



Area Planning Committee (Central and East)

Date Tuesday 8 October 2024
Time 9.30 am
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 10 September 2024
(Pages 3 - 12)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee
(Central and East)
 - a) DM/24/02063/FPA - 58 Bradford Crescent, Gilesgate, Durham, DH1 1HL (Pages 13 - 36)
Change of use from dwellinghouse (Use Class C3) to a small house in multiple occupation (Use Class C4) including single storey rear extension, cycle parking and bin storage.
 - b) DM/24/01649/FPA - 2 Monks Crescent, Gilesgate, Durham, DH1 1HD (Pages 37 - 58)
Change of use from dwellinghouse (Use Class C3) to a small house in multiple occupation (Use Class C4) including driveway widening, cycle parking and bin storage.
 - c) DM/24/02126/FPA - 3 Aspen Close, Gilesgate Moor, Durham, DH1 1EE (Pages 59 - 82)
Change of use form 3 bedroom residential dwelling (Use Class C3) to a 4 bedroom small HMO (Use Class C4) with extension to driveway and provision of cycle storage.

- d) DM/24/00692/OUT - Homer Hill Farm, Pittington Road, Rainton Gate, Houghton-le-Spring, DH5 9RG
(Pages 83 - 112)

Outline application for the erection of 1 No. rural workers dwelling (with all matters except access reserved).

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
30 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 10 September 2024** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors D Oliver (Vice-Chair), A Bell, L Brown, J Clark, S Deinali, J Elmer, L A Holmes, D McKenna, K Shaw and A Surtees

1 Apologies for Absence

Apologies for absence were received from Councillors I Cochrane, C Kay, R Manchester and K Robson.

2 Substitute Members

There were no Substitute Members.

3 Minutes

The minutes of the meeting held on 9 July 2024 and Special meeting held on 22 July 2024 were confirmed as correct records by the Committee and signed by the Chair.

4 Declarations of Interest

There were no Declarations of Interest.

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

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 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 and was recommended for approval, subject to the conditions as set out in the report.

The Principal Planning Officer referred Members to site plans, noting the Tesco store and Dragonville Retail Park to the east of the application site. He referred Members to site plans and photographs, and existing and proposed layouts for the property.

Councillor LA Holmes entered the meeting at 9.36am

The Principal Planning Officer explained that objections to the application had been received from Belmont Parish Council and Local Councillors E Mavin and L Mavin, with further representations from Local Councillor C Fletcher having been submitted, to be read out by the Committee Services Officer in due course. He noted that reasons cited included there being no demonstrated need for further student accommodation, as well as the application being harmful in terms of the local environment, parking and highway safety. He noted there were no objections raised by the Council's Highways Section.

The Principal Planning Officer noted no objections from internal consultees, including HMO (Houses in Multiple Occupation) Licensing, HMO Data and Environmental Health, subject to the condition set out within the report. He noted that the material considerations were set out within the report, with County Durham Plan (CDP) Policy 16, Part 3 being relevant, with there being less than the 10 percent threshold, in terms of Class N exempt properties within a 100 metres radius. He added that in terms of the character and appearance of the area, noting that all works, except those in relation to parking, were to the rear of the property, and noted the single storey extension was subservient to the main property and did not impact in terms of overshadowing. He explained that there was adequate parking in-curtilage and therefore there was no adverse impact in terms of highway safety.

The Principal Planning Officer noted that Condition 6, within the report, set out that the property would be occupied by no more than five persons, preventing use by more people or further subdivision. He concluded by noting that as Officers felt the application was in line with policy, it was recommended for approval, subject to the conditions as set out within the report.

The Chair thanked the Principal 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 local views were material and should be taken into account in determining planning applications, highlighting that all three local County Councillors had submitted their objections to the application, as had many local residents that had approached the Parish Council, despite there being no formal objections from residents on the Planning Portal.

Parish Councillor P Conway explained the application was contrary to County Durham Plan (CDP) Policies 16, 21, 29 and 31 and in variance with Parts 2, 5 and 8 of the National Planning Policy Framework (NPPF). He referred to appeals decisions which the Parish Council felt had been given undue weight within the report, the report suggesting a precedent had been set, with costs awarded in some cases. He noted Inspectors were not bound by previous decisions by other Inspectors. He added 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 family home with a family resident 52 weeks a year would be replaced by a transient group, resident only around 30 weeks a year, noting the loss in Council Tax. He added that in effect, residents were subsidising the profits of landlords. He added the transient nature of the tenants meant that they contributed little to the local community. Parish Councillor P Conway added that often the visual appearance of HMO properties and garden was poor.

In respect of Policy 16, Parish Councillor P Conway noted that the 10 percent threshold was often referred to as the 'tipping point', however, Policy 16 also referred to, within its narrative, that development should ensure inclusive and mixed communities, stating the impact that HMOs can have. He added that in reference to 63 Frank Street specifically, Belmont Parish Council felt there had been no demonstration of demand for these types of property, with the preparation for the 102-page Belmont and Gilesgate Neighbourhood Plan, where views had been canvassed. He added that the view from Estate Agents had been there was in fact demand for family homes, low-cost affordable properties to enable people to get on to the property ladder.

Parish Councillor P Conway noted that paragraphs 61 and 62 of the Officer's report made reference to overshadowing, however, the property next door also appeared to be owned by the applicant, and Parish Councillor P Conway queried whether a more lenient approach had been taken concerning that aspect. He added that the closures currently on Mill Lane, for up to 12 months, was a considerable disruption to traffic for St. Hild's Church of England and St. Joseph's Roman Catholic Primary Schools and the impact upon the bus route along Sunderland Road. Parish Councillor P Conway explained that the Parish Council has suggested a number of improvements to the current arrangements in terms of the road closures, noting many more people were using Frank Street as access due to the closure. He noted that therefore, if the Committee were minded to approve the application, the Parish Council would ask that the permission not be implemented until the Purpose Built Student Accommodation (PBSA) on Sherburn Road was complete.

Parish Councillor P Conway noted that on a number of occasions the Parish Council had asked for a review of CDP Policy 16 and reiterated that the residents of Belmont Parish felt that the policy was not fit for purpose, as evidenced by the number of applications that had been objected to or commented upon. He explained that local residents did not feel as if they were being listened to. He noted that planning reports appeared to stem from a 'development is good' perspective, however, the NPPF had a number of caveats that the Parish Council felt were not being given sufficient weight.

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/24/01647/FPA Change of use from dwellinghouse (C3) to small house in multiple occupation (HMO) (C4) including single storey rear extension, formation of car parking area, cycle parking and bin storage 63 Frank Street, Gilesgate Moor, Durham DH1 2JF.

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. This planning application relies on the unrestricted on street parking on Laurel Avenue and states no further parking spaces would be needed. 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 Committee Services Officer read out a statement on behalf of Local County Councillor C Fletcher.

“As a County Councillor for the area, I, Christine Fletcher, wish to formally object to this planning application, DM/24/01647/FPA - Change of use from dwellinghouse (C3) to small house in multiple occupation (HMO) (C4) including single storey rear extension, formation of car parking area, cycle parking and bin storage 63 Frank Street, Gilesgate Moor, Durham DH1 2JF. I 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 is a very large purpose built student block at Ernest Place at the end of Frank Street which struggles to fill the rooms there. It is currently advertising that it has availability for this year for undergraduates, post graduates and international students.

Another large PBSA called Regatta Place is currently under construction on Sherburn Road and will provide accommodation for a further 140 students in Gilesgate.

Due to the proliferation of HMOs within this area, 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. There is already a shortage of housing stock in the community and there are empty C\$ houses. By removing more C3 housing stock, of which there is already a significant shortage, 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. Frank street is already a narrow, congested road and this development has the potential to cause further congestion.

I request that 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 noted a number of other similar applications and appeals decisions had helped to provide clarity in respect of CDP Policy 16. He noted that any objections in terms of need were not relevant under Policy 16, where the 10 percent Class N, Council Tax exempt threshold had not been met. He reiterated that recent appeals decisions noted that, where under the 10 percent threshold, such applications did not undermine the sustainability of communities, did not impact upon residential amenity and design.

He added that in respect of the application, the scale and massing were such to not impact significantly, as outlined within the Officer's report. He added that there was sufficient in-curtilage parking provided to satisfy the Parking Supplementary Planning Document (SPD) and car usage within the student cohort was low and there was very good public transport links in the area. He added that as the impact in respect of parking was not any greater than the current use, there had been no objections from the Highways Section, as noted by the Planning Officer.

G Swarbrick concluded by noting that the application was in line with CDP policies and the NPPF and asked that the Committee endorse their Officer's recommendation for approval.

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

Councillor L Brown noted that, should the Committee be minded to approve the application, she would ask that an amendment to the hours of operation be made, with the start time being put back from 0730 to 0800 to help protect the residential amenity of those living in proximity to the application property.

Councillor L Brown noted that a lot had been said in meetings as regards CDP Policy 16(b), however, there had not been a lot said as regards Policy 16(c). She noted paragraph 42 of the Officer's report referred to Policy 16(c) and noted that an application would not be approved if *'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'*. Councillor L Brown asked if a map of the area could be displayed on the projector screen. She noted that the application property was equidistant from bus stops at Sherburn Road and Sunderland Road, and it looked as if Frank Street was the primary route from the nearby PBSA at Ernst Place. She explained that three planning applications in her Electoral Division had been dismissed, with one having also been dismissed at appeal on a similar basis and therefore she would say the application before Committee was also contrary to Policy 16(c).

Councillor J Clark noted she agreed with the comments of Councillor L Brown in respect of a 0800 start for any works, to protect residents' amenity. In respect of parking arrangements, she noted the three spaces provided and asked whether there was a dropped kerb along the full length of those spaces. The Highway Development Manager, Phil Harrison noted that as agreed under Section 184 (Highway Act) works, dropped kerbs would be the along the whole length of the spaces.

Councillor J Clark noted that therefore works could prove difficult and impact upon parking in the street, with the dropped kerb adding to this difficulty. She noted the amount of traffic that would be using Frank Street, as described from the PBSAs and the schools, and noted potential impact reporting in terms of noise from an HMO next door, noting they may have been more if a family home.

Councillor A Surtees asked as regards the 10 percent threshold and the 140 place PBSA being built at the former bingo hall at Sherburn Road and whether it was included within the 10 percent or would not until the construction was complete. The Principal Planning Officer noted that it would be included at the point it was occupied, and it would count as one property in terms of policy.

The Chair asked for comment from Officers in terms of the points raised by Councillor L Brown in reference to Policy 16(c). The Principal Planning Officer noted that, as within the report and presentation, Officers were comfortable that the property was not on a primary access route, noting there were bus stops both to the north and south of the property, with footpath access to those, alongside the PBSA. He added that it was for students to choose which route and reiterated that therefore Officers felt the property was not on a primary access route and therefore the application was in line with Policy 16(c), although the decision on the application was for Members.

Councillor J Elmer noted he supported the position of Councillor L Brown, adding he felt the property was on a primary access route, with bus stops being at each end. He added with the narrowness of the road, it being already busy and with additional people to be walking up and down this road, he felt that Policy 16(c) was appropriate.

Councillor D Oliver noted that opinions were subjective and added that it felt to him that the street was a residential street, and that Policy 16(c) did not apply. He added that he did not see the street as a primary route and did not see any reason to go against the Officer's recommendation.

Councillor L Brown noted she disagreed with Councillor D Oliver, and moved that the application be refused, being contrary to Policy 16(c).

The Principal Planning Officer noted that in the event the committee took the position that the primary access route for students using Ernst Place PBSA to the main university campus and city centre was from Front Street to the south (via Frank Street), this would suggest the route to the north, via Sunderland Road, was not a primary route and that this may have implications for future applications.

Councillor J Elmer seconded the motion for refusal. Councillor L Brown noted the precedent in terms of the application previously referred to and supported by Inspector.

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

RESOLVED:

That the application be **REFUSED** as the introduction of a C4 house in multiple occupation within this locale would, due to its location on a primary access route from an existing Purpose Built Student Accommodation (PBSA) to the City Centre, result in further imbalance in the community and have a detrimental impact on surrounding residential amenities through increased noise and disturbance contrary to Policies 16, 29 and 31 of the County Durham Plan, and paragraph 130 (f) of the National Planning Policy Framework.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/24/02063/FPA
Full Application Description:	Change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including single storey rear extension, cycle parking and bin storage
Name of Applicant:	Sugar Tree Limited
Address:	58 Bradford Crescent Gilesgate Durham DH1 1HL
Electoral Division:	Belmont
Case Officer:	Michelle Hurton (Planning Officer) Tel: 03000 261398 Email: michelle.hurton@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site is a two storey dwelling located on the western end of a terrace of four properties located within Bradford Crescent, Gilesgate. The site is situated within an area which has an Article 4 Direction in place which removed permitted development rights previously allowing the conversion of C3 dwellinghouses to convert into C4 small HMOs without requiring planning permission. The site is not located in any designated areas however Durham City Centre Conservation Area is located to the south west of the site at an approximate distance of 430m.

The Proposal

2. The application seeks planning permission for the change of use from the existing dwellinghouse (Use Class C3) into a house in multiple occupation (Use Class C4) including the removal of an existing outbuilding and erection of a

single storey extension to the rear in its place. Cycle storage and bin storage provision are also proposed within the rear garden.

3. The application is being reported to Central and East Planning Committee at the request of Councillor Christine Fletcher on the grounds of highway safety and contravening Policy 16 of the County Durham Plan in accordance with the Council's Scheme of Delegation as it constitutes a request from a member of the Council for the application to be determined by the Planning Committee.

RELEVANT PLANNING HISTORY

4. The following planning applications are relevant to the current application:

DM/23/02700/FPA – Application submitted to change the use of use from the existing dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including the erection of a single storey extension, cycle parking and bin storage to the rear of the property. The applicants exercised their rights to appeal against non-determination of the planning application.

APP/X1355/W/23/3334953 - The appeal was subsequently dismissed by the Planning Inspectorate due to the rear extension not meeting the Nationally Described Space Standards (NDSS).

PLANNING POLICY

National Policy

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

inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

9. *NPPF Part 9 (Promoting Sustainable Transport)* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
10. *NPPF Part 12 (Achieving Well-Designed Places)* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
11. *NPPF Part 14 (Meeting the Challenge of Climate Change, Flooding and Coastal Change)* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
12. *NPPF Part 15 (Conserving and Enhancing the Natural Environment)* 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 Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

National Planning Practice Guidance:

13. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to: design process and tools; determining a planning application; healthy and safe communities; noise; use of planning conditions.

