDP Policies, including Policy 29.

A Franklin noted as regards visitor parking spread within the site, and noted cycle storage to be secured via condition, and the design of the entrance to the site being designed in sympathy with the village green opposite, to help maintain the openness and be a positive addition to the village.

He noted the additional properties would help support the local economic viability of the two public houses and community centre, helping reduce the likelihood of services closing. He noted that assessments from Highways professionals had noted the proposals were safe and did not impact upon the highway network. A Franklin noted the Section 106 Legal Agreement in terms of schools, NHS, open space, heritage coast and BNG of around £160,000.

A Franklin concluded by reiterating that the applicant had worked with the Council to develop a quality scheme in line with the CDP and NPFF, with no objections from professional Officers, and kindly requested Members approve the scheme as per their Officer's recommendation. The Chair thanked A Franklin and asked the Senior Planning Officer to address the issues raised by the speakers.

The Senior Planning Officer noted that the SHLAA had referred to the site as 'amber', meaning that the site or an element of the site was potentially unsuitable for development, however it was not a 'red' score with a specific constraint against development. He added that an application would have to then demonstrate they had overcome the 'amber' rating and in this case, Officers were satisfied that the proposals overcame the issues. In respect of infrastructure, it was acknowledged there would be additional demand as a result of the development, and a Section 106 Legal Agreement would secure contributions in respect of school places and the NHS. The Senior Planning Officer added that there were also contributions in respect of biodiversity, open space and coastal protection. He noted in terms of need, while not an allocated site, there was demand for housing as detailed within the report and while a four-year supply could be demonstrated, to go beyond was not necessarily a bad thing. He added that while brownfield sites were preferred, each application was to be judged on its own merit and the application did contain a mix of dwellings. The Senior Planning Officer reiterated the separation distance were met, and site levels also helped mitigate any potential issues. He reiterated the site was well related to the settlement, accepting it was outside of the settlement boundary, with it being bound on three sides by development, and Officer felt the application was in line with Policy 6, subject to the details outline within the report.

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

Councillor C Kay noted he had listened with interest, as a keen cyclist and Council Cycling Champion, as regards the potential to cycle and the proposed use of active travel. He noted the highways assessment noted that a lot would use cycles from the properties, however, he could not accept that it would be the case as people would likely not use the very narrow road.

He added the new cyclists especially could feel unsafe at first and there was no route from the dwellings to the town centre that were separated from motor vehicles. He added that many people only cycle in good weather and therefore he could not accept that in design the proposals were cycle friendly. He noted he felt the proposals were contrary to Policies 4, 6, 10, 21 of the CDP and he could sympathise with the position of residents. He noted the contributions that would be made via the Section 106 Legal Agreement, however, he would listen to other Members before making a decision, however he could not see himself supporting the application.

The Chair asked members of the public to not clap or disrupt the proceedings of the Committee.

Councillor J Elmer noted he had attended the site visit the previous day and noted it was clear from the number of people in attendance, that there was enormous concern regarding the proposals. He noted upon arriving at the site his impression had been of a mature, beautiful piece of landscape, with pasture, trees and hedgerows. He added that where development impact upon the landscape, there was usually some retention of features and therefore he was alarmed that the proposals would remove trees, hedgerows and anything of value. Councillor J Elmer noted the Council's Ecologist had referred to a figure of around £46,000 via Section 106, however, he felt that was simply an applicant buying off the issue, with replanting not being the same as mature trees for at least 40-50 years.

In respect of sustainability, Councillor J Elmer note he did not feel the case had been fully argued by the Planning Report, with buses being less than hourly, unreliable and did not run on an evening. He added there were no local services, there was a need to travel to access those, likely by car, and therefore was not sustainable. Councillor J Elmer added that after visiting the site he was not convinced the site was well related to Seaton, and noted the removal of such a large number of trees was very destructive. He noted he did not see the evidence for housing need on this unallocated site.

Councillor B Kellett noted he had attended the site visit and noted the trouble the minibus had with the access, driving gingerly up to the site. He noted site represented a huge area, with a derelict barn further into the site. He noted the removal of trees would impact upon the greenfield site and noted many adequate brownfield sites existed elsewhere. He asked while on the site visit whether the trees would be trimmed, only to be told they would be removed. He added that one could see that the site was a great positive for the village, with the proposed development likely to spoil the village. He noted that the site visit minibus had to mount the footpath on occasion and therefore the issues raised as regards highway safety seemed legitimate. He felt there were sufficient grounds to refuse the application on highways safety and impact upon a greenfield site.

Councillor A Bell noted that he too had been on the site visit, noting two elements, the existing barns, that would be brownfield development, and the open part of the site, representing greenfield and tree belt, an open space that was a haven for wildlife. He noted the access road was a single lane, with cars parked down all of one side. He added he had been surprised to see the landscape harm was not set out more within the report. Councillor A Bell noted he felt there would be harm as a consequence of the proposals, and while he could understand if just the element of the barns were build upon, he felt the development of the large open space was contrary to Policy 6, and the development would also not be well related to the rest of the village. Accordingly, he moved refusal of the application.

The Chair noted highways issues had been referred to several times and asked the Highways Officer to address the matter.

The Principal DM Engineer, David Battensby noted the issues that had been raised related to Hillrise Crescent. He advised that the application had been considered in some detail and Hillrise Crescent was an existing road on the highway network and provided access to adjacent settlements and businesses. He noted that should it be deemed necessary, parking restrictions could be introduced via other primary legislation to prevent any obstructive parking, however, prior to this application there had been no complaints received as regards parking issues in the area. He added that 700 vehicle movements per day on this road was considered light traffic. He added that the proposed parking provision on-site was considered sufficient and in accordance with the DCC Parking Standards and that it was not necessary to have any parking restrictions, there being sufficient capacity on the road.

The Chair asked members of the public to not interrupt proceedings, and noted if they continued to do so, they would be asked to leave the Chamber.

Councillor K Robson noted he too had attended the site visit and had been struck by the outstanding beauty of the site. He added he disagreed with the Highways Officer, noting the 37 proposed properties would need to be service by bin wagons, and would have either cars traveling to and from for work or shopping, or would have shopping deliveries attending the properties. He agreed with other Members in terms of the narrow access road, and added he felt Seaton would benefit more from a small shop than these proposed houses. He noted he would be against housing in this area.

Councillor J Elmer noted he would second Councillor A Bell's motion for refusal, with the proposals not being well related to the existing settlement, and hence in conflict with CDP Policy 6.

The Chair asked for comment from the Senior Planning Officer in respect of the comments made.

The Senior Planning Officer noted that Policy 6 criterion (f) related to the sustainable transport and criterion (d) referred to scale, form and character and asked if that what Councillors were referring to. Councillor A Bell noted that was correct.

The Principal DM Engineer noted the road serving the site, Hillrise Crescent was currently used by bin wagons, delivery vehicles, agricultural vehicles and there had been no complaints received in respect of the road, and therefore were not considered to be issues in this case. The Senior Planning Officer noted further reference to Policy 6, criterion (c), and Policy 39 if referring to landscape harm. Councillor A Bell agreed.

Councillor C Kay noted Policy 4 spoke as regards the impact on the periphery of the settlement. The Senior Planning Officer noted Policy 4 referred to allocated sites Policy 6 to unallocated sites.

The Lawyer (Planning and Highways) noted he had nothing further to add to the Senior Planning Officer, with reference having been made to Policy 6 and various elements. He noted that he would have found any refusal reasons based around highways grounds to be problematic.

A motion for refusal had been proposed by Councillor A Bell, seconded by Councillor J Elmer and upon a vote being taken it was;

**RESOLVED:**

That the application be **REFUSED** as:

1. The future occupiers of the development would not benefit from a genuine choice of transport modes so as to realistically reduce dependency on the private car, as the application site does not have good access by sustainable modes of transport to relevant services and facilities nor does the scale of the development reflect the size of the settlement or the level of service provision within that settlement, contrary to Policies 6 f) and 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.
2. The development represents incursion into the open countryside that would result in the loss of an attractive edge of settlement field that positively contributes to the character of the village, with inadequate mitigation to outweigh the identified harm. The application is therefore contrary to Policies 6 c) and d), 10 l), and 39 of

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

*Councillor D McKenna entered the meeting at 11.10am*

**c DM/24/00956/FPA - Acorn Stables, Salters Lane, Haswell, Durham, DH6 2AW**

The Senior Planning Officer, George Spurgeon gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that some Members of the Committee had previously visited the site and were familiar with the location and setting.

The application was for change of use from personal equestrian grazing paddock to commercial dog exercise paddocks and retention of 1.8m high fencing (description amended) and was recommended for approval, subject to the conditions as set out in the report.

The Senior Planning Officer noted no objections from statutory or internal consultees, with four letters objection to the application, and five letters of support.

The Chair noted there were no registered speakers and asked the Committee for their comments and questions.

Councillor C Kay noted the proposals represented a straightforward application and appreciated that the application had wished to regularise the use and had submitted an application, as many people operated without permission and this application represented a responsible approach. He moved approval as per the Officer's recommendation.

Councillor A Bell agreed with Councillor C Kay, adding he would second approval for what he felt would be a good facility.

A motion for approval was proposed by Councillor C Kay, seconded by Councillor A Bell and upon a vote being taken it was;

**RESOLVED:**

That the application be **APPROVED**, subject to the conditions set out within the report.



**d DM/24/01143/FPA - 29 Hawthorn Crescent, Gilesgate Moor, Durham, DH1 1ED**

The Senior Planning Officer, George Spurgeon 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 house in multiple occupation (Use Class C4) including alterations to rear conservatory, raising of roof height of two-storey side extension, alterations to door and window openings, and formation of car parking area to front and was recommended for approval, subject to the conditions as set out in the report.

The Senior Planning Officer noted Belmont Parish Council had objected to the application, with details set out within the report and a representative being registered to speak. He noted no objections from the Highways Section, Environmental Health or HMO Licensing Team. He noted HMO data showed that within a 100-metre radius, 5.6 percent of properties were Class N Council Tax exempt, below the 10 percent threshold. He explained 10 letters of objection had been received from local residents, with their concerns relating to social cohesion, anti-social behaviour, parking and highways issues and lack of need among other issues as set out within the report.