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

Local Plan Policy:

The County Durham Plan (CDP)

14. *Policy 6 (Development on Unallocated Sites)* states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
15. *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.
16. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
17. *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.
18. *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.

19. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.

Supplementary Planning Documents

20. Residential Amenity Standards SPD (2023) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
21. Parking and Accessibility SPD (2023) – Provides guidance on parking requirements and standards.

<https://www.durham.gov.uk/cdp>

Neighbourhood Plan:

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

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

23. *Highways Authority* raises no objection to the proposed scheme.
24. *Belmont Parish Council* objects to the application due to the proliferation of HMOs within the residential areas, the transient nature of the occupants, generate more waste than a C3 dwelling, there is no need for additional student accommodation as confirmed by Durham university, inadequate highway to deal with parked cars and Ernest Place is housing undergraduates when permission specified postgraduates.

Internal Consultee Responses:

25. *HMO Data* - within the 100m radius of, and including 58 Bradford Crescent, 8.2% of properties are Class N exempt student properties as defined by Council Tax records.

The following property has an unimplemented consent for the change of use to HMO within 100 metre radius:

DM/24/00812/FPA APV 42 Bradford Crescent, Gilesgate, Durham, DH1 1ER

Accounting for unimplemented planning permissions the percentage figure would be 9.4%.

26. *HMO Licensing* have confirmed that the property will not need to be licensed following completion of the works and advise how to comply with the relevant fire safety, amenity and space standards.
27. *Environmental Health Nuisance Action* have raised no objections subject to conditions relating to sound proofing measures.

Public Responses:

28. The application has been advertised by site notice and individual notification letters sent to neighbouring properties. One letter of objection has been received.
29. These are summarised under the relevant headings below:

Objections

- Application breaches the 10% threshold
- High concentration of HMOs in the street
- Risk of unbalancing the community
- Impacts on the character of the local community
- Students live different lifestyles resulting in a negative impact on residents from increased noise, rubbish
- Loss of a family homes
- Poor maintenance of existing HMOs
- Previous application was dismissed at appeal due to minimum bedroom sizes
- Overdevelopment
- Disregard for tenant welfare
- Does not accord with the Parking and Accessibility SPD
- Inadequate on-street parking
- The developer does not build in accordance with approved plans
- Previous application received 56 objections from local residents
- Residents locally to 78 Bradford Crescent note property appeared to have previously been rented to students
- HMO data does not include unauthorised HMOs
- There is no need for more HMOs
- HMOs do not pay council tax
- HMO data collection is inappropriate
- 4 Monks Crescent on nearby estate was refused, therefore this application should be refused on same grounds
- Empty houses pay double council tax, does empty HMOs given number of vacant HMO properties in the area

Elected Members

30. *Councillor Christine Fletcher* objects to the application considering it to fail to meet the Parking and Accessibility SPD and Policy 16 of the CDP, the developer has provided no justification for the need of more HMOs in the area,

Ernest Place is now housing undergraduates when the permission specified postgraduates.

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

Applicants Statement:

31. The current application follows a dismissed Planning Appeal for the change of use of the property to a HMO and has sought to address the sole reason given by the Inspector for dismissing the appeal, namely that the original application would have failed to provide suitable living conditions for future occupiers by way of a substandard ground floor bedroom.

The internal layout of the property has therefore been reconfigured with all bedrooms meeting the requirements of NDSS and providing a comfortable living environment for future occupiers. The property will also provide a large living area, an open plan kitchen / diner and a rear garden area, thereby providing a good standard of living accommodation for future residents. The revised proposals have therefore fully addressed the sole reason given by the Inspector for dismissing the previous appeal.

The property lies within an area where the proportion of Class N exempt properties, including unimplemented consents remains below 10% and, in relation to the key planning considerations, the previous Planning 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.

The revised proposals have fully addressed the sole area of concern of the previous Inspector in relation to the standard of living accommodation provided and it is therefore evident that there is no reasonable basis to refuse planning permission for the revised application 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.

PLANNING CONSIDERATION AND ASSESSMENT

32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
33. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making, along with advice set out in the Planning Practice Guidance notes. Other material considerations include representations received.
34. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, Highway Safety, Impact on Character and Appearance of the Area, Residential Amenity, Other Matters, and Public Sector Equality Duty.

Principle of Development

35. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at NPPF Paragraph 12. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.
36. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay. Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
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 came into effect on 17 September 2016 withdrawing permitted development rights for change of use of C3 to C4, therefore a planning application is necessary.

38. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a 3-bed HMO (Use Class C4). Works to facilitate the conversion include internal and external alterations, incorporating a single storey extension and bin and cycle storage to the rear.
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 and therefore is supported by CDP Policy 6, subject to satisfaction of the detailed criteria. 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 the impact on residential amenity, which will be considered in more detail below. The site is located within the built-up area of Gilesgate and therefore would not lead to the coalescence of settlements and there are no concerns with the development resulting in inappropriate ribbon development, nor that it would be considered

inappropriate backland development, as the site has an independent highway access (criterion b).

41. The development would not result in a loss of open land that has any recreational, ecological or heritage value (criterion c) and the site is noted as being within a sustainable location, being located within Gilesgate on the outskirts of Durham City Centre where there is a wide range of facilities and access to sustainable modes of transport (criterion f). The site would not result in the loss of a settlement's or neighbourhood's valued facility or service (criterion g) given that the site relates to a semi-detached dwellinghouse, and therefore the development makes best use of previously developed land (criterion i). The requirements of criteria d, e, h of CDP Policy 6 are considered elsewhere within this report. It is not considered that criterion j is appropriate in relation to this proposal.
42. The development to change the use of a dwellinghouse (C3) into a small HMO (C4) sited in a sustainable location would therefore be considered to comply with CDP Policy 6 and the principle of development can draw some support from CPD Policy 6 in this regard.
43. In addition to CDP 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.
44. It is noted that objections have been received from neighbouring residents raising concerns that approving this application would bring the number of HMOs in the area above the 10% threshold when also taking into consideration the unimplemented consents noting that residents local to 78 Bradford Crescent believe that the property has previously been rented as what appeared to be a HMO and are aware of ongoing building work at the property at present. The residents seek confirmation that the council has verified that the planning permission for 78 Bradford Crescent has expired by way of implementation, before it is discounted from the HMO data.
45. In addition, concerns have also been raised regarding how the HMO data is collected and the methodology used in CPD Policy 16, Part 3. With regard to the latter, it is noted that the policy and the methodology contained within it was considered sufficiently accurate and robust during the examination in public of the CDP in 2020. The Council has successfully defended several appeals against refusal of similar changes of use where these were in clear conflict with the policy. Furthermore, Planning Inspectors, have assessed the appeals against the CDP and have not disputed the methodology behind Policy 16.
46. The most recent up to date Council Tax information identifies that if planning permission was granted for the change of use of the dwellinghouse into a small HMO within 100 metre radius of, and including 58 Bradford Crescent, 8.2% of properties would be class N exempt as defined by Council Tax records. However, it is noted that planning permission has previously been granted relating to No's 42 and 78 Bradford Crescent for the change of use from C3 to C4. In relation to 78 Bradford Crescent, planning permission was granted in October 2019 and in relation to 42 Bradford Crescent, planning permission was granted in March 2024. A search of the planning history for No. 78 Bradford Crescent identifies that no Building Regulation application relating to the

change of use to small HMO has been submitted which would indicate that the permission has not been implemented and the period for implementation has since expired. Given CDP Policy 16 requires the LPA to consider only those unimplemented planning permissions this cannot be taken into account when assessing the proposal against Part 3(a) of CDP Policy 16. Therefore, only the unimplemented consent at 42 Bradford Crescent can be taken into consideration in the assessment of this application.

47. As this concentration of Class N Student Exempt properties, including the unimplemented consent at 42 Bradford Crescent would be below the 10% threshold stated in the CDP, the development can be considered to comply with CDP 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 CDP Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.
48. It is noted that objections have also been received citing that the application fails to demonstrate need for accommodation of this type in this location, and that there is a perceived surplus of student accommodation within Durham City and that a number of HMOs remain vacant. Whilst these points are noted, there is recognition that market forces will, in the main, deliver the level of student accommodation required without resulting in a significant oversupply of accommodation, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration. Notwithstanding this, it nevertheless remains that whilst Part 2 of CDP Policy 16 requires an application for PBSA to demonstrate need (along with a number of other requirements) this is not mirrored in Part 3 which relates to applications for houses in multiple occupation and therefore is the part of CDP Policy 16 which is relevant to this current application before members today. For that reason, it is considered that the proposal would accord with the requirements set out in Part 3 of CDP Policy 16 and that as there is no policy requirement for the applicant to demonstrate need, the lack of any specific information within the application with regards to need can be afforded only very limited weight.
49. 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.
50. Objections 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 the residential area. Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of CDP 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.

51. Furthermore, within the Non-Determination Appeal for this site, the above was discussed by the Planning Inspector who stated:

‘There have been a significant number of objections to the proposal in respect of the issue of housing mix. Concerns include the frequency of similar applications and the rate of change in the area, questions regarding the validity of the Council’s HMO data, questions regarding the methodology for calculating this data, questions regarding the effectiveness of the policy, and that the figures cited by the Council are so close to the ‘tipping point’ that further assessment is needed.

In this case, I have been provided with no compelling evidence to suggest the data cited by the Council, in assessing the proposal against criteria a. to c., is inaccurate. Based on the information before me, this data is the most reliable evidence I hold to assess the proposal in respect of housing mix, and I afford it significant weight. Moreover, the tests set by criteria a. to c. form part of adopted development plan policy, and this appeal is not the forum to question the effectiveness of policy.

Interested parties have also cited that Durham University’s student numbers are reducing and have questioned the need for the proposal. However, I note no requirement within the Policies of the CDP for HMO proposals to demonstrate need. As such, I am not required to consider this issue.

For the reasons given above, 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 aims of which have previously been set out.’

52. Taking account of the above it is considered that the principal of development is acceptable, and the proposal would accord with the requirements of CDP Policy 16 and Paragraph 63 of the NPPF in this regard.

Impact upon Residential Amenity

53. 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.
54. CDP Policy 31 (Amenity and Pollution) displays broad accordance with the aims of NPPF 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.

55. In addition, CDP Policy 6 (a) permits development that is compatible with any existing or permitted use of adjacent land. CDP Policy 29 (e) requires development to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
56. In this instance the application site is an end of terrace dwelling located within a residential area and is framed to the north, east, south and west by residential dwellings. In nearly all cases those responding to the application in objection cite concerns around increased noise, and fear of noise, disturbance and antisocial behaviour as a result of the development.
57. 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.
58. 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.

59. Notwithstanding the above, it is considered that the applicant provides an effective plan as to how the property would be managed. A Planning Statement has been submitted in support of the application which sets out at paragraph 4.22 that the property will be fully managed by Harringtons, a specialist student accommodation agent who have a wealth of experience dealing with issues around anti-social behaviour and include such policies in their tenancy arrangements, which are fully monitored and enforced. A copy of a Student Management Plan has also been submitted which details how Harringtons address any matters that may arise at the property, and it is noted that Durham University also have a Students Living Out of College: Code of Conduct to ensure students act as good neighbours, there are also procedures in place for responding to reports of anti-social noise from students. A condition can therefore be imposed to secure the implementation of the Management Plan.
60. The proposed floor plans indicate that the party wall of the dwelling will be upgraded with Gyplyner Independent wall lining or similar to meet the required mitigation where habitable rooms are located. As such, a condition is recommended to be attached should planning permission be granted requiring the sound proofing measures described in the application to be installed (i.e. the Gyplyner wall lining) or similar - which meets the requirements of Approved Document E (Resistance to the passage of sound) of the Building Regulations 2004 (As Amended) prior to the first use of the property as a small HMO.
61. Furthermore, the Applicants have confirmed that the property will meet all relevant safety standards with gas and electrical safety certificates, as well as mains linked smoke detectors. The windows and doors will 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 CDP Policy 16 Part 3 criterion g.
62. As noted above, a single storey extension is proposed to the rear of the dwelling which proposes to replace the existing detached outbuilding with a flat roofed extension of a similar projection and height. Therefore, impact on the adjoining neighbouring property, number 60 Bradford Crescent would be minimal given the current circumstances of the site. The extension reduces in projection nearest the neighbour at 56 Bradford Crescent to a 2.5m projection from the rear elevation of the host property. As the application site is set forward of number 56 by approximately 1.3m, it is considered that the proposed extension would not result in any adverse impacts upon residential amenity and would not result in the loss of privacy or create overlooking concerns enough to warrant refusal of the application.
63. In light of the above, the development is not considered to have any unacceptable impacts upon overbearing, overshadowing or loss of privacy and as a result will be in accordance with CDP Policy 31 and the RASSPD.
64. The property includes adequate external space to accommodate sufficient bin storage facilities as shown on the proposed plans which will be located within the side garden area and therefore accords with criterion e) of Part 3 to CDP Policy 16. In addition, noting the extent of the garden area contained within the

curtilage, it is considered there is sufficient external amenity space to serve the inhabitants in accordance with CDP Policy 16.

65. 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.
66. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate to the current application. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of CDP Policy 29(e) which requires new development to provide high standards of amenity and privacy.
67. An application was submitted previously to change the use of the dwellinghouse into a small HMO. The scheme was very similar to the one before members today. The applicants decided to exercise their rights to appeal against non-determination of the application. The Planning Inspector stated:
68. *'The ground floor bedroom would be accessed from the main ground floor hallway. It would be a long, narrow room with a side-facing window facing out over the rear garden. Although the plans indicate it would meet the minimum NDSS floor area of 7.5 square metres, it would appear to fall significantly short of the minimum width of 2.15 metres. In practical terms, once essential furniture including a single bed and clothes storage was installed, this would leave very limited circulation space for prospective occupiers, resulting in a cramped and uncomfortable living environment.'*
69. This proposed scheme incorporates 3no bedrooms, which now all meet the minimum NDSS requirements. The revised and resubmitted scheme has the same internal layout as previously sought planning permission for with the addition of the rear extension now proposing a floor area of 9.2sqm and a room width of 2.15m. The property would not require a licence.
70. With regard to the total overall internal space provided across the dwelling as a whole it is noted that the NDSS does not provide guidance specifically relating to 3 bedspace, 3 person dwellings. However, it does include standards in relation to 3 bedspace 4 person dwellings and it is noted that this requires an overall area of no less than 84sq metres. As already noted, whilst the rigid application of NDSS is not considered appropriate for the reasons outlined above the proposed change of use would provide adequate internal space

delivering approximately 54sq metres at ground floor and 34sq metres at first floor, a total internal floorspace of 88sq metres.

71. In light of the above, the proposal is considered to comply with CDP Policy 29(e) 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 CDP Policy 29(e) and CDP Policy 16.3 and Paragraph 135 of the NPPF.

Parking and Highway Safety

72. CDP Policy 16.3 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.
73. Objections have been raised by concerned residents, Cllr Fletcher and Belmont Parish Council that the development would increase parking problems within the street given that there is already concerns due to the proximity of a school that is located close to the site.
74. The Highway Authority offers no objection to the application noting that an HMO at this address was previously appealed by the applicant by utilising their right to appeal against non-determination of the planning application. The Highways officer notes that the previous dismissed application was not objected to by the Local Highway Authority (LHA), and so while not a reason for refusal, the issue of parking and road safety was discussed in the Inspector's decision due to local objection on those grounds. The inspector concluded that there would be no detrimental impact to road safety or parking issues raised by the proposal, echoing the comments of the LHA.
75. That remains the case for this current proposal, and no objections are raised to this proposal on either grounds of parking or road safety.
76. Cycle storage is shown to be provided within the rear garden area and its provision is a requirement of criteria (d) of Part 3 to CDP Policy 16. 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.
77. 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 CDP Policies 16.3 and 21 and Paragraph 114 of the NPPF.

Impact upon the Character and Appearance of the Area

78. 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. CDP Policy 29 requires development to contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
79. Objections to the proposed development have been raised stating that HMOs have a negative impact on the residential housing estate, due to them not being adequately maintained and that students are short term occupiers with no stake in local community.
80. It is noted that a rear extension is proposed to facilitate the change of use. This is considered acceptable in principle and similar to works which have been undertaken at other properties within the locality. It is recommended that the inclusion of a planning condition be attached should approval be granted which requires materials used within the construction of the extension to match the host property.
81. The character and appearance of the surrounding area incorporates two storey terraced properties. Front boundary treatments within the local vicinity consist mainly of low level brick walls of a similar style. With regard to concerns that the general appearance of the property would deteriorate as a consequence of the proposed use there is no evidence that this would occur, and the applicant has reiterated that the property would be appropriately maintained. There is also separate planning powers available to address untidy land and buildings should such issues arise.
82. 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.
83. 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.

Biodiversity Net Gain

84. 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.
85. CDP Policy 41 (Biodiversity and Geodiversity) does not permit significant harm to biodiversity that cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for and proposals for new development will be expected to minimise impacts on, and providing net gains for, biodiversity.
86. 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.

87. Taking the above into account, the development would be considered to accord with the aims of Part 15 of the NPPF, Policy 41 of the CDP and Schedule 7A of the Town and Country Planning Act 1990.

Other Matters

88. Cllr Fletcher and Belmont Parish Council has commented in relation to the Ernest Place PBSA occupying postgraduate students rather than undergraduates. Following a search of the planning history relating to the site, it would appear that there is no control over the nature of the occupancy of that building. However, this is not a material consideration to which weight can be afforded in the determination of this application.
89. Concerns were raised that the development would lead to the loss of Council Tax revenue and that there are a number of vacant HMO properties within the area. Whilst these concerns are noted these are not material considerations in the determination of this application.
90. Comments have also been raised relating to 4 Monks Crescent previously being refused as the scheme was considered to unbalance the community, detrimentally impact the community cohesion and amenity of residents from increased noise and disturbance, therefore should these reasons not be applied on any residential estate. In response it is noted that planning applications must be assessed on their own merits and against all relevant planning policy. It is also noted that the previous decision to refuse an application for the change of use from C3 to C4 at No. 4 Monks Crescent was subject to an appealed subsequently allowed by the Planning Inspectorate.

CONCLUSION

91. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
92. In this instance, it is concluded 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.

93. 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 or highway safety.
94. The proposed scheme is therefore considered to be in accordance with Policies 6, 16, 21, 29, 31 and 41 of the County Durham Plan, the Parking and Accessibility and Residential Amenity SPD's, Parts 2, 4, 9, 12, 14 and 15 of the NPPF and Schedule 7A of the Town and Country Planning Act 1990.
95. While objections to the application are acknowledged, for the reasons discussed within this report they are not considered sufficient to sustain refusal of the application. Considering the above, the application is reported to the Committee with a recommendation to approve the application, subject to conditions.

Public Sector Equality Duty

96. 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.
97. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

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

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

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

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

Location Plan drawing number 1356-01 received 29th July 2024
Proposed Floor Plans and Elevations drawing number 1356-03 Rev A
received 02nd August 2024

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 16, 21, 29, 31 and 41 of the County Durham Plan and Parts 2, 4, 9, 12, 14 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 first occupation of the property for the use hereby approved, the party wall with No. 60 shall be upgraded with Gyplyner Independent wall lining or alternative that accords with the requirements of Approved Document E (Resistance to the passage of sound) of the Building Regulations 2004 (As Amended).

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

Reason: To protect residential amenity in accordance with Policy 31 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 Student Management Plan, received by the LPA on 29.07.2024, for the duration that the property is occupied as a small HMO.

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

6. The cycle storage provision as shown on the Proposed Floor Plans and Elevations (Drg no. 1356-03 Rev A), received by the LPA on 02.08.2024, 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 and shall not be used for any other purpose whilst the property is occupied as a small HMO.

Reason: To encourage sustainable transport modes of travel in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

7. The bin storage provision shown on the Proposed Floor Plans and Elevations (Drg no. 1356-03 Rev A), received by the LPA on 02.08.2024, shall be available for use prior to the first occupation of the dwelling (Use Class C4) hereby approved and shall be retained in perpetuity.

Reason: In the interest of residential amenity and in accordance with Policies 6 and 16 of the County Durham Plan.

8. The development hereby approved shall not be occupied by more than 3 unrelated individuals.

Reason: In the interest of residential amenity and in accordance with Policy 29e of the County Durham Plan and Part 12 of the National Planning Policy Framework.

9. In undertaking the development that is hereby approved:

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

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

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

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

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

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents.

Town and Country Planning Act 1990

National Planning Policy Framework

National Planning Practice Guidance Notes

County Durham Plan (2020)

- o Residential Amenity Standards SPD (2023)

- o Parking and Accessibility SPD (2023)

Statutory consultation responses

Internal consultation responses

External consultation responses

Public comments



Planning Services

DM/24/02063/FPA - 58 Bradford Crescent
 Gilesgate Durham DH1 1HL - Change of
 use from dwellinghouse (Use Class C3) to a
 house in multiple occupation (Use Class
 C4) including single storey rear extension,
 cycle parking and bin storage

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Comments

Date:

08th October 2024

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/24/01649/FPA
Full Application Description:	Change of use from dwellinghouse (Use Class C3) to small house in multiple occupation (HMO) (Use Class C4) including driveway widening, cycle parking and bin storage
Name of Applicant:	Sugar Tree Limited
Address:	2 Monks Crescent, Gilesgate, Durham, DH1 1HD
Electoral Division:	Belmont
Case Officer:	Michelle Penman (Planning Officer) Tel: 03000 263963 Email: michelle.penman@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to a two-storey semi-detached dwelling located on the corner of Pilgrims Way and Monks Crescent. The property is located within a residential housing estate to the east of Durham City Centre.
2. The existing property benefits from garden amenity space to the front and side and patio to the side and rear. There is also a single detached garage to the rear of the property and existing driveway which is accessed from Pilgrims Way.

The Proposal

3. The application seeks planning permission for the change of use of the property from a 3-bedroom C3 dwellinghouse to a 6-bedroom small C4 House in Multiple

Occupation (HMO). The proposals include the widening of the existing driveway to provide additional in-curtilage parking and provision of cycle and bin storage.

4. The application is being reported to Central and East Planning Committee at the request of Belmont Parish Council and Councillor Christine Fletcher who consider that the development would lead to an over-proliferation of the HMO properties in this area, impacts on the amenity of neighbouring residents and of future occupants, loss of family housing, insufficient need, parking and highway safety to such an extent that the application should be determined by the committee.

RELEVANT PLANNING HISTORY

5. 4/96/00380/FPA - Erection of single storey flat roof extension to side. Approved 24.07.1996.

PLANNING POLICY

National Policy

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

reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

11. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
12. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
13. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from Page 73 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: design process and tools; determining a planning application; flood risk; healthy and safe communities; natural environment; noise; and use of planning conditions.

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

Local Plan Policy:

The County Durham Plan (CDP)

15. *Policy 6 (Development on Unallocated Sites)* states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result

in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.

16. *Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation)* seeks to provides a means to consider student accommodation and proposals for houses in multiple occupation in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.
17. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport and ensuring that any vehicular traffic generated by new development can be safely accommodated. Development should have regard to Parking and Accessibility Supplementary Planning Document.
18. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making a 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; and contributing to healthy neighbourhoods. Provision for all new residential development to comply with Nationally Described Space Standards.
19. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development.
20. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal.
21. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water.
22. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value

unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting.

23. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
24. *Policy 43 (Protected Species and Nationally and Locally Protected Sites)* states in relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
25. Residential Amenity Standards SPD (2023) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
26. Parking and Accessibility SPD (2023) – Provides guidance on parking requirements and standards.
27. Trees, Woodlands and Hedges Supplementary Planning Document SPD (2024) – Provides guidance to ensure that trees, woodlands and hedges are fully considered as part of the planning process so that the many benefits they provide can be sustained and enhanced.

<https://www.durham.gov.uk/cdp>

Neighbourhood Plan

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

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

29. *Highways Authority* – the development is compliant with the 2023 Parking and Accessibility SPD. To provide extra spaces, an amended vehicular crossing would be required.
30. *Belmont Parish Council* – objects to the application on grounds of the over proliferation of HMO properties in a residential area, impacts on the amenity of local residents, loss of a family home, transient nature of the occupants, environmental impacts, no need for additional student accommodation, parking and highway safety impacts.

Internal Consultee Responses:

31. *HMO Data* – within 100 metres of, and including 2 Monks Crescent, 2.5% of properties are Class N exempt student properties as defined by Council Tax records.

The following properties have unimplemented consent for the change of use to an HMO within 100m radius;

DM/22/03690/FPA APV 5 Monks Crescent, Gilesgate, Durham, DH1 1HD
14/12/2022

DM/23/00588/FPA APV 9 Monks Crescent, Gilesgate, Durham DH1 1HD
01/03/2023

DM/23/02725/FPA APV 4 Monks Crescent, Gilesgate, Durham, DH1 1HD
21/06/2024 (Allowed on appeal).

Accounting for the unimplemented consent for one of those properties, the percentage figure would be 3.7%, accounting for two the figure would be 4.9% and accounting for three the figure would be 6.2%.

32. *Arboricultural Officer (Trees)* – commented that small conifer trees and shrubs within the site do not warrant individual tree preservation orders, however, consider it would be prudent to retain the hedge which grows around the front and side gardens.
33. *Ecology* – advised that where the applicant considers this application to be exempt from BNG, then a BNG exemption statement clearing evidencing why the application is deemed exempt must be provided at the application stage. Following receipt of more information and photographs Ecology confirmed that a Bat Roost Assessment would not be required.
34. *Environmental Health and Consumer Protection (Nuisance)* – raise no objection but recommend that suitably worded conditions are applied to ensure that the proposed sound insulation measures are installed and maintained in perpetuity and the student management plan is adhered to. In addition, a condition is recommended in relation to the construction phase of the development. They are satisfied that the development is unlikely to cause a statutory nuisance.

Public Responses:

35. The application has been advertised by site notice and individual notification letters sent to neighbouring properties. There have been 11 letters of objection received in relation to the application, including from the City of Durham Trust.
36. These are summarised under the relevant headings below:

Objections

- High concentration of HMOs in the street
- Increased parking issues and congestion
- Increased noise and disturbance
- Increased waste and environmental impacts
- Impacts on the character of the local community
- Loss of a family homes
- Proposals to create 6-bedrooms is excessive
- Loss of Council Tax
- Enough PBSAs and no need for additional HMOs
- Poor maintenance of HMOs
- Level of consultation
- Empty properties and transient nature of occupants
- Impact on the character and appearance of the street scene
- Impact on amenity of neighbouring and future occupants

Elected Members

37. *Councillor Christine Fletcher* – objects to the application on grounds of principle of development over proliferation of HMOs in this area, impacts on the local community, impacts on the amenity of neighbouring and future occupants, loss of a family home, parking and highway safety, enough student housing already exists.

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

Applicants Statement:

38. The current application proposals involve the change of use of an existing dwellinghouse (Use Class C3) to a 6-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.

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, particularly in view of 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).

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 the neighbouring property (4 Monk's 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 in areas where the proportion of HMOs is below the 10% threshold. Furthermore, in relation to the impact of such properties on the character of local areas, previous Inspectors have found that, other than the display small window stickers and lettings boards bearing the name of student letting agents, HMO properties otherwise bore limited indication of such use and appeared externally similar to the majority of other properties in the area.

The proposed HMO will also be served by sufficient levels of off-street parking in line with the Parking & Accessibility SPD and would be entirely acceptable in highway safety terms.

It is therefore entirely evident that the application proposals are acceptable in terms of housing mix and community cohesion, highways; impact on the character and appearance of the area; and residential amenity and would fully accord with the relevant policies of the adopted County Durham Plan. On this basis, it is respectfully requested that planning permission is granted for the proposed development.

PLANNING CONSIDERATION AND ASSESSMENT

39. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
40. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making, along with advice set out in the Planning Practice Guidance notes. Other material considerations include representations received.
41. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, Residential Amenity, Design and Visual Amenity, Parking and Highway Safety, Trees, Biodiversity Net Gain, Other Matters, and Public Sector Equality Duty.

Principle of Development

42. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development

plan and the starting point for determining applications as set out in the Planning Act and reinforced at NPPF Paragraph 12. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.