The Senior Planning Officer noted that as the development would not exceed the 10 percent threshold as set out in policy, it therefore was not felt that the development would impact upon community cohesion, and the application would not prevent any change of use back to a family residential property in future. He added that in respect of residential amenity, the property was proposed to change from four-bed to five-bed, and there would be a tenancy management plan in place. He concluded by noting the proposals did not represent the over-proliferation of HMOs in the area and as was in line Policy 29 and 31 in addition, the application was recommended for approval.

The Chair thanked the Senior Planning Officer and asked Parish Councillor Patrick Conway, representing Belmont Parish Council, to speak in relation to the application.

Parish Councillor P Conway explained the Parish Council objected to the application after receiving many representations from local residents, which were material and that had to be taken in account within decision making. He noted the Parish Council felt the application was contrary to CDP Policies 16, 21, 29 and 31m as well as parts 2, 5, 9 and 9 of the NPPF.

He noted recent appeals decisions in relation to HMOs, however, the Parish Council felt undue weight was being given to those appeals decisions, noting Inspectors made independent decisions, not bound by previous decisions.

Parish Councillor P Conway noted that the proposals replaced a family home used 52 weeks a year with a property only used up to 37 weeks a year, and with a loss in Council Tax. He noted that effectively the residents were sustaining transient occupants that did not contribute to the local community. He added that HMO properties within the Gilesgate Moor area were generally in poor condition. He noted that the Council often referred to CDP Policy 16 as a 'tipping point', however, it also contained narrative which included 'safe and inclusive communities'. He explained there were a few issues with the application in this regard, including that a housing assessment carried out as part of the neighbourhood planning process for Belmont Parish Council Neighbourhood Plan had shown there was a need for an additional 300 family homes in the next 10 years.

Parish Councillor P Conway noted that the Article 4 Direction had been helpful, however, it only made reference to a 100-metre radius and did not take into account specific situations or configurations, such as this cul-de-sac, where issues with HMOs could be compounded. He reiterated previous comments at Committee that Belmont Parish Council would ask for a review of the 100-metre radius rule.

Parish Councillor P Conway noted there had been no objections from the Highways Section, however, paragraph 92 of the report referred to impact upon neighbouring properties and it was felt that this new application should meet the usual requisite standards.

Parish Councillor P Conway noted Policies 29 and 31 included reference to air quality, with Environmental Health noting some concerns. He added Durham University had stated they were expecting 800 fewer students in the next academic year, and were relooking to stabilise their numbers around that figure. He noted there were a number of void properties, and spaces available within purpose-built student accommodation (PBSA). He noted at a meeting at Gilesgate Moor, looking at the development of a new Neighbourhood Plan, the area not being covered by the Durham City Neighbourhood Plan, HMOs had been raised as the primary concern. He added that Neighbourhood Plan policies would look to address HMO issues. He noted a number of residents that were unable to attend the meeting had submitted their objections in writing to the Planning Officer.

The Chair thanked Parish Councillor P Conway and asked the Committee Services Officer to read out a statement on behalf of Local County Councillors E Mavin and L Mavin.

*“As County Councillors for the area, Eric Mavin and Lesley Mavin, wish to formally object to this planning application, DM/24/01143/FPA Change of use from dwellinghouse (C3) to small house in multiple occupation (HMO) (C4) including alterations to rear conservatory, raising of roof height of two-storey side extension, alterations to door and window opening and formation of car parking area to front 29 Hawthorn Crescent, Gilesgate Moor, Durham DH1 1ED*

*We believe it contravenes the following policies of the CDP for the following reasons:*

*Policy 16*

*This states that the council should ‘promote and preserve inclusive, mixed and balanced communities and to protect residential amenity’.*

*Due to the proliferation of HMOs within this area, we feel this application fails to satisfy Policy 16 3 b, and this clearly influences the balance of the local community in relation to both residents and students.*

*The University itself has stated that there is no need for any further student accommodation within the city and surrounding areas. As there are also 800 fewer students this year, this need is even less.*

*Policy 29*

*This concerns sustainable design, and we argue that removing more C3 housing stock, of which there is already a significant shortage, from a community where there is already unused, empty C4 houses, the viability in the area as a sustainable community will be reduced.*

*Policy 31*

*This relates to amenity and pollution, and again we argue that by creating a cluster of HMOs in a single area the occurrence of transient anti-social noise within the street will increase which will in turn negatively affect the character of the area and the amenity of its residents.*

*Policy 21*

*This policy requires that all new developments ensure that any vehicular traffic generated by new developments do not cause an unacceptable increase in congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements. Hawthorn Crescent is a narrow thoroughfare where existing on street parking causes problems. It is unclear from the application how many parking places will be provided within the curtilage of the property in accordance with the Parking and Accessibility Supplementary Planning Document adopted by Durham County Council in October 2023.*

*We are requesting for these reasons this application be refused”.*

The Chair thanked the Committee Services Officer and asked Melanie Tyson, local resident in objection, to speak in relation to the application.

M Tyson thanked the Chair and Committee and explained she had lived in the area since 1993 and could see the application property from her home in Aspen Close. She noted there were several reasons why local residents objected to the HMO application, including that the proposals for five people raised concerns of possible further alterations, such as the relocating the rear doors, and it was felt the application was in preparation for future use, to alter to a 6 or 7 bed HMO. She noted concern in respect of conversion of the garage to additional bed space, either altered without consent or with a retrospective application. She added that additional parking issues would be exacerbated by the proposals. M Tyson noted had health issues that required access in terms of parking, delivery vehicles and emergency vehicles.

M Tyson explained that the conversion of the property to an HMO would result in the loss of a family home forever, with landlords pricing out families in the area. She noted a loss of biodiversity in terms of the removal of a tree, and issues in terms of internet provision and additional pressure on providers.

The Chair thanked M Tyson and asked Gary Swarbrick, agent for the applicant, to speak in support of the application.

G Swarbrick noted the current application was a change of use application for a 5-bed HMO. He noted that the number of recent appeals decisions were relevant and material. He noted the Parish Council had raised a number of questions in relation to need, however, under Policy 16(3), that was not relevant. He added that condition would restrict the number of beds, with any additional beds requiring further planning application. He reiterated the Senior Planning Officer's report and presentation, that the percentage of HMOs was under the 10 percent threshold and therefore the application was acceptable. He added that Planning Inspectors had noted that where under the threshold, there was no impact in terms of the character of an area. G Swarbrick noted there was sufficient levels of parking, with no objections from the Highways Section, and while residents and the Parish Council did not wish for more HMOs, that did not mean HMOs were contrary to policy, and therefore, without any reasonable reason for refusal, he would respectfully ask that the Committee approve the application.

The Senior Planning Officer noted each application was looked at on its own merit, however, appeals decisions for comparable applications needed to be taken into account.

He noted four relevant change of use applications that had been where there had been less than the 10 percent threshold and in each case the Inspectors had noted they were in accord with Policy 16 and therefore did not impact upon residential amenity. He explained that the application before Members was similar in that regard and therefore the information was material. He reiterated there was a condition to restrict the number to five beds, and if breached, that was an issue for enforcement as required. He added any sui generis use would require another change of use application. He concluded by noting parking had been increased by one, and with the inclusion of the garage, and extended width of the drive, would improve parking if permission was granted.

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

Councillor J Elmer asked as regards appeals decisions and whether those referred to were comparable to the current application.

The Principal Planning Officer, Paul Hopper noted that a large HMO application was dismissed at appeal, relating to The Larches, however, that had been very different to the current application being nine-bed, very different to a C4 use HMO.

Councillor A Bell noted he felt in this case the Committee's hands were tied and moved approval of the application.

Councillor J Elmer noted he noted the Inspectors' decisions, however, he noted it was their opinion that those applications did not impact upon the community and was subjective, and that Members of the Committee did understand there was impact from HMOs, with student in those properties not forming relationships within the community. He noted he fundamentally disagreed with the Inspectors and felt they had got it badly wrong.

Councillor A Surtees asked, relating to the appeals, an appeal relating to 58 Bradford Crescent, seemingly a similar application to the one being considered. The Senior Planning Officer noted that particular appeal had been dismissed, with one bedroom not meeting national described space standards (NDSS). Councillor A Surtees noted the appeals report stated that application has been allowed at appeal. The Principal Planning Officer apologised, that had been a typographical error in the report.

The Chair noted there had been a proposal for approval from Councillor A Bell, adding the Committee were stuck with Policy 16 until any review of the CDP. Councillor R Manchester noted he would second approval, echoing the comments made by the Chair.

A motion for approval was proposed by Councillor A Bell, seconded by Councillor R Manchester and upon a vote being taken it was;

**RESOLVED:**

That the application be **APPROVED**, subject to the conditions set out within the report.

## **DURHAM COUNTY COUNCIL**

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

At a Special Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Monday 22 July 2024** at **9.30 am**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

Councillors D Oliver (Vice-Chair), L Brown, J Cosslett, S Deinali, J Elmer, R Manchester and K Shaw

#### **1 Apologies for Absence**

Apologies for absence were received from Councillors A Bell, J Clark, I Cochrane, C Kay, D McKenna, K Robson and A Surtees.

#### **2 Substitute Members**

There were no Substitute Members.

#### **3 Declarations of Interest**

Councillor L Brown noted she was a Member of the City of Durham Parish Council, however, she was not a member of their Planning Committee and had not had any input into their submission in objection to applications on the agenda. She added that she was a member of the City of Durham Trust, however she was not a Trustee and had not been party to their submissions in objection to applications on the agenda.

The Chair, Councillor D Freeman noted he was a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not had any input into their submission in objection to applications on the agenda. He added that he was a member of the City of Durham Trust, however he was not a Trustee and had not been party to their submissions in objection to applications on the agenda.

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

**a DM/23/02236/FPA - 1 Beech Crest, Durham, DH1 4QF**

The Planning Officer, Michelle Hurton gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was to sub-divide dwelling (C3) into 3no flats (Part Retrospective) and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted the application was within the Durham City Conservation Area and referred the Committee to internal layouts, adding there were no external changes to the property. She explained that the rooms met the nationally described space standards (NDSS) and a cycle and bin storage was provided. She noted there had been no objections from the Council's Highways or Environmental Health Teams, subject to conditions. The Planning Officer added that there had been one letter of support and 25 objections received, with objections including from the local MP Mary Foy, Neville's Cross Community Association, City of Durham Parish Council and City of Durham Trust.

The Planning Officer noted the application was acceptable in principle in relation to the relevant policies, as set out within the report. She noted the applicant provided evidence that the University had been consulted. She reiterated that the rooms met the NDSS, bin and cycle storage was acceptable and as there were no external alterations, there would be no impact upon visual amenity or the Conservation Area.

The Chair thanked the Planning Officer and asked Parish Councillor Susan Walker, representing the City of Durham Parish Council, to speak in relation to the application.

Parish Councillor S Walker noted the Parish Council would wish to comment on some matters prior to the meeting, namely several changes the Parish Council had not been made aware off, and extra information that had not been made available to view the previous week. She noted the information was three letters from Estate Agents, back dated to March. She added that these types of issue did not appear to be one-offs and asked the Chair to note the points raised in terms of timely information being made available.



Parish Councillor S Walker noted that the application stated there were two in-curtilage parking spaces provided, however, that was not the case and in fact it was one space and the garage, and asked how those would be divided between three flats. She added that the Council's Highways Section had noted there were no issues, however, the Parish Council were aware of the price of parking permits on the black market with many offered on social media. She added there was the additional issue of deliveries to the property. She noted some 'errors' that had been completed by the Agent, and therefore asked that, if the Committee were minded to approve the application, that the permission be tightly conditioned such that it did not become an House in Multiple Occupation (HMO).

Parish Councillor S Walker noted the application was part-retrospective, however, the layout and inclusion of effectively four bedrooms and two kitchens looked like an HMO and therefore a condition should be applied preventing it becoming one in future. She added that in respect of the Parking and Accessibility Standards SPD, there was not the minimum requirement in terms of in-curtilage spaces and there should be three EV charging points, one per flat, provided. She added therefore the application was not meeting the requirements of County Durham Plan (CDP) Policies 29 and 31 and the Parking and Accessibility Standards SPD.

Parish Councillor S Walker noted that assuming there would be three flats, the shower room in Flat Two was effectively in a cupboard and therefore failed CDP Policy 29 in terms of well-designed buildings. She added that it was effectively the loss of another family home, with three flats not being suitable for families. She added that sustainable development must meet the needs of the present, with the application taking away a family home. She noted the ground floor flat was marketed as being in close proximity to the University Science block and noted no quantitative need had been demonstrated, only qualitative. She explained there was a lack of children in the local area to fill the local schools and there was both a qualitative and quantitative needs for family homes.

Parish Councillor S Walker concluded by noting that the application failed to meet Parts 2 and 28 of the National Planning Policy Framework (NPPF) as well as Policies 21, 29 and 31 of the CDP and Policy D4 of the Durham City Neighbourhood Plan (DCNP) and urged the Committee reject the application.

The Chair thanked Parish Councillor S Walker and asked the Agent for the applicant, Sachin Parmar, to speak in support of the application.

S Parmar noted there were a number of objections to the application, however, he highlighted that HMOs were not unique to Durham and that Article 4 Directions were in place within many cities around the country.

He reminded the Committee that the NPPF encourage mixed use and that planning decisions should not control the type and background of the people that may wish to rent a property.

S Parmar explained that the application was not for an HMO, it was for three flats, as explained within the Planning Officer's report and presentation, and the use class was C3, dwellinghouse. He added that the only current occupier was a young professional and noted the proposals were for three flats and that the applicant would not have been able to get a mortgage for an HMO. He added that if potential occupants were to be students, it was likely they would be post-graduate students. He explained that their research in terms of a bespoke housing needs assessment had confirmed that there was a lack of this type of one and two bed flat, with Estate Agents confirming there was this demand.

S Parmar added that the Council's Highway Section had raised no objections and there was in fact a lower reliance on motor cars, the property being close to transport links in a very sustainable location. He added his client was local, and that while there was a school nearby, the property had been on sale for a long time, and was purchased at auction, else the property would have been vacant. He noted that it was a logical development, with the smaller units being better suited for the housing market. He concluded by urging the Committee to go with the recommendation of their professional Officers and approve the application.

The Chair thanked S Parmar and asked the Planning Officer for any comments on the points raised by the speakers.

The Principal Planning Officer, Paul Hopper noted that he would pick up the comments from the Parish Council in terms of late documents and information being made available.

The Chair asked the Committee for their comments and questions.

Councillor J Elmer noted the comments from the Parish Council in terms of the parking available, with three flats and two parking spaces, in contravention of the Parking and Accessibility Standards Supplementary Planning Document (SPD) and asked for clarification. The Principal DM Engineer, David Battensby explained the existing property had two parking permits, as it was within a Parking Control Zone. He added that the changes to the property did not constitute additional parking permits. He continued, noting that the property was the same as any other property which may have three or more vehicles, and it would be for the occupants to agree between themselves and not a planning issue, with two permits now, two for the future.

Councillor J Elmer asked whether there was a requirement for in-curtilage parking. The Principal DM Engineer noted that it would not be physically possible at the property, and as the property was within the parking control zone, then permits were issued, adding that if any in-curtilage parking were to be provided then this would be balanced in terms of the number of vehicles. Councillor L Brown asked whether the garage counted as in-curtilage parking. The Principal DM Engineer noted that often old garages did not meet the requirements of the SPD, being less than three metres by six metres, however, the number of permits would remain the same.

Councillor L Brown noted the single-track road with a turning circle leading up to the property was often blocked and asked that if approved, then an 0800 start-time was conditioned, as the area was residential. She noted that the application was the first of two set of flats on the agenda, adding she felt they were a way of getting around planning policy. She noted it would be nice if the flats were affordable, to help those working within the City, in hospitality for example.

Councillor J Elmer noted that if the property was an HMO then it would not be approved as it would be over the 10 percent threshold, and therefore there was not an issue in terms of it becoming an HMO. The Principal Planning Officer noted that for an HMO being considered under CDP Policy 16.3, then it would fail under that policy as HMOs within a 100 metres radius would be greater than the 10 percent threshold. He noted this application referred to Policy 16.2. He added a condition restricting change of use was not required as it would require further planning permission in any case, therefore such a condition would fail the condition test. Councillor L Brown asked for clarification. The Principal Planning Officer noted restricting use by condition was not required as a change of use would require a separate planning permission. Councillor K Shaw asked if such a change of use application was made, would the matter come before Committee for consideration. The Principal Planning Officer noted that such an application had the potential to be called-in to Committee.

Councillor J Elmer noted the flats could be rented out to students and therefore he felt it was a clever way around a push for family housing. He noted this was something to be addressed with a refresh of the CDP. He moved approval of the application. Councillor D Oliver seconded the proposal. The Chair noted all Members were aware of what the application represented.

Upon a vote being taken it was:

**RESOLVED:**

That the application be **APPROVED**, subject to the conditions set out within the report.

**b DM/24/00402/FPA - 44 Claypath, Durham, DH1 1QS**

The Planning Officer, Michelle Hurton gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change of use of ground floor office (E) to a 2 bedroom flat (C3) for student accommodation including replacement of 1no window for 1no door and window to rear and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted that the property was not listed, however, was a non-designated heritage asset. She added that all the proposed bedrooms met NDSS and cycle storage would be provided. She explained there were no objections from the Highways Section, Design and Conservation or Environmental Health. She noted that the City of Durham Parish Council had objected to the application, as had the City of Durham Trust and St. Nicholas' Community Forum, with their objections as set out within the report.

The Planning Officer noted that it was felt the application was acceptable in terms of planning policy, room sizes met the NDSS and did not impact residential amenity. She added there was no impact upon highway safety and the minor external changes maintained the character of the Conservation Area and therefore reiterated that the application was recommended for approval.

The Chair thanked the Planning Officer and asked Parish Councillor Carole Lattin, representing the City of Durham Parish Council, to speak in relation to the application.

Parish Councillor C Lattin thanked the Chair and Committee and noted the objections from the Parish Council were a rerun of previous issues. She noted that the Parish Council were fully aware of the key challenges the city faced and the DCNP had looked to address some of those issues, for example community issues, sustainability of local schools and shops.

Firstly, Councillor C Lattin asked whether the property was an HMO or a dwellinghouse. She explained that there had been a four-bed HMO application withdrawn previously, however, the idea was clearly still on the applicant's mind as the current application had a clear internal layout that could easily be amended to give a four-bed arrangement, with bedroom one consisting of two rooms with an interconnecting door.

She asked that the HMO application be considered under CDP Policy 16.3, and as the property would be over the 10 percent threshold, with data suggesting an HMO figure of 28 percent in the area, then the application would be in conflict with policy. She asked if the application was not an HMO, then what would the use be. She added that the application stated C3 use, however, within the description there was reference to student accommodation. She noted paragraph 66 of the report set out that the proposals '*cannot strictly be considered to amount to purpose-built student accommodation*', however, purpose-built student accommodation (PBSA) was set out within the CDP as '*accommodation built, or converted, with the specific intent of being occupied by students, either with individual en-suite units or sharing facilities*'. Parish Councillor C Lattin noted that the applicant had stated the accommodation was for students and therefore if the property was not an HMO, then it was at a minimum a PBSA, and therefore should be considered under CDP Policy 16.2. She added that Policy 16.2 (a) stated there was a requirement to demonstrate need, noting that demand was not the same as need.

Parish Councillor C Lattin explained that the Parish Council strongly disputes the applicant's comments in respect of need, as set out within their submission in objection, adding that the University clearly stated that the number of students had reduced already, and would reduce further in the next academic year. She explained there was already a significant surplus of student bed spaces, therefore there was no demonstrable need.

Parish Councillor C Lattin noted the residential amenity was considered within (d) and (e) of CDP Policy 16, as well as within Policies 6, 29 and 31. She added the Parish felt the report focussed upon the impact of a dwellinghouse rather than the impact of students. She noted that the Article 4 Direction that had been made acknowledged the impact of student imbalance, and with a 28 percent level of student properties within 100 metres of the application property, then there would be clearly an impact upon the quality of life of the other, non-student properties in the area.

Parish Councillor C Lattin reiterated that the Parish Council felt the application was contrary to CDP Policies 6, 16, 29 and 31 and therefore should be refused.