43. NPPF Paragraph 11c requires applications for development proposals that accord with an up-to-date development plan to be approved without delay. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
44. 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.
45. The proposal relates to the change of use of a 3-bedroom residential dwelling (Use Class C3) to a 6-bedroom small HMO (Use Class C4). As the property lies within an area subject to an 'Article 4 Direction' planning permission is required for the proposed change of use.
46. Policy 6 (Development on Unallocated Sites) of the County Durham Plan (CDP) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
47. In addition, Part 3 of Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation) of the CDP states that in order to promote create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for changes of use from any use to a Class C4 (House in Multiple Occupation), where planning permission is required, will not be permitted if:

- a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);
 - b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area; or
 - c. 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.
48. This is in line with paragraph 96 of the NPPF, which also seeks to achieve healthy, inclusive and safe places which promote social interaction and community cohesion and with paragraph 135 which seeks to ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
49. In addition to the above applications will only be permitted where:
- d. the quantity of cycle and car parking provided has regard to the council's adopted Parking and Accessibility Supplementary Planning Document (SPD);
 - e. they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues;
 - f. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and
 - g. the applicant has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.
50. Objections have been received from local residents, Belmont Parish Council and Councillor Christine Fletcher, raising concerns in relation to the proposed change of use which they consider would result in an over proliferation of HMOs in a concentrated area, thereby unbalancing the existing community. Concerns have also been raised about the loss of family homes and impact on the character of the local community. It is also suggested that there is no need for additional HMOs as there is an existing sufficient supply of HMOs and PBSAs.
51. The most recent up to date Council Tax information identifies that if planning permission was granted for the change of use of the dwellinghouse into a small HMO that within 100 metre radius of, and including 2 Monks Crescent, 2.5 % of properties would be class N exempt as defined by Council Tax records. However, there are three previous planning permissions relating to No's 4, 5 and 9 Monks Crescent for the change of use from C3 to C4 capable of implementation which if effected, would increase the percentage of properties within 100m to 6.2%. As this concentration would be below the 10% threshold stated in the CDP, the development can be considered to comply with CDP 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 in CDP Policy 16 (3) and other relevant matters.

52. In terms of the loss of family homes and percentage of HMOs in the area, Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). Given that less than 10% of properties within 100m of the application property are Class N exempt and this would remain the case post development, should permission for the current change of use be granted the aims of Paragraph 62 would be met.
53. While it is acknowledged that concerns have been raised in relation to the concentration of HMOs in the street, CDP Policy 16 uses a 100m radius for the purposes of assessing compliance with that Policy. Policy 16 gives a standard and consistent approach to assess applications for HMOs. The Policy, together with the methodology contained within, was considered sufficiently accurate and robust during examination in public of the CDP in 2020, and the existing policy subsequently included within the adopted CDP. The Policy has proven sufficiently robust in this regard and the Council has successfully defended several appeals against refusal of similar changes of use where these were in clear conflict with the Policy.
54. It is noted that a planning application to change the use of the neighbouring property, no. 4 Monks Crescent, to a small 4-bedroom HMO was recently allowed at appeal (Reference APP/X1355/W/24/3339046) and in the decision the Inspector considered the issue of the effect of the proposal on community cohesion and the living conditions of nearby occupiers in terms of noise and disturbance. The Inspector acknowledged that in the area surrounding no. 4 Monks Crescent there were other properties with permission to operate as HMOs and that there was concern around the introduction of another HMO which it was argued would disproportionately increase the number of independent occupiers in the area and cause harm in respect of the main issue, and there was concern around noise, disturbance, anti-social behaviour, and general upkeep and appearance of the property. The Inspector acknowledged that the development could lead to a greater level of disturbance to nearby occupiers than from a typical family home, however, considered that the proposal would not exceed the 'tipping point' in CDP Policy 16 (3) which would suggest there is an imbalance between HMOs occupied students and homes occupied by other non-student residents and considered there to be limited evidence why this specific proposal should be considered differently in terms of its effect on community cohesion and the living conditions of nearby occupiers. They concluded that the proposed development would not be harmful to community cohesion or the living conditions of nearby occupants in terms of noise and disturbance. This decision relates to a similar proposal in close proximity to the application site and as such can be afforded considerable weight in determination of this application.

55. In addition, objections have been received citing concerns that the application fails to demonstrate a need for the accommodation and that there is a sufficient supply of student housing, there is recognition that market forces will, in the main, deliver the level of student accommodation required without resulting in a significant oversupply of accommodation, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration. Notwithstanding this, it nevertheless remains that whilst Part 2 of CDP Policy 16 requires an application for PBSA to demonstrate need (along with several other requirements) this is not mirrored in Part 3 of the policy which relates to applications for changes of use to HMO and is the part of the policy which is relevant to the current application. For that reason, it is considered that the proposal would accord with the requirements set out in Part 3 of CDP Policy 16 and that as there is no policy basis for the applicant to demonstrate need, the lack of any specific information within the application with regards to need can be afforded only very limited weight.
56. Finally, it is noted that objections have been received citing that the development would impact on the local community due to a over proliferation of this type of accommodation and would further drive families out of this area. Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of CDP 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, considering 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.
57. Taking the above into account it is considered that that the principal of development is acceptable, and the proposal would accord with the requirements of Policies 6 and 16 of the CDP and Paragraph 62 of the NPPF, subject to more detailed consideration of other relevant matters below.

Residential Amenity

58. Paragraph 135 of the NPPF requires that planning decisions 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.
59. CDP Policy 31 (Amenity and Pollution) displays broad accord with the aims of the NPPF 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.

60. In addition, CDP Policy 6 criterion (a) permits development that is compatible with any existing or permitted use of adjacent land. CDP Policy 29 criterion (e) requires development to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
61. The application site is a semi-detached property located on a corner plot within a residential area. The nearest property adjoins the site to the south-east, with other residential properties surround the site. It is acknowledged that a significant number of objections have been raised in relation to the cumulative impacts of the proposed development, together with existing and permitted HMOs in the immediate locality which includes recent permissions for the change of use of nos. 4, 5 and 9 Monks Crescent to HMOs. In particular, concerns around noise and disturbance have been cited by residents, the parish council and local councillor as well as concerns around maintenance of properties and increased waste.
62. The Council's Nuisance Action Team (NAT) has been consulted on the development and have undertaken a technical review of information submitted in relation to the likely impact upon amenity in accordance with the relevant Technical Advice Notes (TANs). The NAT note that although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO use than single dwelling, due to the increase in household numbers and activity to and from the property. They acknowledge that the demographic that use this type of accommodation are often associated with great use of the night-time economy and as such an increased level of night-time noise may occur. However, it is anecdotal as the potential for impact is associated with the individuals residing there and as such might differ greatly. In addition, they also note that the detail provided with the application appears to demonstrate sufficient mitigation will be provided, in relation to sound insulation measures and that the developer also operates an effective management plan for the tenants of the property.
63. 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 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.

64. A Planning Statement has been submitted in support of the application and this sets out at paragraph 4.20 that the property would be fully managed by Harringtons, a specialist student accommodation agent who have a wealth of experience dealing with issues around anti-social behaviour and include such policies in their tenancy arrangements, which are fully monitored and enforced. A copy of a Student Management Plan has also been submitted which details how Harringtons address any matters that may arise at the property, and it is noted that Durham University also have a Code of Conduct and procedures in place for responding to reports of anti-social noise from students. A condition can therefore be imposed to secure the implementation of the Management Plan. Sound proofing measures are also indicated on the submitted plans which would help to reduce any impacts on neighbouring amenity and their installation prior to occupation will also be secured via condition.
65. In relation to criterion (e) of CDP Policy 16 Part 2, the application and submitted plans indicate that bin storage facilities will be provided to the side of the property, and it is considered that sufficient external amenity space will be retained to serve future occupants. In terms of criterion (g), the applicant has confirmed in the Planning Statement that the proposed HMO will meet all relevant safety standards with gas and electrical safety certificates, as well as providing mains linked smoke detectors. In addition, the property will be included in the Student Assured Housing Scheme, to ensure a high standard of accommodation will be provided and maintained. The property is located within a residential estate with street lighting, providing natural surveillance from surrounding properties. On that basis, the development is considered to accord with criteria (e) and (g). Criteria (d) and (f) will be considered in the relevant sections of this report.
66. 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. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate to the current application. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of CDP Policy 29(e) which requires new development to provide high standards of amenity and privacy.
67. All of the bedrooms would meet the 7.5 square metre minimum floor space requirements and would achieve the required 2.15 metre width. In terms of the overall minimum gross internal floor space provided the NDSS does not refer to a 6-person 6-bedroom dwelling (6p6b), but it does refer to a 5b6p dwelling or 6b7p dwelling and requires a minimum of 110 or 123 square metres respectively. The submitted floor plans indicate that a minimum of 105 square

metres would be provided which it is acknowledged falls slightly below the minimum requirements. However, as already noted it is not considered that the rigid application of these standards is appropriate and, notwithstanding this, the property would be required to be licensed and comply with DCC Standards for Shared Houses. This requires combined living/dining/kitchen areas to provide 21 square metres where used by 6-10 persons. The submitted plans indicated that 24.42 square metres of space will be provided, and it is therefore considered that suitable shared amenity space will be provided.

68. The NAT recommended conditions to secure the installation of the sound insulation and implementation of the management plan and conditions could therefore be attached in this regard. In addition, they recommended a condition relating to construction hours which is considered to be sufficient to protect the amenity of neighbouring occupants during the construction phase of the development.
69. Taking all of the above into account, subject to conditions, it is not considered that the development would result in any significant adverse impacts on the amenity of neighbouring occupants and the proposals provide a suitable amount of internal and external amenity space to meet the needs of future occupiers and deliver a suitable quality of development in accordance with the aims of Paragraph 130 of the NPPF and Policies 6, 16, 29 and 31 of the CDP.

Design and Visual Amenity

70. Paragraph 131 of the NPPF advises that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development, creating better places in which to live and work.
71. CDP Policy 6 (d) permits development that would be appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement. CDP Policy 29 requires development to contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
72. Objections have been received in relation to the development citing concerns around the impacts of the proposals on the locality. It is suggested that HMOs are not adequately maintained, stand empty, and that students are short term occupiers with no stake in local community. Concerns have also been raised in relation to the impact of the extended driveway on the character and appearance of the street scene.
73. The proposals predominantly involve internal works to reconfigure the property to accommodate the new bedrooms with limited external works proposed. The external works include extension to the existing driveway, formation of bin and cycle storage, alterations to the roof of the existing rear extension and window and door openings. The submitted information also confirms that the proposed materials would match the existing property. While concerns around the

extension to the driveway are noted, it is considered that these works could be carried out as permitted development.

74. The character of the surrounding area predominantly comprises of two-storey and single-storey semi-detached properties finished in a mixture of brick, render and cladding with generally white uPVC windows. The proposed external works would not be out of keeping with the general character and appearance of the street scene. Regarding concerns that the general appearance of the property would deteriorate as a consequence of the proposed use there is no evidence that this would occur, and the applicant has reiterated that the property would be appropriately maintained. It is also noted that in the appeal decision relating to 4 Monks Crescent, as already discussed, the Inspector considered that the appearance and upkeep of properties varied widely in the area, with no apparent correlation to HMO use.
75. Taking the above into account, it is considered that the development would have an acceptable impact on the character and appearance of the street scene and the surrounding area and would therefore accord with Part 12 of the NPPF and Policies 6 and 29 of the CDP.

Parking and Highway Safety

76. CDP Policy 6 (e) permits development that will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity. CDP Policy 16 Part 3 (d) requires development to provide adequate cycle and car parking, having regards to the Council's adopted Parking and Accessibility Supplementary Planning Document (SPD). CDP Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. This is in line with the aims of Paragraph 115 of the NPPF which requires new development to provide safe and suitable access to the site.
77. Objections have been received from the Parish Council, Cllr Christine Fletcher and local residents citing concerns in relation to the impacts of the development on existing parking issues and congestion and concerns have also been raised pertaining to the widening of the driveway.
78. The Highway Authority were consulted on the proposals and raised no objection, noting that the property would provide 4 no. off-street parking spaces in compliance with the SPD. They advised that an amended vehicular crossing would be required, and an informative would be attached in this regard.
79. As already noted, it is considered that the works to extend the driveway would likely fall under permitted development. In terms of parking provision, the SPD requires 4 no parking spaces for a 6-bedroom dwelling and the submitted plans indicate that the extended driveway will accommodate 3 parking spaces with the existing garage also retained. Cycle storage is also to be provided in accordance with CDP Policy 16 Part 3 (d). It is considered appropriate to apply conditions to secure the provision of the car parking and cycle storage prior to first occupation and retention whilst the property is in use as a small HMO.

80. While the concerns raised are acknowledged it is not considered that the proposals would significantly impact upon the existing network capacity or result in any detrimental impacts on highway safety sufficient to sustain refusal of the application. As such, subject to conditions, the development is considered to accord with the aims of Part 9 of the NPPF and Policies 6, 16 and 21 of the CDP and the Parking SPD.

Ecology and Biodiversity Net Gain

81. 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.
82. CDP Policy 41 (Biodiversity and Geodiversity) does not permit significant harm to biodiversity that cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for and proposals for new development will be expected to minimise impacts on, and providing net gains for, biodiversity. In relation to protected species, CDP Policy 43 (Protected Species and Nationally and Locally Protected Sites) states that development which has a likely adverse impact on the ability of species to survive, reproduce and maintain or expand their current distribution will not be permitted unless certain criteria are met.
83. 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 several 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.
84. The Council's Ecology section was consulted on the application and noted that extensive internal renovations are proposed to facilitate the development. Given this and based on the location of the property they initially advised that a Bat Roost Assessment would be required. However, following receipt of further information and photographs, the Ecologist considered that a BRA would not be required in this instance. An informative will be attached to any consent, reminding the applicant of their responsibilities should any bats be found during works.
85. Taking the above into account, the development would be considered to accord with the aims of Part 15 of the NPPF, Policies 41 and 43 of the CDP and Schedule 7A of the Town and Country Planning Act 1990.

Trees

86. CDP Policy 40 (Trees, Woodland and Hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees of high landscape, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. Proposals for new development will be expected to retain existing trees where they can make a positive contribution to the locality or to the development.
87. The Council's Tree section was consulted on the proposals and commented that small conifer trees and shrubs within the site do not warrant individual tree preservation orders, however, they consider it would be prudent to retain the hedge which grows around the front and side gardens. The majority of the existing hedge will be retained, and it is noted that an existing tree to the rear of the property will also be retained, following amendments to the proposals and re-siting of the cycle storage.
88. Based on the above, the development would not be considered to result in the loss of any trees of high amenity value in accordance with Policy 40 of the CDP.

Other Matters

89. Concerns were also cited that the development would lead to the loss of Council Tax, however, this is not a material planning consideration to which regard can be had in the assessment of this application.
90. An objection also raised concerns around the level of consultation carried out. The application was advertised by display of site notice and individual letters sent to neighbouring properties in accordance with statutory requirements. As such, it is considered that a sufficient level of consultation has been carried out.

CONCLUSION

91. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
92. In this instance, it is concluded that the principle of development is acceptable in accordance with Policies 6 and 16 of the County Durham Plan and it is not considered that the introduction of a small HMO in this location would unacceptably imbalance the existing community towards one dominated by HMOs, nor would it result in any unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of HMOs.
93. When assessed against other policies within the County Durham Plan, subject to conditions, it is considered that a suitable level of accommodation and

amenity space would be provided for future occupants, the development would have an acceptable impact on the character and appearance of the street scene and surrounding area and there would be no significant impacts on highway safety that would sustain refusal of the application.