The Chair thanked Parish Councillor C Lattin and asked Janet George, representing St. Nicholas' Community Forum, to speak in relation to the application.

J George explained she lived quite close to the application property and reiterated the point raised by the Parish Council, that the property would be for students.

She emphasised that the applicant had initially tried to obtain permission for an HMO, adding that with 28 percent of properties within a 100 metre radius and with around 50 percent in the slightly wider area, there was a desperate need for more long-term residents to be given the chance to live there. She explained that Estate Agents and the student newspaper both confirmed that there were a number of vacant student bed spaces.

J George explained that St. Nicholas' Community Forum was part of the University's community and residents' forum and understood from the University that student numbers had reduced from 22,130 to 21,600 this year, adding that there would be a number of students that would live away or be on placement. She added that the University had noted there were around 1,000 empty bed spaces for 2024/25. She noted further PBSAs had been approved and therefore there would be even more capacity with developments at the Prince Bishops Shopping Centre and the College of St. Hild and St. Bede.

J George noted that therefore there was not a need for further student properties, rather there was a need for more long-term residents to balance communities and to support local shops, schools and facilities. She added that families were unable to get on to the property ladder as student landlords were able to move quickly with cash to secure any property that comes on to the market. She noted the number of Council Tax exempt properties was in effect a £11 million loss of funding to the Council. She added that the County Council and Parish Council picked up a lot of additional costs in terms of absentee landlords. She noted a recent example where she had tried to speak to a landlord for over three weeks as regards rubbish at a property. She concluded by emphasising the need to keep properties for local residents.

The Chair thanked J George and noted the point raised in terms of 1,000 empty bed spaces. He asked the Planning Officer as regards whether the property, whether it was an HMO or PBSA. The Principal Planning Officer noted that the application sought use as flats, in C3 use for any occupant. Any change to C4 use could then be controlled in its own right. The Chair asked if there was no consideration of need in this context. The Principal Planning Officer explained that consideration of need was for applications considered under Policy 16.2, however, Officers were satisfied as regards this type of accommodation in this part of the city. Councillor L Brown asked for clarification regarding whether the policy in play was Policy 16.2. The Principal Planning Officer confirmed that was the case.

Councillor L Brown noted it was difficult to see from the plans and asked whether it was possible for one bedroom to be converted to two bedrooms.

The Principal Planning Officer noted that any sub-division, with three unrelated individuals living in a property, would require a separate planning permission.

Councillor L Brown asked as regards parking permits for this property. The Principal DM Engineer note, similar to the previous application, that the property was within the parking control zone and that permits would be available, so if two permits previously, then two permits going forward, not more. The Chair noted that it was his understanding that where office use has been converted to living accommodation, there would be no permits issued. The Principal DM Engineer noted that businesses would have been able to purchase permits, with any flat above being an existing property with a permit. Councillor L Brown noted it was not new development, the Chair added it was his understanding that an office would not be able to get a permit. Councillor L Brown added she would wish for a start time of 0800 for construction, should the application be approved.

Councillor J Elmer explained he was finding it very hard to understand the plans as set out and asked for the plans to be shown again on the projector screen, and for Officers to talk Members through the spaces. The Plans were displayed on the screen, the Planning Officer noted that the plans were for two bedrooms, with the Principal Planning Officer reiterating that the application was for C3 use, not C4. Councillor J Elmer asked how the Council would find out whether there was any subdivision and breach of planning permission. The Principal Planning Officer noted that if any information relating to a potential breach of planning permission or conditions was reported to the Planning Department, Officers would investigate and take action as appropriate.

Councillor J Elmer noted he understood the constraints that Planning Officers worked to, however, from the plans the proposals looked like a four bed flat, being stated as a two-bed flat, and to him it seemed a clear way to obfuscate planning policy. He added that Policy 16 appeared to be unfit for purpose in terms of stopping the conversions to student use. The Chair noted he agreed with Councillor J Elmer.

Councillor R Manchester asked for clarity on the need element, whether there was a need for one and two bedroom flats as proposed, as opposed to student HMOs, albeit with the application stating use for students. The Principal Planning Officer reiterated that it was not for the planning system to determine the end-user, and therefore would not preclude other renting the proposed flats. He drew Members attention to the reference to the appeal decision relating to 24 Nevilledale Terrace, where it had been refused as an HMO, then again refused as flats at Committee and then allowed as flats at appeal and reiterated that Officers' recommendation for this application was for approval.

Councillor J Elmer noted he believed that the proposals were for an HMO, given there was more than two bedrooms, and he would recommend refusal and not allow the application as it was actually an HMO.

The Lawyer (Planning and Highways), Neil Carter reiterated that, as stated by the Planning Officer, the application was not for an HMO, and if the property was to be used as an HMO in future, that would be a material change of use and would be looked at accordingly. He added that it was clear what the application before Members sought and it was not for Members to say it was something else. He concluded by noting that if Members were to assess the application as if it were an HMO and refuse the application he could see no way to defend the decision at any subsequent appeal.

Councillor L Brown asked if Officers knew how many unauthorised HMOs there were in the City, and seconded Councillor J Elmer's motion for refusal. Councillor J Elmer noted he felt the application was deceitful in applying for one thing while it was another thing.

The Principal Planning Officer noted that his professional advice was that he strongly believed there would be an award of costs at appeals if the application was refused on the grounds as proposed by Councillor J Elmer.

Councillor D Oliver noted the discussions with interest, adding he felt it may appear to be a slippery way around the rules. However, he appreciated the advice from the Principal Planning Officer and Lawyer (Planning and Highways) in respect of any appeal. He noted that the Committee was quasi-judicial and Members therefore needed to make decisions with that in mind. He added he was reluctant to refuse the application, noting the decision made on the first application on the agenda, and proposed approval as per the Officer's recommendation.

Councillor L Brown asked how many awards of costs against the Council there had been in the last year at appeals. The Principal Planning Officer noted he did not have the information to hand, the Lawyer (Planning and Highways) noted at least two cases in the last few months relating to planning appeals. Councillor L Brown asked if they were in cases where Committee had made the initial decision. The Lawyer (Planning and Highways) noted he did not recall.

Councillor R Manchester noted he would second approval of the application, adding while he felt it may be an attempt to get around HMO policies, he wondered if there could be any annual inspection regime that could be put in place, for a period of say three years. The Principal Planning Officer noted that when applying the test in respect of planning conditions, such a condition would fail in terms of reasonableness.



Councillor L Brown reiterated she felt the application was a way of getting around Policy 16. The Lawyer (Planning and Highways) noted the proposal for refusal, with Members noting they felt the property would be used as an HMO, however, he asked for refusal reasons. Councillor J Elmer noted he felt that the applicant misled the Planning Department. The Lawyer (Planning and Highways) noted that was not a proper planning reason for refusal, Planning Officers had determined that the application was valid and therefore it had progressed to Committee. Councillor J Elmer reiterated that he felt Policy 16 was unfit for purpose. The Lawyer (Planning and Highways) advised that if the refusal reason was that it was believed that the applicant had misled Officers and the Committee, he could see zero prospects of defending the decision at appeal and therefore Members would likely be entering adverse costs territory.

Councillor L Brown noted she felt the application should be refused on residential amenity. The Lawyer (Planning and Highways) asked for more specifics. Councillor L Brown noted in terms of being contrary to Policy 31 in respect of increased noise and disturbance impacting upon community cohesion and similarly contrary to the aims set out within the NPPF.

Upon a vote being taken, it was:

**RESOLVED:**

That the application be **REFUSED** as the change of use of the ground floor office accommodation into one two bed flat for student occupation would result in an adverse impact upon the amenity of existing residents through increased noise and disturbance and lead to community imbalance to the detriment of social cohesion in an area with a high concentration of existing HMOs, contrary to the aims of policy 31 of the County Durham Plan and Parts 12 and 15 of the NPPF.

**c DM/24/00695/FPA - 21 Laurel Avenue, Sherburn Road Estate, Durham, DH1 2EY**

The Planning Officer, Michelle Hurton gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change of use from dwellinghouse (C3) to small house in multiple occupation (HMO) (C4) including single storey extension, bin and cycle storage to rear and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted the removal of a wall to allow for additional in-curtilage parking, and cycle and bin storage to be provided and noted the bedrooms met NDSS.

She explained there had been no objections from the Council's Highways Section, however, there had been objections received from Belmont Parish Council and Local County Councillors. She added their objections had included the number of HMOs being greater than 10 percent in the area, a number of empty HMOs demonstrating there was no demand or need for further HMOs, impact in terms of increased anti-social behaviour, impact upon parking.

The Planning Officer noted that while HMO Licensing was not required, information as regards standards had been shared. She added that Class N Council Tax exempt properties within a 100 metre radius was 7.8 percent, with an unimplemented permission for 20 Laurel Avenue, if implemented, taking the percentage to 9.8 percent, still below the 10 percent threshold. She added Environmental Health had no objections subject to the inclusion of sound proofing. She concluded by noting there had been eight letters of objection, as summarised within the report.

The Chair thanked the Planning Officer and asked Parish Councillor Patrick Conway, representing Belmont Parish Council, to speak in relation to the application.

Parish Councillor P Conway thanked the Chair and Committee and noted that, as the report noted, the application was outside of the Parish boundary, however, it was within the Neighbourhood Plan area, and in meetings in which the Plan was being discussed, the issue of HMOs in this area had been raised. He noted that local views should be taken into account in determining planning applications, highlighting that all three local County Councillors had submitted their objections to the application.

Parish Councillor P Conway explained the application was contrary to CDP Policies 16, 21, 29 and 31 and Parts 2, 5, 8 and 9 of the NPPF. He added the Parish Council noted it was a matter of judgement and referred to appeals decisions which were felt to have been given undue weight. He noted that previous appeal decisions were not more significant than relevant policies and noted paragraph 84 of the report noted each application should be looked at on its own merits.

Parish Councillor P Conway noted that the Parish Council did not wish to add to the work of Council Officers, however, the Parish Council supported the local County Councillors and local residents in their objections, as there were still a number of substantial material issues.

He noted the NPPF objectives in respect of sustainable development, supporting social, economic and environmental issues. He added that HMOs replaced family homes and brought a transient population, only resident for 32 weeks of the year. He added that local residents should not be subsidising the profits of landlords, and noted the students themselves did not contribute to the local community. He added that in terms of HMOs, it was felt at best questionable to leave to market forces in respect of properties in the area, adding that data suggested that there would be in excess of 10 percent HMOs if rounding up figures.

Parish Councillor P Conway noted CDP Policy 16.3 did not mention a three year time limit on HMO permissions, and therefore this application, if approved, would be in excess of 10 percent.

Parish Councillor P Conway noted CDP Policy 21 in respect of vehicular traffic and safety. He explained the proximity of the application property to the local school, and as regards the very narrow carriageway in the area, often with vehicles parked straddling the footpath. He added that even with three parking spaces in-curtilage, there would still be impact upon parking in the area, effectively creating a chicane.

Parish Councillor P Conway noted that in respect of residential amenity, noting the change from six-bed to four-bed in order to meet NDSS, however, paragraph 67 of the report noted that overall floor area was less than required by approximately 12 percent. He added paragraph 61 referred to the rear extension window impact upon residential amenity. He noted that CDP Policy 29 in respect of sustainable design, the application did not meet the requirements in terms of floor space or the window and therefore could be refused on that policy. He concluded by reiterating that the Parish Council felt the application was contrary to CDP Policies 6, 21, 29 and 31 and the NPPF and should be refused.

The Chair thanked Parish Councillor P Conway and asked the Committee Services Officer to read out a statement on behalf of Local County Councillors E Mavin and L Mavin.

*“As County Councillors for the area, Eric Mavin and I, Lesley Mavin, wish to formally object to this planning application, DM/24/00695/FPA - Change of use from dwellinghouse (C3) to small house in multiple occupation (HMO) (C4) including single storey extension, bin and cycle storage to rear 21 Laurel Avenue, Sherburn Road Estate, Durham, DH1 2EY.*

*We believe it contravenes the following policies of the CDP for the following reasons:*

*Policy 16 - This states that the council should 'promote and preserve inclusive, mixed and balanced communities and to protect residential amenity'. There are 51 properties within 100m of the application site of which five benefit from a class N exemption or 9.8%. There is also one unimplemented consent – number 20 - which brings the total to 11.7%. It would seem this application therefore fails to satisfy Policy 16 3 b, and this clearly influences the balance of the local community in relation to both residents and students. The university itself has stated that there is no need for any further student accommodation within the city and surrounding areas. As there are also 800 fewer students this year, this need is even less. There is now an oversupply as evidenced by the number of empty out of town HMOs last academic year. The oversupply will be worse in Durham once the PBSAs with unimplemented planning permissions are built, especially the one at the old Majestic. This means the loss of another family house that may possibly lie empty, rotting away instead of being a family home of which there is a shortage in Durham City because of the granting of planning applications like this.*

*Policy 29*

*This concerns sustainable design, and we argue that removing more C3 housing stock, of which there is already a significant shortage, from a community where there is already unused, empty C4 houses, the viability in the area as a sustainable community will be reduced.*

*Policy 31*

*This relates to amenity and pollution, and again we argue that by creating a cluster of HMOs in a single area the occurrence of transient anti-social noise within the street will increase which will in turn negatively affect the character of the area and the amenity of its residents.*

*Policy 21*

*This policy requires that all new developments ensure that any vehicular traffic generated by new developments do not cause an unacceptable increase in congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements. This application relies on the unrestricted on street parking on Laurel Avenue. Suitable car parking spaces have not been provided Laurel Avenue has a local school, which already causes parking and obstruction issues. We are requesting for these reasons this application be refused".*

The Chair thanked the Committee Services Officer and asked Gary Swarbrick, Agent for the applicant, to speak in support of the application.

G Swarbrick reiterated that the application was for a four-bed HMO, and noted the concerns raised as regards the proliferation of HMOs.

He emphasised that CDP Policy 16, with its 10 percent threshold, was in place to maintain a balance within communities. He noted the issues within the viaduct area of the City, however, the situation was not the same within the application site area. G Swarbrick noted that a number of appeal decisions endorsed this position, where the percentage of HMOs was less than 10 percent, then this did not impact upon residential amenity. He added the only visual difference from a residential property would be a small lettings board, that would not detract in terms of visual amenity.

G Swarbrick noted that in respect of NDSS that the property could have had the same number of occupants under C3 use. He added that the modest single storey extension helped in terms of additional space, without impacting upon neighbouring properties in terms of dominance or overlooking, and in fact could be permitted development. He added the Highways Section had been satisfied with the proposals. He concluded by noting that while some may not wish for an HMO in the area, the application was not in conflict with CDP policies and therefore he asked that the application be approved.

The Chair thanked G Swarbrick and asked the Officers to clarify in terms of the percentage of HMOs in the area.

The Principal Planning Officer, Paul Hopper noted Policy 16.3(a) included a 10 percent threshold for Class N Council Tax exempt properties within a 100 metre radius of the application property. He added that currently that percentage was 7.8 percent, and if including an unimplemented permission for an HMO next door, the figure would be 9.8 percent. He noted that all planning permissions had a three-year time-limit in respect of implementation, however, assuming the other property's permission was implemented then the percentage would still be below the 10 percent threshold.

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

Councillor J Elmer asked if the room sizes were such to meet the NDSS, else would the application not be in breach of CDP Policy 29(e). The Principal Planning Officer noted the rooms met the NDSS and therefore was compliant with policy.

Councillor L Brown noted that while the property being converted to an HMO would not breach Policy 16 in terms of a 10 percent threshold, one would agree that the 'HMO bubble had burst', noting two in that area not being let and with 270 properties being available in the area, according to a newsletter. She added she had seen a number of HMOs for sale, offered with reduced rents, as well as a lot more PBSA bed spaces being in the pipeline.

She added that as landlord increasingly 'felt the pinch', the number of complaints as regards unkempt gardens was increasing. Councillor L Brown asked that, if approved, a later start time of 0800 for construction would be included. The Chair noted he agreed with the points made by Councillor L Brown.

Councillor R Manchester moved approval of the application, including the proposed change to construction start time by Councillor L Brown, he was seconded by Councillor D Oliver and upon a vote being taken it was:

**RESOLVED:**

That the application be **APPROVED**, subject to the conditions set out within the report, with amendment to the start time for construction works, from 0730 to 0800.

**d DM/23/03783/FPA - 10 Rowan Tree Avenue, Gilesgate Moor, Durham, DH1 1DU**

The Planning Officer, Michelle Penman 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 a retrospective application for increase in height of flat roof/fascia to front and side of property and new uPVC windows and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer referred Members to photographs of the streetscene, noting a number of various types of extension to properties in the area. She explained that Belmont Parish Council had objected to the application, having a detrimental impact in terms of design and amenity. She added there had been eight letters of objection from the public, with the main issues set out within the report, including: poor design, not in keeping with the area; windows added to create extra bedrooms, the property being advertised as a six-bed property; no proof from internal layouts that the rooms meet NDSS; and issues in respect of bins and the drains.

The Planning Officer noted that the property already had permission as a small HMO, noting that up to six-bed was therefore acceptable in terms of use, as permitted development rights had not been removed with the previous granting of permission for C4 use. She added that the development was not incongruent with other developments in the area, and the impact upon neighbouring properties, nor the issues raised in terms of layout, parking or drainage, were not sufficient to sustain a refusal reason.

The Chair thanked the Planning Officer and asked Parish Councillor P Conway, representing the City of Durham Parish Council, to speak in relation to the application.

Parish Councillor P Conway noted the retrospective nature of the application and added the issue had been ongoing since July 2022 and the change of use application. He explained that Belmont Parish Council had been contracted regularly regarding the implementation of that permission.

He noted that there had been verbal assurance from DCC Officers that the implementation would be in accordance with the conditions set by the July 2022 application, however, now there was a retrospective application and hence why the Parish Council asked for the application to be considered by Committee. He added it was remarkable that the application was not table to be considered by Members prior to call-in.

Parish Councillor P Conway noted that the Parish Council wish for all residents' views to be heard within the planning process and due to the number of objections and representations to the Parish Council then it was felt that the application should be brought to Committee.

Parish Councillor P Conway noted that it was accepted that the permission for HMO use had already been granted. He noted that had permitted development rights included the changes such that a retrospective application had not been required, then the Parish Council would not have called-in the application. He added that while the Parish Council were volunteers and not planning trained, they had noted the retrospective nature of the application. He noted that it was felt that the applicant should have been aware of the requirements of the July 2022 permission, with a basic professional competence in understanding the permission. He added that the windows were not as per the July 2022 permission, with a bathroom overlooking a neighbouring property.

Parish Councillor P Conway noted the fascia height was also at variance with the July 2022 permission, and the number of bedrooms had increased from four to six, as advertised. He asked why the applicant had not applied for a six-bed permission in July 2022, which would have required four in-curtilage parking spaces.

Parish Councillor P Conway noted the proliferation of HMOs was of great concern and reiterated that the application was retrospective, the changes from the July 2022 permission having already been done. He added there was a lack of trust in terms of the applicant and their intentions, noting a year ago the Parish Council had requested to meet with the applicant in order to had regular meetings as regards issues that may arise.

Parish Councillor P Conway concluded by reiterating the issue was not in respect of HMO status, rather that residents' views be taken into consideration and given the concerns that the four-bed property could become a six-bed property, ask that the permission and conditions of the July 2022 permission be fully adhered to.

The Chair thanked Parish Councillor P Conway and asked Fred Smith, local resident, to speak in objection to the application.

F Smith noted that the photographs that had been shown on screen gave a false representation of the fascia that was in place at the property. He added that the front had been blocked by a van for two months during development.

F Smith thanked Members for the opportunity to speak and thanked the Parish Council for calling the application to Committee. He urged that the Committee refuse the application, with the drawings being of a 'house that never was', the property being a six-bed HMO, shown as a four-bed on the drawings, having been changed from a three-bed residential property. He noted that therefore it effectively had never been a four-bed property.

F Smith noted that on 6 November 2023, Enforcement Officers had spoken with the developer as regards rectifying the issues with the windows and door, however, on 16 December 2023 an application was submitted and validated, including incorrect drawings.