94. Based on the above, the development is considered to accord with Parts 9, 12 and 15 of the National Planning Policy Framework, Policies 6, 16, 21, 29, 31, 40, 41 and 43 of the County Durham Plan, the Parking and Residential Amenity SPDs and Schedule 7A of the Town and Country Planning Act 1990.
95. While objections to the application are acknowledged, for the reasons discussed within this report they are not considered sufficient to sustain refusal of the application. Considering the above, the application is reported to the Committee with a recommendation to approve the application, subject to conditions.

Public Sector Equality Duty

96. 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.
97. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

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

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

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

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

Site Location Plan (Drg no. 1396-01), received 19.06.2024
Proposed Floor Plans and Elevations (Drg no. 1396-03), received 19.06.2024
Existing and Proposed Site Plans (Drg no. 1396-04), received 04.09.2024

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 16 and 29 of the County Durham Plan and Parts 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 as a small HMO (Use Class C4) hereby approved the sound proofing measures as detailed on the Proposed Floor Plans and Elevations (Drg no. 1396-03), received by the LPA on 19.06.2024, 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 use hereby approved shall be operated in strict accordance with the measures detailed in the submitted Student Management Plan, received by the LPA on 19.06.2024, for the duration that the property is occupied as a small HMO.

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

6. The driveway and cycle storage as shown on the Existing and Proposed Site Plans (Drg no. 1396-04), received by the LPA on 04.09.2024, shall be constructed and available for use prior to first occupation of the property as a small HMO (Use Class C4) hereby approved 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.

7. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 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.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

National Planning Practice Guidance Notes

County Durham Plan (2020)

- Residential Amenity Standards SPD (2023)
- Parking and Accessibility SPD (2023)
- Trees, Woodlands and Hedges Supplementary Planning Document SPD (2024)

Statutory consultation responses

Internal consultation responses

External consultation responses



Planning Services

Change of use from dwellinghouse (Use Class C3) to small house in multiple occupation (HMO) (Use Class C4) including driveway widening, cycle parking and bin storage.

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Comments

Date: 16.09.2024



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/24/02126/FPA
Full Application Description:	Change of use from 3-bedroom residential dwelling (Use Class C3) to 4-bedroom small HMO (Use Class C4) with extension to driveway and provision of cycle storage
Name of Applicant:	Mr John Byrne
Address:	3 Aspen Close Gilesgate Moor Durham DH1 1EE
Electoral Division:	Belmont
Case Officer:	David Richards (Planning Officer) Tel: 03000 261955 Email: david.richards@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to 3 Aspen Close which is currently a residential dwelling falling within Class C3 of the Town and Country Planning Use Classes Order and is positioned within a residential cul-de-sac in Gilesgate Moor. The property adjoins 1 Aspen Close to the east and 5 Aspen Close to the west.

The Proposal

2. The application seeks planning permission for the change of use from a 3-bedroom residential dwelling (use class C3) to a 4-bedroom small HMO (use class C4) with an extension to the driveway and the provision of cycle storage.
3. The application is being reported to Central and East Planning Committee at the request of Councillor Christine Fletcher and Belmont Parish Council who

consider the development would have a negative impact upon highway safety/parking issues, impact of HMO on balance of community, and noise to the extent that the application should be determined by the committee.

RELEVANT PLANNING HISTORY

4. There is no relevant planning history relating to the application site.

PLANNING POLICY

National Policy

5. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
6. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
7. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
8. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
9. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
10. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

11. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
12. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

National Planning Practice Guidance:

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

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

Local Plan Policy:

The County Durham Plan (CDP)

14. *Policy 6 (Development on Unallocated Sites)* states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.

15. *Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation)* seeks to provide 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.
16. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
17. *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.
18. *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.
19. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal.
20. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.

Supplementary Planning Documents

21. Residential Amenity Standards SPD (2023) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
22. Parking and Accessibility SPD (2023) – Provides guidance on parking requirements and standards.

<https://www.durham.gov.uk/cdp>

Neighbourhood Plan:

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

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Development-Plan-for-County-Durham>

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

24. *Highways Authority* – By widening the existing driveway, the applicant would be able to provide the 3 parking spaces necessary to be compliant with the 2023 Parking and Accessibility SPD. Therefore, the Highway Authority raises no objections to the proposal.
25. *Belmont Parish Council* – objects to the application on grounds of over proliferation of HMO properties in a residential area, impacts on the amenity of local residents, loss of a family home, transient nature of the occupants, environmental/visual impacts, that there is no need for additional student accommodation, parking and highway safety impacts.

Internal Consultee Responses:

26. *HMO Data* - within a 100m radius of, and including 3 Aspen Close, 5.4% of properties are Class N exempt student properties as defined by Council Tax records.

The following properties have unimplemented consent for the change of use to an HMO within 100m radius;

DM/24/01143/FPA FPA A2 "29 Hawthorn Crescent, Gilesgate Moor, Durham, DH1 1ED"

Accounting for the unimplemented consent, the percentage figure would be 6.5%.

27. *Environmental Health and Consumer Protection (Nuisance)* – raise no objection but recommend that suitably worded conditions are applied to secure the submission, agreement and implementation of sound proofing measures, tenant management plan and construction management plan and controls to the hours of working. They are also satisfied that the development is unlikely to cause a statutory nuisance.

Public Responses:

28. The application has been advertised by site notice and individual notification letters sent to neighbouring properties. There have been 7 letters of objection received in relation to the application.
29. These are summarised under the relevant headings below:

Objections

Principle

- No demonstration of need

Highway Issues

- Concerns raised include: limited on street parking and four adults with potentially 4 vehicles would worsen the congestion and parking difficulties experienced already which could be increased by takeaway and online shopping deliveries; extension of the driveway would remove an on-street parking space from the cul-de-sac; more cars using the cul-de-sac could impact on the safety of young children that use cul-de-sac to play; difficulty accessing the street such as by emergency vehicles due to increase in cars and inconsiderate parking

Residential Amenity

- Concerns raised include noise and anti-social behaviour increasing from use as an HMO compared to a family home, particularly during late hours; the combination of four adults and their friends visiting would be an intrusion of privacy to neighbouring properties; room sizes are not adequate and untidy appearance of HMO properties in general.

Ecology

- Removing the front garden would involve removing a tree and various established plants.

Other Matters

- Devaluation of property values
- Increase in the amount of waste generated
- Impact on broadband
- Roof in disrepair

Elected Members

30. Councillor Christine Fletcher objects to the application objects to the application on grounds of principle of development over proliferation of HMOs in this area, impacts on the local community, impacts on the amenity of neighbouring and future occupants due to the cul-de-sac location, loss of a family home, parking and highway safety, enough student housing already exists.

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

Applicants Statement:

31. No.3 Aspen Close is a three-bedroom semi-detached house located in a residential area of Durham. The property benefits from an existing attached garage and driveway which can accommodate one car.
32. The application seeks for full planning permission for a Change of Use from Residential Use Class 3 to Residential Use Class 4 including internal reconfiguration; the formation of two additional car parking spaces to the front; refuse bin and cycle storage areas to the rear and with the garage to remain as such.
33. Planning permission is required for this Change of Use because the site is located within an area subject to an Article 4 Direction withdrawing Permitted Development rights for such changes of use.
34. Public responses have raised in the main, the following objections:
1. Increase in number of vehicles leading to parking problems and congestion.
 2. Detrimental to the amenity of neighbouring properties mainly through noise disturbance.
 3. Detrimental to the character of the area including the balance of the community.
 4. No justification of need.
35. The above is not intended to list every point but represents I believe, the main objections.
Let me respond in order:
1. The increase in number of vehicles leading to parking problems and congestion.

No. 3 Aspen close is currently a 3 bedroomed house which, worst-case scenario could arguably have six adults in a family: two parents, two adult children and their two partners each with a car. As an HMO this property can only house four people and it is very unlikely that they will all have cars. Currently if vehicles cause congestion by obstructing the adopted footway or

blocking the carriageway this is subject to the legislative control via the Highways Act and can be pursued by such.

Notwithstanding, the County Durham Plan, Planning Accessibility SPD Adopted Version 2023 states that four bedroomed houses require three parking spaces. Provision is made in the planning application for three in-curtilage parking spaces.

2. Detrimental to the amenity of neighbouring properties mainly through noise disturbance.

Given that number 3 Aspen Close is located within a cul-de-sac, any external noise may be more audible due to the enclosed nature of the street especially when background noise levels are low. As a semi-detached property any noise disturbance generated within the house is going to be more audible to the immediate neighbours.

Please note that no.3 could currently house a family of 3 to 6 people. A family could also generate noise with everyday comings and goings. This would of course vary depending on the ages of those living there. For example, this could be adults on shifts or working from home or regular office hours, children of varying ages with school runs, clubs and societies or equally teenagers with a heavy-metal obsession!. The objections contend that the proposed HMO would adversely affect non-student residents through increased noise and disturbance. Student tenants in an HMO can and will be held accountable for their actions, and steps can and will be taken if they are repeatedly found to be causing a nuisance. As well as tenants agreeing to behave in a neighbourly fashion by signing a Tenancy Agreement containing clauses relevant to excessive noise or disturbance, a proposed plan of sound attenuation measures has been submitted in the original application. There will be no change to the external appearance of the dwelling, no new windows or changes in the intervening distances with neighbouring properties, and as such the proposed development would not, I believe, give rise to unacceptable loss of privacy or amenity even if comings and goings from number 3 were to increase.

3 Detrimental to the character of the area including the balance of the community.

Policy 16 and the Article 4 Direction confirm that proposals for new HMOs will not be supported when more than 10% of the total number of residential units within 100m radius of the application site are Class N exempt which is the point where it is considered that there is an imbalance between HMOs occupied by students and houses occupied by other non-student residents. Whilst we acknowledge the concerns raised by local residents regarding imbalance, the current application in combination with approved schemes and applications under consideration in the area will not lead to more than 10% of properties within 100m radius being Class N exempt and as such would not conflict with Policy 16 of the adopted CDP.

4. No justification of need.

The question of need was raised. Durham County Council SPD Housing Needs Interim Policy Statement on First Homes states PBSA require applicants to demonstrate that there is a need for the PBSA in support of the planning application. This demonstration of need is as it says, for Purpose Built Student Accommodation, not for Houses in Multiple Occupation. This application is for Change of Use Residential Use Class 3 to House in Multiple Occupation (still Residential) Use Class 4.

Whether or not there is a need for further student accommodation in HMO form will be dictated by market forces; if the proposed HMO is not ultimately used as such it does not preclude it from being occupied again in the future as a family dwelling with little or no internal reconfiguration, as can be seen on the proposed submitted floorplans.

36. Statutory Consultees have responded.

Highways Development Management 13 August 2024

'By widening the existing driveway, the applicant would be able to provide the 3 parking spaces necessary to be compliant with the 2023 Parking and Accessibility SPD therefore the Highway Authority raises no objections to the proposal.'

Nuisance Action Team 29 August 2024

' I am satisfied based on the information submitted with the application and with the addition of the above condition (sound attenuation plan and conditions on construction work hours) that the development is unlikely to cause a statutory nuisance, '

HMO Data Office 16 August 2024

'Within 100m radius of and including 3 Aspen Close 5.4% of properties are Class N exempt student properties as defined by council tax records.'

'Accounting for the unimplemented consent the percentage figure would be 6.5%.'

37. Please see below a number of similar applications recently have been brought to Committee or taken to Appeal citing very similar objections.

DM/22/01178/FPA

DM/23/01442/FPA

DM/23/01173/FPA

DM/24/01143/FPA

38. I believe the introduction of a small HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs. I do not believe it would result in an unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of

HMOs or have an unacceptable impact on that of highway safety. Thank you for your consideration.

PLANNING CONSIDERATION AND ASSESSMENT

39. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
40. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making, along with advice set out in the Planning Practice Guidance notes. Other material considerations include representations received.
41. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, Highway Safety Issues, Residential Amenity, Design and Visual Amenity, Biodiversity Net Gain, Other matters and Public Sector Equality Duty.

Principle of Development

42. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at NPPF Paragraph 12. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.
43. NPPF Paragraph 11c requires applications for development proposals that accord with an up-to-date development plan to be approved without delay. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
44. 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.

45. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a 4-bed HMO (Use Class C4). Other works include an external bin store, cycle store and extending the drive to the front. The dwelling's current layout is broadly traditional with 3-bedrooms to the first floor and kitchen/dining room/lounge to the ground floor. A larger 3rd bedroom would be created at first floor and a 4th bedroom created on the ground floor with an open plan kitchen/dining and living room.
46. 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.
47. 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. Most relevant criteria in this case are a, d, e, f, and h. Criteria d, e, f and h are considered in the relevant sections of the report.
48. In relation to criterion a), 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 character of the area and residential amenity, which is assessed in more detail elsewhere in this report.
49. In addition, CDP Policy 16 is also of relevance to this application which relates to student accommodation/HMOs. It states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and sui generis), extensions that result in specified or potential additional bedspaces and changes of use from any use to a Class C4 (House in Multiple Occupation), where planning permission is required or a House in Multiple Occupation in a sui generis use (more than six people sharing) will not be permitted if:
50. 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.
51. This is in line with Paragraph 96 of the NPPF, which also seeks to achieve healthy, inclusive and safe places which promote social interaction and community cohesion and with Paragraph 135 of the NPPF which seeks to ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
52. In the supporting text of Policy 16 it is stated that Part 3 of the policy uses a threshold of 10%. This has been derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions',

which was published in 2008. The policy approach recognises that it is the cumulative impact of HMOs that has an impact upon residential amenity and can change the character of an area over time.

53. 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.
54. Belmont Parish Council, Councillor Christine Fletcher and local residents have raised objections that the development would unbalance the community, be harmful to social cohesion and result in the loss of a family home. Whilst these concerns are noted, the Council's HMO Data Officer has confirmed that within a 100 metre radius of, and including 3 Aspen Close, 5.4% of properties are class N exempt as defined by Council Tax records. 29 Hawthorn Crescent has an unimplemented consent for the change of use to an HMO with a 100 metre radius. Accounting for this unimplemented consent, the percentage figure would be 6.5%. The Parish Council reference that the figure is derived from a data extract on 01/11/2022. However, for clarity it should be noted that the class N data was derived from a data extract on 02/04/2024. Noting that the concentration of Class N exempt properties within 100m of the site is 6.5% including the proposed change of use. 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.
55. 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 CDP Policy 16, Part 3, criteria a) and b) (criterion c) not being relevant) and is acceptable in principle, subject to further consideration of the proposal against other criteria on CDP Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.
56. 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 CDP 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 CDP Policy 16, and it is this part of CDP 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 CDP 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.