F Smith noted that policy stated that applications should enhance the neighbourhood, and the Officer's report stated that NPPF Part 12 referred to achieving well-designed places, with the Government attaching great importance to the design of the built environment, with good design being a key aspect of sustainable development, indivisible from good planning. He explained that the fascia in place was not good, did not fit with the roof line and appeared to be an error. He added that Officers made light of the issue with the windows, stating that the window was '*...slightly further to the rear of the property, it is not considered that it will result in significant additional overlooking...*'. He noted that the report neglected to see that it was of course possible to see both in and out of a window, and that therefore it was visible from No.8, approximately seven metres away, resulting in a loss of privacy.

F Smith noted original Drawing 1240 had been submitted as part of the July 2022 application, and Drawing 1240/3 showing the new windows ready for converting rooms to additional bedrooms. F Smith noted it was for the Committee to decide on the application.

The Chair thanked F Smith and asked G Swarbrick, Agent for the applicant to speak in support of the application.



G Swarbrick noted that permission for use as an HMO had been granted in July 2022. He added that the current application was only matter being considered and was for minor exterior alterations. He noted that there was a slight shift to the window, which would have been permitted development. He noted that the other issues were also minor, and the Officer had stated they did not represent an unacceptable impact upon residential or visual amenity. He added that the fascia met with building regulations and again did not impact. He noted the variety of extensions and alterations on Rowan Tree Avenue and therefore the property was not out of keeping with the built environment. He added that therefore he would ask that permission was granted.

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

Councillor L Brown asked for clarification in terms of any breach of conditions in respect of the previous application. The Planning Officer noted the works had not been completed fully in accordance with the plans, and therefore the retrospective application had been submitted, as before Committee.

Councillor L Brown noted that she felt the applicant, with their experience, should have known as regards the window and not breached the Residential Amenity SPD. The Planning Officer noted that noted the slight change to the bathroom window, now clear, however, it was offset and did not amount to a significant change and was not in breach of separation distances. Councillor L Brown noted that paragraph 46 of the report stated the window was '*...believed to serve the stairs/landing...*' and asked for clarification if that was indeed the case. The Planning Officer noted Officers were satisfied that was the case.

Councillor J Elmer asked, if the July 2022 application had been for a six-bed HMO, whether all the rooms would have met the NDSS. The Principal Planning Officer, Paul Hopper explained that would be difficult to say, as no such six-bed HMO application had been made. Councillor J Elmer noted that if a six-bed large HMO application had been submitted, it would have been a very different consideration and he felt the applicant would have been well aware of what the final layout would be, misleading the planning department. He asked whether the planning department had been misled, and would a six-bed HMO have more impact in terms of community cohesion. The Planning Officer noted that small HMOs were up to six-bed, and would have been assessed as a small HMO, just with two more bedrooms. Councillor J Elmer asked if a Licence was required. The Principal Planning Officer noted that if a property did or did not require an HMO Licence was outside of planning. Councillor L Brown noted a licence was required for six-bedrooms or more.

The Chair noted that a motion was required to be put, one way or the other.

Councillor D Oliver noted that he was happy to move approval, adding he felt the Committee's hands were tied. He was seconded by Councillor R Manchester and upon a vote being taken it was;

**RESOLVED:**

That the application be **APPROVED**, subject to the conditions set out within the report.

e **DM/24/01303/FPA - County Hall Car Park, County Hall, Durham, DH1 5UQ**

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 temporary change of use of car park for use by a school for a purpose falling within Class F.1(a) (provision of education) and was recommended for approval, subject to the conditions as set out in the report.

The Chair noted there were representatives from the construction company present to answer any questions Members may have.

Councillor L Brown asked whether the application was retrospective, and what would happen should Members refuse the application. The Principal Planning Officer noted the application was solely the change of use application, the Government having noted that works on school sites would be permitted development, and therefore if the change of use was granted, then the works would benefit from that permitted development.

Councillor J Elmer moved approval, he was seconded by Councillor L Brown and upon a vote being taken it was:

**RESOLVED:**

That the application be **APPROVED**, subject to the conditions set out within the report.

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/24/01045/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Change of use from dwellinghouse (C3) to a house in multiple occupation (C4) including single storey extension, cycle parking and bin storage to rear and formation of car parking area to front
<b>NAME OF APPLICANT:</b>	Sugar Tree Limited
<b>ADDRESS:</b>	63 Frank Street Gilesgate Moor Durham DH1 2JF
<b>ELECTORAL DIVISION:</b>	Belmont
<b>CASE OFFICER:</b>	Clare Walton Planning Officer Clare.Walton@durham.gov.uk 03000 261060

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site relates to a two-storey semi-detached property located within Frank Street, Gilesgate Moor, Durham. The application site includes outdoor amenity space to both the front and rear and is located in close proximity to the Dragonville Retail Park, Dragon Lane and the Durham City Retail Park, McIntyre Way.

#### The Proposal

2. Planning permission is sought for the change of use of the existing three bedroomed C3 dwellinghouse into a five bedroomed C4 house in multiple occupation (HMO) which also incorporates a single storey extension to the rear of the property. The extension would accommodate an additional bedroom and the relocation of the shared living room. 3 No in-curtilage parking spaces are proposed to the front of the property with storage proposed within the rear garden.
3. The application is reported to planning committee at the request of Belmont Parish Council who considers the applicant's contention that the proposed change satisfies sustainable development, as set out in the National Planning Policy Framework is not supported by any evidence to justify the economic, social and environmental viability of the area will be improved. Belmont Parish Council considers that these issues are such that they require consideration by the committee.

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## **PLANNING HISTORY**

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4. None relevant to the current application.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

#### National Planning Policy Framework

5. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
6. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore, at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
7. NPPF Part 4 Decision-Making - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
8. NPPF Part 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 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 in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.

18. Policy 21 (Delivering Sustainable Transport) Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.
19. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 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. Policy 41 (Biodiversity and Geodiversity) sets out that 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.
22. The Council's Residential Amenity Standards Supplementary Planning Document (RASSPD) sets out guidance for all residential development across County Durham and will form a material planning consideration in the determination of appropriate planning applications. It sets out the standards Durham County Council will require in order to achieve the Council's commitment to ensure new development enhances and complements existing areas, in line with the aims of the County Durham Plan.
23. The Council's Parking and Accessibility Standards Supplementary Planning Document (PASPD) supports Planning Policy 21 (Delivering Sustainable Transport) of the County Durham Plan and should be read in conjunction with the Councils Building for Life SPD, Residential Amenity SPD and the Highway Design Guide. The PASPD sets out guidelines for car and cycle parking that are to be applied equally across the county and for development to be situated within an accessible location.

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

## NEIGHBOURHOOD PLANNING POLICY

24. The application site is located within the Belmont Neighbourhood Plan area. However, the plan is not at a stage to which regard is to be had.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

25. The Highway Authority raises no objection to the application following receipt of an amended floor plan reducing the number of bedrooms from 6 to 5 which now satisfies the requirements of the Parking and Accessibility SPD 2023.
26. County Councillors Eric and Lesley Mavin object to the application due the percentage of HMOs within the 100m radius exceeding the 10% threshold, the university has stated that there is no need for further student accommodation, already empty HMOs within the area, creating a cluster of HMOs in a single area will increase anti-social noise negatively impacting the character of the area and amenity of residents, scheme relies on unrestricted on street parking, inadequate onsite parking close to a primary school.
27. Belmont Parish Council objects to the proposed change of use as it threatens the established community and balance of Frank Street populated by young families and longstanding residents, there is no need for additional student accommodation, confirmed by Durham university, close to a primary school, house on an inadequate narrow highway and parking concerns.

### INTERNAL CONSULTEE RESPONSES:

28. 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 4.5%, there is one unimplemented consent within the 100m radius being 48 Frank Street. Accounting for the unimplemented consent the percentage figure would be 6.0%.
29. HMO Licensing have confirmed that the property will need to be licensed.
30. Environmental Health have raised no objections subject to conditions relating to sound proofing measures and Construction Management Plan.

### PUBLIC RESPONSES:

31. The application was advertised by way of site notice and neighbour notification letters were sent to nearby properties. No objections from residents were 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:

32. The current application proposals involve the change of use of an existing dwellinghouse (Use Class C3) to a 5-bedroom HMO (Use Class C4) within an area where less than 10% of properties within a 100m radius are Class N exempt. The proposed development will deliver high quality HMO accommodation operated by

one of the largest student landlords in the City to meet the needs of students seeking such forms of accommodation.

33. The proposed HMO would deliver safe and secure accommodation that meets the standards of the well-established accreditation scheme supporting the provision of a range of high quality student accommodation options to meet the needs of students studying at the university, whilst ensuring that there will be no unacceptable impacts on highway safety, community cohesion or the amenity of non-student residents due to the limited size of the proposed HMO, the management arrangements that will be in place and the fact that there is not an existing overprovision of student properties in the immediate locality given the 10% threshold has not been breached. The application proposals therefore fully comply with Policy 16(3) and other relevant policies of the County Durham Plan (CDP).
34. We acknowledge the continued concerns over the need for further student accommodation and the impact of such forms of development on community cohesion and residential amenity. However, there is no requirement to consider need under the provisions of Policy 16(3) and recent appeal decisions, including at 41 Fieldhouse Lane, 33 St Bede's Close and 58 Bradford Crescent, have found concerns over community cohesion and residential amenity to be largely unfounded having regard to the provisions of the relevant policies of the adopted CDP. The appeal decision at 58 Bradford Crescent is particularly pertinent being located in Gilesgate and owned by the same applicant. The appeal was ultimately dismissed due to a proposed bedspace within the property not complying with Nationally Described Space Standards (NDSS), however, in relation to other key considerations and concerns cited by local stakeholders and also by Members in refusing planning permission, the Inspector concluded as follows:
- The proposal would retain an appropriate mix of housing in the area and would accord with Policy 16 of the CDP in respect of this issue;
  - The proposal would be acceptable in terms of parking and highway safety and would accord with Policy 16 of the CDP;
  - Several properties in the area display small window stickers and lettings boards bearing the name of student letting agents, indicating that they were HMOs. However, the properties otherwise bore limited indication of such use, and appeared externally similar to the majority of other properties in the area. The proposal would be appropriate in terms of its effect on the character and appearance of the area.
  - The proposal would not adversely affect the living conditions of nearby occupiers and would accord with Policies 16, 29 and 31 of the CDP, which together seek for development to provide high standards of amenity and security, and to avoid unacceptable impacts on health, living and working conditions.
35. The current application proposals comply with NDSS, which was the sole reason for the appeal at 58 Bradford Crescent being dismissed. The wider conclusions drawn by the Inspector in relation to housing mix and community cohesion, highways; impact on the character and appearance of the area; and impact on residential amenity can evidently be applied equally to the current application proposals and it is evident that there is therefore no reasonable basis to refuse planning permission for 63 Frank Street on the basis of the findings of the previous Inspector. The application proposals fully accord with the relevant policies of the adopted Development Plan and planning permission should therefore clearly be granted.



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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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36. 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. 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 the character and appearance of the area, impact on residential amenity and community balance/social cohesion, impact on highway safety and ecology.

### **Principle of the Development**

37. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses within C4 (houses in multiple occupation - HMOs) without requiring planning permission. A small HMO is where between three and six unrelated individuals live together in a property considered to be 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 scheme is such that the development would normally benefit from the provisions contained within the GPDO. However, an Article 4 direction is now in force which withdraws permitted development rights for change of use from C3 to C4, therefore an application for planning permission is now required.
38. The proposal relates to the change of use from a 3 bedroom dwellinghouse (Use Class C3) to a 5-bed HMO (Use Class C4). The application originally proposed 6 bedrooms, however one of the bedrooms did not meet the requirements of the NDSS and this was removed from the application. Other works involve internal and external alterations, incorporating a single storey extension to the rear and creation of in curtilage vehicle parking and cycle storage. The dwellings current layout is broadly traditional with 3-bedrooms to the first floor and kitchen/dining room/lounge to the ground floor. The change of use proposes an additional 2 bedrooms and shower room to the ground floor, delivered via single storey rear extension and reconfiguration of the existing layout.
39. Policy 6 (Development on Unallocated Sites) of the CDP states that the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and:
- 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.

40. The site is within the built-up area of Gilesgate and occupies a broadly sustainable location and as such the principle of development can draw support from Policy 6, subject to compliance with the criteria listed. In relation to criteria a) and b), it is considered that the conversion of the building into a small HMO in this location would be compatible with adjoining residential uses and would not be prejudicial to any existing or permitted adjacent uses, subject to detailed consideration of the impact of the development on residential amenity, which is assessed in more detail elsewhere in this report. The development would not lead to the coalescence of settlements and there are no concerns that the proposal would lead to inappropriate ribbon development, nor that it would be considered inappropriate backland development.
41. The development would not result in the loss of open land that has any recreational, ecological or heritage value (criteria c) and as already noted the site occupies a sustainable location. There is a wide range of facilities within walking distance and the site benefits from access to sustainable modes of transport (criteria f). The site would not result in the loss of any valued facility or service (criteria g) and the development makes best use of previously developed land (criteria i). The requirements of criteria d, e, h of policy 6 are considered elsewhere within this report. It is not considered that criteria j is appropriate in relation to this proposal.
42. In addition to Policy 6, Part 3 of CDP Policy 16 is also relevant which relates to houses in multiple occupation. 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 House in Multiple Occupation in Class C4 or 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.*

*In all cases applications for new build Houses in Multiple Occupation, change of use to Houses in Multiple Occupation or a proposal to extend an existing House in Multiple Occupation to accommodate additional bed space(s) will only be permitted where:*

- d. *the quantity of cycle and car parking provided has regard to the council's adopted Parking and Accessibility Supplementary Planning Document (SPD);*
- e. *they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues;*
- f. *the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and*
- g. *the applicant has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.*

*New build Houses in Multiple Occupation, extensions that result in specified or potential additional bedspaces or a change of use to a House in Multiple Occupation would not be resisted in the following circumstance:*

- h. *where an area already has a concentration in excess of 90% of council tax exempt properties (Class N), that this is having an unreasonable impact on current occupiers and that the conversion of remaining C3 dwellings will not cause further detrimental harm to the residential amenity of surrounding occupants; or*
- i. *where an existing high proportion of residential properties within the 100 metres are exempt from council tax charges (Class N), on the basis that commercial uses are predominant within the 100 metre area.*

- 43. Belmont Parish Council and Ward Cllrs have raised objection citing a view that the proposal would unbalance the community and be harmful to social cohesion. Whilst these concerns are noted, the Council's HMO Data Officer has confirmed that less than 10% of properties within 100 metres of the site are Class N Exempt from Council Tax and this is below the threshold stated in Part 3 of Policy 16, and this would remain the case should planning permission be granted for the proposed change of use. The development is therefore considered acceptable in principle subject to satisfactory consideration of relevant development plan policies and the other requirements included within Policy 16, which are discussed in more detail below.
- 44. There is one unimplemented planning permission for the change of use from C3 to C4 within 100 metres of the site that remains capable of implementation. However, should this be implemented the concentration of HMOs would increase to 6% which remains below the 10% threshold stated in Part 3 of the CDP Policy 16. As such, 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 could be considered a primary access route between Purpose Built Student Accommodation and the town centre, or a university campus, and therefore the development would comply with Policy 16 in this respect.
- 45. As this concentration of Class N Student Exempt properties would be below the 10% threshold stated in the CDP, the development can be considered to comply with policy 16, Part 3, criteria a) and b) (criteria c) not being relevant) and is acceptable in principle, subject to further consideration of the proposal against other criteria on Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.
- 46. Objections have also been received that the application fails to demonstrate need for accommodation of this type in this location, and that there is a surplus of student accommodation within Durham City with a high volume of HMOs being currently vacant. However, whilst Part 2 of policy 16 requires need for additional PBSA accommodation to be demonstrated (along with a number of other requirements) this is not a requirement of Part 3 of Policy 16, and it is this part of Policy 16 against which

the application must be assessed. As already noted, it is considered that the proposal would accord with the requirements set out in Part 3 of Policy 16. The lack of any specific information with regards to need cannot be afforded any weight in the determination of this application. In relation to need, it is recognised that market forces will, in the main, deliver the level of student accommodation required without resulting in a significant oversupply of accommodation, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration.

47. Paragraph 63 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 less than 10% of properties within 100m radius of the application site are Class N exempt, this would remain the case post development, should permission for the current change of use be granted the aims of Paragraph 63 would be met.
48. Objections from Belmont Parish Council and Ward Cllrs have been received citing that the development would have an adverse impact upon social cohesion and unbalance the community to the extent that there would be an over proliferation of this type of accommodation in the locality forcing families out of residential Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of policy 16 which seeks to strike an appropriate balance through the threshold of no more than 10% of properties being in HMO use. As already noted above, in light of the low level of Class N exempt properties within 100m radius of the site at present, it is not considered that this proposal would be contrary to the NPPF or CDP in this regard. 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.
49. Taking account of the above it is considered that the principal of development is acceptable, and the proposal would accord with the requirements of Policy 16 of the CDP and Paragraph 63 of the NPPF in this regard.

### **Impact on residential amenity**

50. Paragraph 135 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. Policy 31 (Amenity and Pollution) of the CDP displays broad accord with the aims of paragraph 135 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 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.
51. 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 north with further residential properties to the north, south and west also within Frank Street and to the east lies the western edge of Dragonville Retail Park

52. The development would fall within the thresholds associated with Council's Technical Advice Notes (TANS) relating to noise. 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 in terms of comings and goings at the property. The demographic that uses this type of accommodation are often associated with greater use of the night-time economy and as such an increased level of night-time noise may occur. However, this is anecdotal, as the potential for impact is associated with the personal habits of the individuals residing there and as such, might differ greatly and recent appeal decisions have established there it would be unreasonable to assume that all students conduct themselves in a less than responsible manner.
53. 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 the application. In most cases, it is held that changes of use from C3 dwellinghouses to HMO use can be adequately mitigated to be 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 several previous planning applications in this regard and proved successful in defending those at appeal. 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.
54. Notwithstanding the above, a document titled 'Management Plan' has been submitted in support of the application which states that the property would be appropriately maintained by Harringtons Sales and Lettings Limited (Harringtons), who are a well-established student accommodation letting agent within Durham City. A tenancy agreement is included which details matters around noise and anti-social behaviour with has appropriate penalties should these be breached. Whilst the document is titled 'Management Plan' the document is more for the tenant as opposed to the specific management of the site and how the applicants would ensure appropriate management is carried out. Therefore, officers consider and recommend that should the committee be minded to grant planning permission, the submission, agreement and implementation of precise details of a detailed management plan should be secured through planning condition. Therefore, subject to the inclusion of a planning condition in this regard, the development is considered to accord with the requirements of policies 16 and 31 of the CDP.
55. Furthermore, the applicants have confirmed that the property would meet all relevant safety standards with gas and electrical safety certificates, as well as mains linked smoke detectors. The windows and doors would be fitted with locks and the property lies within a residential estate with street lighting for natural surveillance from surrounding properties. Therefore, providing safe and secure accommodation in accordance with policy 16 Part 3 criteria g.