57. 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.
58. 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 CDP 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.
59. In respect of CDP Policy 16 Part 3g, the applicant has stated that the property would meet all relevant safety standards and building regulations and would ensure that all doors and windows can be securely locked including to the garage and bike shed. A Tenant Management Plan would also be secured by condition to ensure that property is managed appropriately.
60. Taking account of the above it is considered that the principle 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.

Residential Amenity

61. 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.
62. Policy 31 (Amenity and Pollution) of the CDP displays broad accordance 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.
63. In addition, CDP Policy 6 (a) permits development that is compatible with any existing or permitted use of adjacent land. CDP Policy 29 (e) requires development to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
64. In this instance the application site is a semi-detached property located within a residential area and as such the nearest residential property adjoins the application site to the northwest, with further residential properties to all sides.
65. Objections have been raised regarding the impacts on residential amenity including noise and disturbance and the tidiness of these types of properties. The Environmental Health Officer (EHO) has provided comment on the application and considers that the information submitted demonstrates that the application complies with the thresholds stated within the Technical Advice Notes (TANs). The EHO has noted that although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO use than single dwelling. This is due to the increase in household numbers and activity to and from the property. The demographic that uses this type of accommodation are often associated with great use of the night-time economy and as such an increased level of night-time noise may occur. However, it is anecdotal as the potential for impact is associated with the individuals residing there and as such might differ greatly.
66. The application site is located within a residential area characterised by family homes. The impact of the development upon residential amenity is a material consideration in determination of this application. In most cases it is held that changes of use from C3 dwellinghouses to HMO use can be adequately mitigated to within acceptable levels subject to planning conditions. Where an HMO is proposed within a residential area with an existing high proliferation of HMO accommodation, the cumulative impact of an additional HMO in this context has been considered to have a detrimental impact upon residential

amenity from increase in noise and disturbance sufficient to sustain refusal of planning permission. The LPA has refused a number of previous applications in this regard and proved successful in defending a subsequent planning 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.

67. No information has been provided in respect of how the property would be managed during the tenancy and therefore an effective management plan for the tenants of the property should be submitted by the applicant, it is proposed to secure the submission of a Tenant Management Plan via a planning condition to be submitted prior to the occupation of the HMO.
68. The proposals do include the provision of one bedroom to the ground floor which could lead to a greater impact for the individual residing in these rooms, as well as the potential increase of noise at night-time. Therefore, to mitigate this, soundproofing measures would be required. The submission and agreement of precise details in this regard should be secured through planning condition.
69. In addition, the EHO notes the potential for the development to impact nearby residents during the construction phase and as such has requested a construction management plan. However, given the limited construction work proposed, a condition requiring this would not be considered necessary.
70. In respect of the concerns raised regarding the untidy appearance of HMOs in general, it is noted that there are separate powers available to the LPA to resolve instances where properties are considered to amount to untidy land. Should the application site appear as untidy land in the future then this could be addressed through enforcement action where appropriate. This however would relate to the external appearance of the property only and cannot control for example, alcohol bottles in windows. As such, it is not considered that this matter could sustain refusal of the current planning application as a consequence.
71. Objections have raised concerns in respect of loss of privacy due to four adults and their friends visiting the property. However, this would not be significantly different from a family living there with adult children still living at home that invite friends. It should also be noted that there are no proposed changes to the fenestration.
72. 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.

73. 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 CDP Policy 29(e) which requires new development to provide high standards of amenity and privacy.
74. All the bedrooms meet the minimum requirements of the NDSS being in excess of the required 7.5sq metres per room. With regard to the total overall internal space provided across the dwelling as a whole it is noted that the NDSS does not provide guidance specifically relating to 4 bedspace, 4 person dwellings. However, it does include standards in relation to 4 bedspace 5 person dwellings, and it is noted that this requires an overall area of 97m². The proposed change of use would provide adequate internal space delivering approximately 101sq metres of total internal floorspace therefore exceeds this standard. However, it is noted that any future subdivision to provide a 5th bedroom would fall 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 4.
75. Therefore, based on the above the proposal is considered to comply with CDP Policy 29(e) in that it provides a suitable amount of internal and external amenity space to meet the needs of future occupiers and delivers a suitable quality of development, and therefore complies with Policies 16 and 29(e) of the County Durham Plan and Part 15 of the NPPF.

Character and appearance

76. 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.
77. CDP Policy 6 (d) permits development that would be appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement. CDP Policy 29 requires development to contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
78. Alterations proposed include extending the driveway to provide additional off street parking which would not be out of character with the area as several other properties have also extended their parking to the front. The proposed bicycle shed would have the appearance of a typical garden shed, and in any case

both of these alterations could be carried out under permitted development rights.

79. 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 street scene.
80. It is acknowledged that an HMO can change the character of an area, however given the small number of HMOs currently in this area, it is not considered that the proposal would result in an over proliferation of HMOs in the area that would be detrimental to its character and would therefore be in accordance with CDP Policy 29.
81. Taking the above into consideration, it is considered that the proposed development would accord with Policy 29 of the CDP and Part 12 of the NPPF.

Parking and Highway Safety

82. CDP Policy 16.3 requires new HMOs to provide adequate parking and access and CDP Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. This displays broad accord with paragraph 114 of the NPPF which requires new development to provide safe and suitable access to the site.
83. NPPF Paragraph 115 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
84. Objections have been raised by Belmont Parish Council, Cllr Christine Fletcher and local residents that the development would increase the already existing parking problems and extending the parking would remove on street parking.
85. The application proposes the change of use from 3 bed property, which would have an existing parking requirement of 2 spaces to a 4-bedroom property with parking requirement of 3 spaces as required by the 2023 Parking and Accessibility SPD. The property benefits from a parking space for a single car and a garage. To address the shortfall for the additional bedroom, it is proposed to extend the driveway across the existing front garden to provide an additional parking space. It is acknowledged that the dimensions of the existing garage are below modern standards, as it is an existing space, and the extension to the driveway is providing an additional space for the additional bedroom, it is considered that the proposal would accord with the 2023 Parking and Accessibility SPD. DCC Highways Authority was consulted on the application and raised no objection. A condition is also proposed to limit the number of occupiers to 4 which would stop the demand for parking at the property increasing.

86. Whilst it is acknowledged that extending the driveway would remove an on-street parking space, this could be done without the need for planning permission.
87. Cycle storage is shown on the proposed site plan and its provision is a requirement of criterion (d) of Part 3 to CDP Policy 16. 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.
88. Therefore, notwithstanding the concerns raised by residents, County Councillor and the Parish Council in relation to parking, 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 Policies 16.3 and 21 of the CDP and paragraph 114 of the NPPF.

Ecology and Biodiversity Net Gain

89. 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
90. 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.
91. 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.
92. 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.

93. In terms of the concerns raised in respect of the removal of the tree and shrubs from the front garden, these are not protected and could be removed by the owner without needing permission from the council.

Other Issues Raised

94. Objections have been raised regarding loss of property values; however, this is not a matter which can be taken into consideration.
95. In terms of waste generated, it is the responsibility of the tenants to correctly dispose of waste. There is adequate external space for a bin storage area shown on the plans, and a tenant management plan can be secured by a planning condition to ensure effective management of the property.
96. Regarding impact on broadband, superfast broadband is available in the area according to Ofcom, and therefore it is not considered that the proposal would have a material impact on the demand of broadband to other properties.
97. In terms of the roof allegedly in disrepair, the owner of the property is responsible for the upkeep and maintenance of the property to ensure it is habitable and this is not a material consideration to which weight can be afforded in the determination of this planning application.
98. Regarding the comments of objectors in respect of inconsiderate parking, children's safety and access for emergency services, driving safely and considerate parking are the responsibility of the individual rather than a matter which is relevant to the assessment of this planning application and where this is perceived as an existing issue it is noted that it is not the role of the planning to control or legislate matters in this regard.

CONCLUSION

99. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
100. 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 County Durham Plan subject to appropriate planning conditions described within the report and listed below.
101. 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, Parts 9, 12 and 15 of the National Planning Policy Framework, Residential Amenity Standards SPD (2023), Parking and Accessibility SPD (2023) and Schedule 7A of the Town and Country Planning Act 1990.

102. While objections to the application are acknowledged, for the reasons discussed within this report they are not considered sufficient to sustain refusal of the application. Considering the above, the application is reported to the Committee with a recommendation to approve the application, subject to conditions.

Public Sector Equality Duty

103. 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.
104. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

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

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

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

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

Plan	Drawing No.	Date Received
Location plan		01/08/24
Proposed bike storage		07/08/24
Proposed first floor plan		07/08/24
Proposed ground floor plan.		07/08/24
Proposed Bicycle Shed		08/08/24

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

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

4. Prior to the first occupation of the development hereby approved, a detailed property and tenant management plan shall have been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include landlord contact information and details of those specific controls to mitigate the impact on residential amenity from noise, disturbance, and anti-social behaviour and measures to secure the property outside term times or when the property is vacant. The development shall thereafter be managed in accordance with the agreed property and tenant management plan at all times.

Reason: In the interest of the amenities of the area in accordance with Policies 16, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework

5. Prior to the first occupation of the HMO hereby approved, secure and enclosed cycle parking shall be constructed in accordance with the drawings entitled Proposed Site Plan and Proposed Bicycle Shed, and that space shall thereafter be kept available for the parking of bicycles for the occupiers of the approved development thereafter.

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

6. Before the HMO hereby approved is occupied the drive shall be constructed in accordance with the approved plans and details, and thereafter they shall be used and maintained in such a manner as to ensure their availability at all times for the parking of private motor vehicles.

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

In undertaking the development that is hereby approved:

7. 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.

8. The HMO hereby approved shall be occupied by no more than 4 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 County Durham Plan.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

National Planning Practice Guidance Notes

County Durham Plan (2020)

- Residential Amenity Standards SPD (2023)
- Parking and Accessibility SPD (2023)

Statutory consultation responses

Internal consultation responses

External consultation responses



<p>Planning Services</p>	<p>Change of use from 3-bedroom residential dwelling (Use Class C3) to 4-bedroom small HMO (Use Class C4) with extension to driveway and provision of cycle storage</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2024</p>	<p>Comments</p>	
	<p>Date: 08.10.2024</p>	



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/24/00692/OUT
Full Application Description:	Outline application for the erection of 1 no. rural workers dwelling (with all matters except access reserved)
Name of Applicant:	Mr and Mrs Haswell
Address:	Homer Hill Farm Pittington Road Rainton Gate Houghton-Le-Spring DH5 9RG
Electoral Division:	Sherburn
Case Officer:	David Richards (Planning Officer) Tel: 03000 261955 Email: david.richards@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to Homer Hill Farm situated to the south of settlement of West Rainton. The site would be served by the existing residential access off Pittington Road. The site is considered to be in open countryside, within the designated Green Belt and is also partially within a Coalfield Development High Risk Area. The wider site comprises of several buildings in association with the various operations including agricultural buildings, farm shop and café, and two existing dwellinghouses. The worker's dwelling would be sited to the southeast of the main cluster of buildings with the main farmhouse to the north and another dwelling is to the west of the proposed site.

The Proposal

2. The application seeks outline planning permission for the erection of 1 no rural workers dwelling with design, scale and appearance of dwelling subject to reserved matters.
3. The application is being reported to Central and East Planning Committee at the request of Councillor David Hall, on the grounds of the importance of this application to the future sustainability and needs of this growing and very successful local family business, in accordance with the Council's Scheme of Delegation.

RELEVANT PLANNING HISTORY

4. The following planning applications are relevant to the current application:

Planning reference: DM/14/00648/FPA Proposal: Single storey extension for cafe. Approved: 03 June 2014.

4/03/01007/FPA Proposal: Erection of agricultural building. Approved: 03 December 2003

4/08/00799/FPA Proposal: Change of use and conversion of agricultural building to farm shop and butchers with associated external alterations, provision of new access, 19 space car park, landscaping and minor alterations to adjacent livestock shed. Approved: 04 November 2008

4/09/00334/FPA Proposal: Change of use and conversion of existing agricultural shed to use as farm shop in association with previously approved (08/00799/FPA) conversion of adjacent building to farm shop. Approved: 17 June 2009.

4/09/00726/FPA Proposal: Revised site access arrangements in association with previously approved farm shop (08/00799). Approved: 23 October 2009.

4/09/00813/FPA Proposal: Erection of 1.3 to 1.5m high timber gates and stone wall to site access for use in association with previously approved farm shop. Approved: 02 December 2009.

4/10/00396/FPA Proposal: Erection of replacement general purpose agricultural building and change of use of agricultural land to extended parking area for use in association with previously approved farm shop. Approved: 20.07.2010

4/11/00260/FPA Proposal: Erection of pitched roof extension to existing farm shop to provide extended catering and cafe facilities (revised and resubmitted). Refused: 01 June 2011.

4/12/00417/FPA Proposal: Single storey kitchen extension. Approved: 22 June 2012.

DM/14/00648/FPA Proposal: Single storey extension for cafe. Approved: 03 June 2014

DM/17/01195/FPA Proposal: Erection of new dwelling. Withdrawn: 21 June 2017.

DM/18/00331/FPA Proposal: Erection of single storey building for general storage (amended description). Approved: 24 April 2018.

DM/19/02702/FPA Proposal: Erection of link corridor (amended description). Approved: 01 November 2022.

DM/21/04039/FPA Proposal: Proposed extension to existing butchery to support the farm shop and cafe (amended title). Approved: 30 June 2022.

PLANNING POLICY

National Policy

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 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
10. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
11. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
12. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
13. *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.
14. *NPPF Part 13 Protecting Green Belt Land* - The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Green Belt land serves 5 purposes; to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
15. *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.
16. *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 Page 73 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:

17. 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: design process and tools; determining a planning application; Green Belt; Housing Needs of different groups; flood risk; healthy and safe communities; land affected by contamination; natural environment; planning obligations; 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 (CDP)

18. *Policy 10 (Development in the Countryside)* states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.
19. *Policy 12 (Permanent Rural Workers' Dwellings)* sets out the criteria needed to demonstrate the acceptability of a new permanent agricultural, forestry and other rural workers' dwellings outside the built-up area. These criteria include: details of the nature and demands of the work that demonstrate an essential functional need for a permanent full time worker to live on site; details that the rural business activity has been established for at least three years and is financially sound; the proposed dwelling should not be harmful to the landscape and character of the area; the scale of the dwelling should be commensurate with the functional requirement; the functional need cannot be fulfilled by another existing dwelling in the unit or area. If planning permission is to be granted, it must be subject to an occupancy condition and removal of householder permitted development rights. Further provisions for temporary accommodation and removal of occupancy conditions.
20. *Policy 20 (Green Belt)* development proposals within the Green Belt will be determined in accordance with national planning policy. There is a presumption

against inappropriate development in the Green Belt unless very special circumstances can be demonstrated. The National Planning Policy Framework (NPPF) sets out several exceptions as well as other forms of development which may be inappropriate in the Green Belt.

21. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
22. *Policy 26 (Green Infrastructure)* states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
23. *Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure)* requires all residential and commercial development to be served by a high-speed broadband connection, where this is not appropriate, practical or economically viable developers should provide appropriate infrastructure to enable future installation.
24. *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.
25. *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.
26. *Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land)* requires that where development involves such land, any necessary mitigation

measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.

27. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
28. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
29. *Policy 39 (Landscape)* states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
30. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
31. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
32. *Policy 42 (Internationally Designated Sites)* states that development that has the potential to have an effect on internationally designated sites, either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.

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

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

33. *Policy 43 (Protected Species and Nationally and Locally Protected Sites)* development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.

Supplementary Planning Documents

34. Development Viability, Affordable Housing and Financial Contributions SPD (2024) – Provides guidance on how CDP Policy 25 and other relevant policies requiring planning obligations for affordable housing or other infrastructure will be interpreted and applied.
35. Trees, Woodlands and Hedges SPD (2024) – Provides guidance on good practice when considering the impacts of development on trees, woodlands, and hedgerows, as well as new planting proposals.
36. Residential Amenity Standards SPD (2023) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
37. Parking and Accessibility SPD (2023) – Provides guidance on parking requirements and standards.

<https://www.durham.gov.uk/cdp>

Neighbourhood Plan:

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

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Development-Plan-for-County-Durham>

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

39. *Town / Parish Council* – No comment
40. *Highways Authority* – The principle of this development is acceptable from a Highways perspective. Parking should be provided in accordance with the 2023 Parking and Accessibility SPD. As the dwelling would be within a gated site, the Local Authority refuse vehicle would not enter the site to collect the bins. Therefore, either a private refuse collection would be required, or bins would need to be brought to the nearest adopted highway on the day of collection and be returned to the site the same day.

Internal Consultee Responses:

41. *Spatial Policy* – provide guidance and sets out the policies and issues that are relevant to this application.
42. *Landscape Section* – Advised site lies within open countryside therefore the proposal will primarily be assessed against CDP Policy 10. The proposal would be physically well related to the activities required and would be viewed in the context of existing residential and agricultural built form and would not have an adverse impact on the landscape or the character and appearance of the area subject to the design of the dwelling being sensitive to their surroundings in terms of layout, scale and massing, and choice of materials and detailing is appropriate to its context, form and function and similar to the existing farmhouse. New buildings for agriculture and forestry in the Green Belt are listed as exceptions, but dwellings for rural workers are primarily intended for residential use, therefore advised it is likely that the proposal would be inappropriate development. The introduction of built form would reduce openness both spatially and visually.
43. *Arboricultural Officer (Trees)* – advised that the trees on site are primarily small ornamental garden trees and bushes of low amenity value that would not preclude any site development, e.g. none are worthy of protection via tpo and either individually or collectively.

It may however be appropriate to add some trees and screening as part of a landscape plan to mitigate visual impacts of an additional building

No objection in principle.

44. *Ecology* –The supplied ecology report is sufficient to inform the application and no further survey is required. No BNG is required as it is self-build and exempt.

Please request an integrated bird breeding unit into the new dwelling as ecological enhancement under the NPPF if it is approved.

45. *Environmental Health and Consumer Protection (Nuisance)* –

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

In principle we would have no objection to a dwelling being built for the specific use of farm and business. However, we would have concerns and the potential conflict of interest between the farming operations/business if that dwelling was at some point rented out or sold a third party and not connected to the businesses in hand.

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

We would suggest, if planning permission is granted then a condition is attached which only allows the proposed dwelling to be used in connection with farming operations and butchery business.

46. *Environmental Health and Consumer Protection (Contamination)* –

With reference to the planning application, I would confirm that I have assessed the historical maps and available information with respect to land contamination. It is noted that topsoil is to be brought to site this needs to be tested in accordance with the YALPAG guidance prior to importation and therefore confirmation of this is required.

I would also advise that the development is located on a coalfield high risk development area. As such the planning authority should ensure that the coal authority is consulted and any relevant conditions applied.

The following should be added as an informative:

If unforeseen contamination is encountered, the Local Planning Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary, a remediation strategy is carried out in accordance with the YALPAG guidance

and agreed with the Local Planning Authority. The development shall be completed in accordance with any amended specification of works.

External Consultees

47. The Coal Authority – The Coal Authority response: fundamental concern

I have reviewed the site location plan, the proposals and the supporting information submitted and available to view on the LPA website. I can confirm that the application site falls partly within the defined Development High Risk Area.

The Coal Authority's information indicates that a coal seam is conjectured to outcrop at or close to the surface of the site, which may have been worked in the past. Voids and broken ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases.

In accordance with the agreed risk-based approach to development management in the defined Development High Risk Areas, the applicant should be informed that they need to submit a Coal Mining Risk Assessment to support their planning application. As no relevant information has been submitted at this time, the Coal Authority's Planning & Development Team objects to this application.

Public Responses:

48. The application has been advertised by site notice and individual notification letters sent to neighbouring properties.

49. No representations have been received in relation to the application.

Elected Members

50. Councillor David Hall supports the application.

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

Applicants Statement:

51. Homer Hill Farm and the applicant's business has been operational for more than 40 years, with an agricultural enterprise traditionally made up of cattle farming, later diversifying with the introduction of a farm shop, butchery and café. The business now attracts a significant number of visitors each year and is valued by the local community. Homer Hill Farm has remained in the Haswell family since the business began and the family wish to ensure it can remain in their control passed down through generations. The proposed development therefore seeks to provide an additional dwelling on site to assist with

succession planning and ensure effective management of the business. As with many rural businesses security is becoming a significant problem with a number of recent incidents including a car being set on fire and a homeless person sleeping in a building. Luckily a worker was on site to deal with both issues quickly, however had this not been the case there would have been detrimental losses to the applicant's business.

52. The proposed development site is located within the Green Belt and such due consideration should be afforded to the potential impact of new development. The NPPF advises that the development of new buildings in the Green Belt should be regarded as inappropriate unless they meet a number of exceptions, which includes the redevelopment of previously developed land. It should also be noted that the provision of a rural workers dwelling is considered to fulfil the requirements of very special circumstances therefore such developments are not uncommon in Green Belt locations. The application site comprises an area of garden land associated with the farmhouse and more generally associated with the Homer Hill farm complex. The land is by definition previously developed land. Whilst the application is in outline and the scale of proposed dwelling yet to be determined it is considered a dwelling can be accommodated on site which is visually subservient to the adjacent buildings and without resulting in a greater impact on the openness of the Green Belt. The proposed development can therefore be considered acceptable in accordance with paragraph 154 (g) of the NPPF.

53. Notwithstanding the above permission is sought for the provision of a rural workers dwelling, therefore support can also be provided by Policy 12 of the County Durham Plan. Policy 12 supports the provision of rural workers dwellings where there is an essential need and the business is financially viable with a prospect of remaining so. The business is made up of a butchery, farm shop, café, and traditional agricultural holding. Each element has its own demands and is managed by one of the family members. A typical day for the farm shop, café and butchery would start around 6am with work ongoing until 6pm. However the day to day agricultural activities including animal husbandry, welfare checks, calving and lambing often take place outside of typical working hours and require an on site presence, to prevent risk to human or animal health, crime or to deal quickly with emergencies that could cause serious losses. Mr Haswell is looking towards retirement but cannot do so unless there is a member of staff residing on site to ensure the safety of livestock and the security of the farm shop. It is therefore essential for a workers dwelling to be located on site. Homer Hill Farm has been established and profitable for 40+ years, with no signs of business slowing down. Year on year the business is seeing an increased number of visitors/customers, with profits reflecting this. The business is therefore able to sustain a worker residing on site.

54. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open however, in this instance the application site is considered previously developed land and the proposed development accords with the NPPF. In addition there is an essential need for a worker to reside on site. The unmet essential need for a dwelling to house a rural worker therefore carries substantial weight, amounting to very special circumstances necessary

to justify the development. It is considered that as the proposed development satisfies the keys points of Policy 12. Members are therefore respectfully requested to give due consideration to the requirements of this rural business and need to reside on site, with weight afforded to the previously developed nature of the land. Should members be minded to grant planning permission the applicant is willing to accept a necessary occupancy condition.

PLANNING CONSIDERATION AND ASSESSMENT

55. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
56. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making, along with advice set out in the Planning Practice Guidance notes. Other material considerations include representations received.
57. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, Locational Sustainability, Highway Safety Issues, Design and Layout, Landscape and Visual Impact, Residential Amenity, Drainage and Flood Risk, Ecology, Ground Conditions and Land Stability, Planning Obligations, Other Matters, and Public Sector Equality Duty.

Principle of Development

58. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at NPPF Paragraph 12. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.
59. NPPF Paragraph 11c requires applications for development proposals that accord with an up-to-date development plan to be approved without delay. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
60. The application site is located beyond the built-up area of any recognised settlement and would therefore be classified as being located within the open countryside. Policy 10 (Development in the Countryside) of the County Durham Plan (CDP) (2020) states development in the countryside will not be permitted

unless allowed for by specific policies in the CDP or an exception within policy 10. One of the policies listed is Policy 12 (Permanent Rural Workers' Dwellings). The National Planning Policy Framework (NPPF) paragraph 84(a), which seeks to avoid the development of isolated homes in the countryside unless there is an 'essential need' for a rural worker to live permanently at or near their place of work in the countryside, is relevant. This approach is reflected within Policy 12 of the CDP.

61. Whilst the NPPF does not provide any further guidance on how to assess the 'essential need', the associated PPG does provide some insight on this issue, and Policy 12 provides a range of criteria whereby proposals for new permanent agricultural, forestry and other rural workers' dwellings outside the built-up area can be assessed.
62. Policy 12 states that proposals for new permanent agricultural, forestry and other rural workers' dwellings outside the built-up area will be permitted provided it can be demonstrated that:
 - a. the nature and demands of the work involved means that there is an essential existing functional need for a permanent full time worker to live at, or very close to, the site of their work in order for the enterprise to function effectively, or the dwelling is required to accommodate a person with majority control of the farm business;
 - b. the rural business activity has been established for at least three years, is currently financially sound as verified by a qualified accountant, and has a clear prospect of remaining so;
 - c. the proposed dwelling is not harmful to the rural landscape and character of the area and is physically well related to the activities required;
 - d. the scale of the dwelling is commensurate with the established functional requirement of the enterprise; and
 - e. the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned
63. In the supporting text of the Policy, paragraph 5.88 states that whether the need is essential in any particular case will require a demonstration that there is a functional requirement for a full time worker to be available at all times on the site for the enterprise to function properly; that the enterprise is financially sound so that this functional requirement is likely to continue well into the future; and that the need for a dwelling could not be met by existing buildings on the site or existing housing in the area. Cases will be judged on the needs of the enterprise and not the personal preferences of the specific individuals.
64. A statement and other supporting information have been submitted with the application which sets out the reasons why the dwelling is considered to be required in this instance. The applicant states that the business is made up of

three elements; the butchery, farm shop and café, and an agricultural holding. Work in the butchery starts at around 6am to prepare meat for the day's sales with work ongoing until the shop closes. The farm shop and café open from 9am to 5pm Monday to Saturday and 10am to 4pm on Sundays. Regarding the agricultural holding, this predominantly comprises of breeding cows and ewes with the day-to-day activities typically including animal husbandry, welfare checks, calving and lambing. The cows and ewes calve each spring over a period of several weeks, with some births occurring outside of normal working hours. In light of the above, the applicant considers that there is a functional need for a worker to reside on site. In addition to the above, the applicant has said that the farm has experienced some security issues including a car being set on fire and a homeless person sleeping in one of the buildings, and an additional dwelling on site would make a material difference to the security of the farm.

65. The planning statement indicates that it is intended that the dwelling is to be occupied by one of the family members who plays a key role in management of the farm shop and butchery, and it has since been clarified that the dwelling would be occupied by Mr Haswell's granddaughter and her partner, although the statement implies that the dwelling is for a single worker. Both the granddaughter and their partner currently live onsite in the farmhouse with Mr Glan Haswell and Mrs Haswell. The family are planning for Mr Haswell's retirement and the provision of a new dwelling at the farm would ease pressure on the Haswell Family, enabling Mr and Mrs Haswell to retire. The other dwelling at the farm is occupied by Ms Joanne Moran (Director and Café Manager) who is currently taking a step back from work due to ill health.
66. In respect of CDP Policy 12 a) while the submitted information is seeking to put forward a case that there is a need for an additional worker to live on site on a 24-hour basis to deal with the workload and problems that are likely to arise, officers do not consider that it suitably demonstrates that there is an essential existing functional need to live at the site permanently in order for the enterprise to function effectively and would not therefore pass part a) of policy 12.
67. Limited details have been provided regarding what proportion of the business is traditional farming compared to the other elements of the business. The planning history outlined above would suggest that the retail element of the business has become a larger proportion of the business, but these details have not been provided. The applicant has clarified that the traditional farming element of the business predominantly comprises of breeding cows and breeding ewes, that both calve/lamb each spring over a period of several weeks which could occur outside normal working hours, but does not provide any details such as numbers of cattle and sheep or the calculated labour requirements of such. Generally such applications are expected to be informed by a methodology to establish the need for an agricultural worker citing for example, The Agricultural Budgeting and Costing Book or the Farm Management Pocket Book. However, none of this has been provided and therefore insufficient evidence has been provided to demonstrate a need for a full time permanent worker to live permanently on site. In respect of other duties such as care throughout the year i.e. regular health checks and treatments possibly outside of normal working hours, this could

reasonably be done by a worker who lives near the site, for example in nearby West Rainton rather than being required to live permanently onsite. Furthermore, there are technological solutions available to alert the applicant in the case of any issues to allow them to attend the site to rectify the situation. Therefore, the information provided has not satisfactorily demonstrated that there is an existing essential functional need for an additional permanent dwelling, contrary to Policy 12a.