56. The scheme has been amended since original submission to reflect a reduction in the number of bedrooms proposed from 6 down to a 5 and proposes 2 new bedrooms and shower room at ground floor level which would see part of the existing lounge to the front become a bedroom. An extension is also proposed to the rear which would create a bedroom and lounge. As the property is a semi-detached dwelling, the adjoining property would be of a handed design and therefore the ground floor bedroom to the front would be adjacent to the neighbouring properties lounge area which could lead to a greater impact for the individual residing in this bedroom, as well as potentially leading to complaints against the reasonable use of the neighbouring ground floor.
57. It is acknowledged that greater impact would potentially be experienced for occupants of these ground floor bedrooms given their proximity to the communal living space. In light of the above, the proposed floor plans show that the internal party walls are to be upgraded using GypLyner Acoustic to meet the sound proofing requirements. The EHO has confirmed that this approach would be sufficient to prevent excessive ingress and egress of noise and therefore should be permanently retained thereafter to be secured via planning condition.
58. Subject to the inclusion of a planning condition in this regard it is not considered that there would be any unacceptable transfer of noise to neighbouring properties, and the Council's EHO makes no objection to the application.
59. As noted above, a single storey extension is proposed to the rear of the dwelling. The extension proposes a 3.8m projection from the rear build line of the host property.
60. To minimise the potential for overshadowing to neighbouring properties the Council operates what is known as a '45 degree code'. Guidance within the Residential Amenity Standards Supplementary Planning Document also outlines that the extent of the impact will however depend upon a number of factors including the orientation of the property, existing features such as boundary walls, outbuildings and other solid structures, ground levels and the type of window impacted upon (i.e. whether it is a primary or secondary window). Advising that the 45 code is not a rigid standard which must be met in every case. Rather it is an assessment tool which will be used in conjunction with other relevant factors, including daylight and sunlight tests to gauge the acceptability of proposals in terms of the overshadowing/loss of light impact upon neighbouring properties.
61. Whilst the extension does not meet the requirements of the Residential Amenity SPD in that it fails to meet the 45 degree code in terms of its relationship with No. 61 Frank Street, it should be noted that number 61 has planning permission for a single storey rear extension which was approved as part of a similar application in regard to an HMO in 2022. It is also noted that the extension proposed within this application is 80cm larger than that what would have been considered permitted development. It should be further noted that no objections have been received in relation to the extension itself.
62. This element of the proposal therefore does display some degree of non-compliance with guidance contained in the Residential Amenity SPD. However, the degree of harm arising as a result is considered limited given the extension has a depth of 80cm beyond that which otherwise would be considered permitted development. Consequently, this impact is considered insufficient to sustain refusal of the application.
63. The property includes adequate external space to accommodate sufficient bin storage located within the garden and therefore accords with criteria e) of Part 3 to Policy 16.

In addition, it is considered there is sufficient external amenity space to serve the inhabitants in accordance with policy 16 of the CDP.

64. In relation to internal space, the Nationally Described Space Standards (NDSS) is a government introduced nationally prescribed internal space standard which sets out detailed guidance on the minimum standard for all new homes and was created with the aim of improving space standards within new residential development across all tenures. Evidence compiled during formulation of the County Durham Plan identified that many new homes in the county were being built below NDSS and that this was having an impact on the quality of life of residents. As a result, the Council determined that it was necessary to introduce the NDSS in County Durham, with the aim of improving the quality of new build developments coming forward.
65. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of policy 29(e) of the CDP which requires new development to provide high standards of amenity and privacy.
66. With regard to the above it is noted that the application originally proposed an increase of 3 additional bedrooms, and some did not meet minimum NDSS requirements. Consequently, the scheme has been amended and the number of bedrooms reduced, and all now meet minimum NDSS requirements. As such, the proposal is considered to provide an acceptable amount of internal space in accordance with policy 29(e) of the CDP. However, it is noted that any future subdivision to provide a 6th bedroom would fall significantly below those minimum space's standards set out in the NDSS and as such a planning condition should be included to limit the number of occupiers to a maximum of 5.
67. With regard to the total overall internal space, it is noted that the NDSS does not provide specific guidance for 5 bed 5 person dwellings but does suggest a minimum of 97 sq metre for 4 bed 5 person dwellings and a minimum of 110 sq metres for 5 bedroom 6 person dwelling. The NDSS provides no specific guidance in this regard but remains a useful tool in assessing the quality of development for the purposes of CDP Policy 29(e). Therefore, whilst it is noted that 94sq metres of internal space would be provided given that some of the bedrooms are in excess of the minimum space required by NDSS sufficient internal amenity space would be provided to ensure the residential amenity of residents would not be undermined in accordance with policies 31 and 29 of the CDP.
68. Therefore, overall, the proposal is considered to comply with policy 29(e) of the CDP in that it provides a suitable amount of internal and external amenity space to meet the needs of future occupiers and deliver a suitable quality of development in relation to policy 29(e) and policy 16.3 of the CDP and Paragraph 135 of the NPPF.

### **Impact on the character and appearance of the area**

69. Paragraph 131 of the NPPF advises that the creation of high quality, beautiful and sustainable 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. Policy 29 of the CDP 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.

70. The application includes erection of a rear extension and the formation of a driveway to the front of the property. The former would be located away from any public vantage point and as such would have limited visual amenity impact but subject to a condition to ensure materials used in external surfaces match the existing there would be no adverse impact in this regard. The creation of the driveway is required to accord with the Council's Parking Standards and is considered acceptable in principle given similar arrangements existing at other properties within the locality.
71. It is therefore considered that the proposed development would fit with the character and appearance of the area and would not have a detrimental impact on the appearance of the wider streetscene.
72. Taking the above into consideration, it is considered that the proposed development would accord with Policy 29 of the CDP and Part 12 of the NPPF.

### **Highway Safety and Access**

73. Policy 16.3 of the CDP requires new HMOs to provide adequate parking and access and 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 114 of the NPPF which requires new development to provide safe and suitable access to the site.
74. Objections have been raised by Belmont Parish Council and Cllrs Eric and Lesley Mavin that the development would increase the already existing parking problems.
75. The application proposes the change of use from 3 bed property, which would have an existing parking requirement of 2 spaces although none are currently provided, to a 5 bed property which would have a parking requirement of 3 spaces as required via the 2023 Parking and Accessibility SPD. The Highway Authority objected to the original proposal for 6 bedrooms and advised that the applicant demonstrate how they would provide the 4 spaces required by the 2023 Parking and Accessibility SPD. In response the application was amended to reducing the number of bedrooms to 5 and proposing 3 in curtilage parking spaces. As such the proposal now accords with the SPD and adequate parking would be provided and the Highway Authority raises no objection in this regard subject to the creation of a new vehicular crossing to accommodate the proposed parking area which would require the applicant to enter into a S184 agreement with the Local Highway Authority.
76. Concerns have been raised that the change of use would increase the presence of parked vehicles within surrounding streets. However, noted that the provision of in curtilage parking in accordance with the Council's Parking Standards it is not considered that there would be any unacceptable increase in demand for on street parking to an extent that it would adversely impact upon existing network. 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.
77. Cycle storage is shown on the proposed site plan and its provision is a requirement of criteria (d) of Part 3 to Policy 16 of the CDP. As such it is recommended should approval be granted, to include a planning condition to secure provision of the cycle



storage prior to first occupation of the C4 use and for its retention whilst the property is in use as a small HMO.

78. Therefore, notwithstanding the concerns raised by residents and the Parish Council in relation to parking and changes to bus timetables, it is not considered that the development would have a detrimental impact upon highway safety sufficient to sustain refusal of the application. In light of the above, it is considered that the development would accord with the aims of policy 16.3 and 21 of the CDP and paragraph 114 of the NPPF.

## **Ecology**

79. NPPF Paragraph 186 d) advises that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. In line with this, CDP Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
80. The application was submitted after the 12th of February 2024, the date on which the requirements of the Environment Act 2021, as inserted into Schedule 7A of the Town and Country Planning Act 1990, came into force. However, it is noted that there are a number of exemptions which if applicable, can remove a development from the legal requirement to deliver a minimum of 10% net biodiversity gain through the development. The Environment Act 2021 includes exemptions for permitted development which includes development which does not impact on any onsite property habitat and where there is an impact this must be less than 25 square metres of onsite habitat. In addition, the Act also excludes householder development defined as an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of a dwellinghouse for any purposes incidental to the enjoyment of the dwellinghouse.
81. The development relates to a dwellinghouse and as such falls within the exemption listed above and as such the development is considered to be exempt from requirement to deliver 10% net increase in biodiversity net gain. The development therefore accords with the aims of policy 41 of the CDP, Part 15 of the NPPF and Schedule 7A of the Town and Country Planning Act 1990.

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## **CONCLUSION**

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82. In summary, it is considered that the principle of development is acceptable in planning terms and would accord with the aims of policies 6 and 16 of the CDP subject to appropriate planning conditions described within the report and listed below.
83. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the introduction of a small HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs, nor would it result in an unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of HMOs, highway safety or ecology (including biodiversity net gain) in accordance with policies 6, 16, 21, 29,31 and 41 of the County Durham Plan and parts 9, 12 and 15 of the NPPF.

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

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## **RECOMMENDATION**

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

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

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

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

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

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 Part 12 of the National Planning Policy Framework.

4. Prior to the first occupation of the property for the purposes of C4 the sound proofing detailed on Drawing No. 1392 04 A entitled 'Proposed Floor Plans and Elevations received 6th June 2024 shall be fully installed and thereafter retained at all times during which the property is in C4 use.

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

5. The development shall be operated strictly in accordance with the measures detailed in the submitted Property Management Plan (received 12/06/2024) for the duration that the property is occupied as a HMO.

Reason: In the interests of reducing the potential for harm to residential amenity, anti-social behaviour or the fear of such behaviour within the community having regards Policies 29 and 31 of the County Durham Plan.

6. The HMO hereby approved shall be occupied by no more than 5 persons at any one time.

Reason: To provide adequate internal amenity space in the interests of residential amenity in accordance with the requirements of Policies 29 and 31 of the CDP.

7. The cycle storage provision shown on the Proposed Site Plan (drawing number 1392 05) received on the 19th of April 2024 shall be available for use prior to the first use of the property as a small HMO (Use Class C4) and shall thereafter be retained for use at all times whilst the property is occupied as a small HMO.

Reason: To promote sustainable modes of transport in accordance with policies 6 and 16 of the County Durham Plan.

8. In undertaking the development that is hereby approved:

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

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

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

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

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

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## **ADDITIONAL MATTERS**

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Highway Permit

The approved development involves works which will require a permit under Section 184(3) of the Highways Act 1980. You should contact Ian Harrison in the Highway Authority on 03000 269249 or [highways.licensing@durham.gov.uk](mailto:highways.licensing@durham.gov.uk) to discuss this matter further.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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

Statutory, internal, and public consultation responses

The National Planning Policy Framework (2023)

Technical housing standards – nationally described space standard (2015)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Durham County Council Residential Amenity Standards SPD (2022)

Durham County Council Parking and Accessibility SPD (2023)



Site Location Plan



**Planning Services**

DM/24/001045/FPA Change of use from dwellinghouse (C3) to house in multiple occupation (HMO) (C4) including single storey extension, bin and cycle storage to rear at 63 Frank Street Gilesgate Moor Durham DH1 2JF

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10/09/2024

**NTS**

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