68. However, it is understood that the dwelling proposed is intended for a family member who works in this butchery and farm shop part of the business and not the rearing of animals. In terms of these other elements of the business, whilst the butchery element starts a little earlier, the café and farm shop open during normal working hours and are unlikely to place demands on the workforce outside of normal working hours. Paragraph 5.89 of the CDP recognises this scenario and explains that “many people work in rural areas in locations such as offices, schools, farm shops, workshops, garages and garden centres, or carry out their business in the rural area, but being employed in a rural location is not sufficient to qualify as a rural worker with an essential housing need to live permanently at or near their place of work”. In that regard, there is no need for a worker to live permanently on site for the retail element of the business.
69. Further justification for the need for an additional dwelling is the security of the farm, however the applicant has confirmed that the recent incidents described above were dealt with quickly and efficiently by the existing workers onsite preventing an adverse impact to the applicant’s business. It is therefore unclear why an additional dwelling on site would have made any material difference to the security of the farm. In this case it is officer opinion that it would not, again demonstrating that essential need has not been suitably proven.
70. The PPG recognises the retirement scenario and whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process. In this case there are already two dwellings on the site. It also needs to be acknowledged that the main farmhouse will inevitably become available at some unspecified point in time in the future. A new dwelling would however be a permanent addition to the site and the landscape. The planning statement indicates that Mr Haswell is planning for his retirement, however there is no indication when this will be, and the statement makes it clear that they continue to play a key role in the management of the site. In these circumstances, any existing essential functional need is already met by the existing farm house on the site. It is considered that the application is contrary to Policy 12 a.
71. The PPG recognises that in the case of new enterprises, consideration should be given to whether it is appropriate to consider granting permission for a temporary dwelling for a trial period. Whilst this proposal is not a new enterprise, it is an enterprise which already has two dwellings associated with it and broadly sits in the category where temporary accommodation is more appropriate than further permanent accommodation. Temporary accommodation could be in the form of a caravan, a wooden structure which can be easily dismantled, or

temporary accommodation that can easily be removed from the location later. This option has not been satisfactorily explored by the applicant.

72. In terms of CDP Policy 12 b, the applicant has provided accounts statements for a 3-year period which shows that the business has made a net profit in each of those years. Despite this, it is not clear how the construction of the dwelling will be financed, and further clarity was sought from the applicant, however this was not provided. It is widely accepted that it is reasonable to expect a significant degree of linkage between business finances and the build costs of the dwelling. In essence the rural enterprise must be economically viable so that the business could afford the costs of constructing a small dwelling of a size which the unit could sustain. As no further clarification was given regarding the financing of the dwelling, it is considered that the LPA cannot be fully satisfied that the business would be able to finance the construction of the dwelling. Furthermore, the entry for the directors' salaries in the accounts was £35540 in 2022 and £32304 in 2021. However, the entry implies that this covers more than one person (as directors' is plural) and then on page 1 of the accounts it confirms 4 directors for the business. If £35450 and £32304 are split four ways (or even 2/3), it would take each salary below the national living wage. This also casts doubt over the financial soundness of the business.
73. In terms of criterion d, whilst the application seeks outline permission with scale and design being reserved matters, the applicant has provided some indication as to the scale and design of the proposal with an approximately 150sqm 3-bedroom dwelling being proposed. The Technical House Standards – Nationally Described Space Standard (NDSS) sets out internal space standards for new dwellings. The minimum standard floor space for a two storey 3 bedroom 4 bedspace dwelling is 84 sqm. The proposal would therefore be significantly higher than the floor space required by the NDSS. If there was an essential existing functional need for an additional dwelling, which the LPA disputes, a dwelling of this size would be far in excess of what would reasonably be required and would not be commensurate with the established functional requirement of the enterprise, contrary to Policy 12 d.
74. In relation to CDP Policy 12 e) there is an existing farmhouse on the site, which is currently occupied by Jean and Glan Haswell, and another separate dwelling which is occupied by Ms Joanne Moran. The intended occupiers of the worker's dwelling already live on site, and whilst this arrangement may not be ideal for the applicant, the applicant has admitted that the business runs efficiently with this arrangement, demonstrating that the functional need is already being fulfilled by the existing dwellings onsite.
75. Notwithstanding the existing farmhouse on site, Policy 12 e) also requires it to be demonstrated that the functional need could not be fulfilled by other existing accommodation in the area which is suitable and available for occupation. It was enquired as to whether the option of living near to the site had been explored but this option was dismissed due to the requirements of the business. It is considered that the option of living nearby has not been adequately explored and for the reasons outlined above, the LPA disagree that this option cannot work. The assessment must be based on the functional need of the enterprise,

not the personal preference of the applicant. At the time of writing, a search on Zoopla reveals that there are 3 properties for sale under £200000 within a mile radius of DH5 9RG. The proposed development would therefore be in conflict with Policy 12e.

Green Belt

76. Policy 20 (Green Belt) of the CDP states that development proposals within the Green Belt will be determined in accordance with national planning policy. The supporting text confirms that there is a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated.
77. The NPPF attaches great importance to Green Belts, and identifies, at Paragraph 143 that the Green Belt serves five purposes. Paragraph 152 of the NPPF under proposals affecting the Green Belt states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
78. Paragraph 154 advises that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
 - a. buildings for agriculture and forestry;
 - b. the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
 - c. the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - d. the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - e. limited infilling in villages;
 - f. limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
 - g. limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to

meeting an identified affordable housing need within the area of the local planning authority.

79. The proposal would draw no support from any of the above exemptions and would therefore constitute inappropriate development and invoking the very special circumstances requirement. With regard to the applicant's assertion that exception (g) is met, this is dealt with in detail below. There is no definitive answer relating to what are "very special circumstances" which may justify the grant of planning permission for inappropriate development in the Green Belt. As set out in the NPPF (this is about application of national policy, rather than a matter of legislation), it is for the decision maker to determine whether the potential harm to the Green Belt by way of inappropriate development (the NPPF defines what is "inappropriate") is "clearly outweighed by other considerations". The NPPF establishes that substantial weight should be given to any harm to the Green Belt, and development should not be approved except in very special circumstances.
80. When considering the impact of development on green belt, the impact on 'openness' can have both a spatial and visual dimension. This has been confirmed in recent court cases including Turner (2016) and Samuel Smith Old Brewery (Tadcaster) and others v North Yorkshire County Council [2020]. Development may impact on the spatial openness of the green belt, but it is relevant to consider the visual perception of development as a factor which may reduce the spatial harm from the effect of development on the openness of the green belt.
81. The proposal is outline, with most matters reserved for subsequent approval, however the plans submitted show an indicative location for the dwelling and that it would be approximately 150sqm. Despite being set back from Pittington Road; the site is very open to views from the south and therefore the introduction of built form in this location would be highly visible from surrounding vantage points including Pittington Road and would consequently harm the openness of the Green Belt both visually and spatially.
82. The applicant in their supporting committee statement above, states that the application site comprises an area of garden land associated with the farmhouse and more generally associated with the Homer Hill farm complex. Officers dispute this assertion and consider it is not clearly garden curtilage and more as incidental land associated with the farm. It is considered that the garden curtilage of the farmhouse is to the east of the access track and the garden curtilage of the other dwelling is clearly distinguishable from the rest of the farm complex. In any case, for the development to be acceptable under paragraph 154 g, it would not have to have a greater impact on the openness of the Green Belt than existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority. As there is no existing development, the proposed dwelling would inevitably have a greater impact upon the openness of the green belt and as discussed above, the proposal would harm the openness of the Green Belt both visually and spatially and given the proposed use of the

dwelling, it would not contribute to meeting an identified affordable housing need within the area so would be contrary to paragraph 154 g of the NPPF.

83. Taking into account the indicative scale and location of the development and the public and private views that could be gained from locations beyond the site, in both spatial and visual terms the proposal would have a greater impact on the openness of the Green Belt than the existing situation, and the impact would be substantial and permanent. Considering the assessment above in relation to Policy 20, the proposal has not demonstrated an essential need to ensure the continued viability of the business so is contrary to policy 12 and there would also be harm to the openness of the Green Belt. No considerations have been put forward which would clearly outweigh this harm to constitute very special circumstances. In light of this, the proposal would not be in accordance with the NPPF Part 13 and Policy 20 of the CDP.
84. CDP Policy 10 also sets out a range of General Design Principles which new development in the countryside must meet. Of most relevance to this application are criteria L, P, Q, R, S and T which require that development by virtue of their siting, scale, design and operation must not:
 - l. give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for;
 - p. be solely reliant upon, or in the case of an existing use, significantly intensify accessibility by unsustainable modes of transport. New development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport;
 - q. be prejudicial to highway, water or railway safety;
 - r. impact adversely upon residential or general amenity.
 - s. minimise vulnerability and provide resilience to impacts arising from climate change, including but not limited to, flooding; and
 - t. where applicable, maximise the effective use of previously developed (brownfield) land providing it is not of high environmental value.
85. Criteria ,L Q, R and S will be considered in more detail in the relevant sections of the report. In relation to criterion P, despite the rural location, the site would be a 6-minute walk from the nearest bus stops which provide regular services (number 20) to Durham and Sunderland. There is also a pavement along Pitlington Road which is lit up until the entrance to Homer Hill Farm Shop and there is a signal-controlled pedestrian and cycle crossing across the A690 which provides a link to West Rainton and its services, north bound buses and a shared use path for pedestrian and cyclists. It is therefore accepted that the proposed dwelling would be in a reasonably sustainable location, however this would not outweigh the other policy conflicts in terms of policy 12 and 20 already outlined.
86. In summary, the case put forward by the applicant has not demonstrated that, due to the nature and demands of the work involved, there is an essential

existing functional need for a worker to live on the site. The financial information provided lacks clarity despite this being sought from the applicant and the indicative scale of the dwelling would be considered excessive. Furthermore, it is officer's view that a functional need could be fulfilled by other existing and available accommodation in the area. Therefore, the proposed agricultural workers dwelling would not be in accordance with paragraph 84 of the NPPF and County Durham Plan Policy 12.

87. The proposed dwelling would also cause substantial and permanent harm to the openness of the green belt both visually and spatially, and the circumstances set out would clearly not outweigh this harm to constitute very special circumstances. The development would therefore be contrary to the NPPF part 13 and County Durham Plan Policy 20.

Highway Safety Issues

88. CDP Policy 21 requires all new development to provide safe and adequate access. This displays broad accord with Paragraph 114 of the NPPF which requires new development to provide safe and suitable access to the site. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
89. The application site benefits from an existing residential access onto Pitington Road. Given that the proposed occupiers of the dwelling already live on the site, there would not be a material increase in vehicular movements. DCC Highways Authority was consulted and confirmed that the principle of the development would be acceptable from a Highways perspective, and the parking should be provided in accordance with the 2023 Parking and Accessibility SPD. They also state that as the dwelling would be within a gated site, the Local Authority refuse vehicle would not enter the site to collect the bins. Therefore, either a private refuse collection would be required, or bins would need to be brought to the nearest adopted highway on the day of collection and be returned to the site the same day.
90. Whilst details of parking have not been provided, a site visit by the case officer confirmed that there is a significant amount of existing hardstanding around the existing farmhouse and other dwelling that provides ample parking. As there would be no material increase in the number of residents on site, there would be no material increase in the demand for parking, and therefore the proposal would be considered to accord with the NPPF Part 9 and CDP Policies 10 q and 21.

Landscape and Visual Impact

91. The site lies within open countryside and County Durham Plan Policy 10 seeks to carefully control new development in the countryside and restrict development which would give rise to unacceptable harm to the heritage, biodiversity,

geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for.

92. CDP Policy 29 outlines that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities. Policy 12 c) requires the dwelling to not be harmful to the rural landscape and character of the area and to be physically well related to the activities required.
93. NPPF Paragraph 135 also advises that planning decisions should ensure that developments will function well and add to the overall quality of the area over its lifetime; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
94. The proposed worker's dwelling would be situated on an area of land close to the southeast of the main group of buildings. In that respect, it would be physically well related to the existing residential and agricultural built form. The application is outline, so details of its layout, scale and appearance would be considered at the reserved matters stage. Some details have been provided in respect of the proposed scale which is considered overly large for its intended functional purpose. DCC Senior Landscape Officer was consulted, and whilst they confirm that the proposal would not have an adverse impact on the landscape, this would be subject to the design of the dwelling being sensitive to its surroundings in terms of layout, scale, massing and choice of materials being appropriate to its context, form, and function.
95. Notwithstanding the above, the site lies within Green Belt, and as discussed above, the proposal would not meet any of the exceptions for development within the green belt as laid out in the NPPF, would adversely affect the openness of the Green Belt both visually and spatially, and there would not be any very special circumstances to permit the development.

Residential Amenity

96. Parts 12 and 15 of the NPPF require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.
97. CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.

98. In addition, criterion r) of Policy 10 is not permissible towards development that would impact adversely upon residential or general amenity.
99. Due to the nature of the development and association with the existing farm and farming activities it is not considered that there would be any adverse impact on residential amenity. Due to separation distances, there would be no impact on amenity of the existing occupants of the farmhouse or other dwelling.
100. The Council's Environmental Health Nuisance Action Team (EHNAT) was consulted on the application and raised no objection to the development subject to a condition which would only allow the proposed dwelling to be used in connection with the farming operations and butchery business.
101. Taking the above into account, the proposals are not considered to raise any adverse impacts in terms of residential amenity subject to inclusion of occupancy condition in accordance with CDP Policies 10, 29 and 31 and NPPF Part 15.

Drainage and Flood Risk

102. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 173 advises that when determining planning applications, Local Planning Authorities should ensure that flood risk is not increased elsewhere and that where appropriate applications should be supported by a site-specific flood-risk assessment.
103. CDP Policies 35 and 36 relate to flood water management and infrastructure. Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SUDs) to manage surface water drainage. Development should not have an adverse impact on water quality. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water.
104. In addition, criterion s) of CDP Policy 10 requires new development in the countryside to minimise vulnerability and provide resilience to impacts arising from climate change, including but not limited to, flooding.
105. The site is not located within Flood Zone 2 or 3 or an area identified as being at high risk of surface water flooding, therefore there is no requirement for the applicant to provide a Flood Risk Assessment. Surface water would be disposed of via a soakaway, and foul water would be disposed of via the mains sewer. In terms of minimising vulnerability and providing resilience to impacts arising from climate change, a condition could be attached to provide details of a scheme to minimise greenhouse gas emissions, with the aim of achieving as close as possible to a zero-carbon building.

106. In light of the above, the development would not be considered to conflict with CDP Policies 35 and 36 and NPPF Part 14.

Ecology and Biodiversity Net Gain

107. NPPF Paragraph 180 d) advises that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
108. 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.
109. In line with this, CDP Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks. Policy 43 relates to protected species and nationally and locally protected sites. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
110. This application was valid from the 27th June 2024 but is exempt from the legal requirement to deliver biodiversity net gains of at least 10% as the proposed development is for the erection of a self-build dwelling.
111. The application site is supported by an Ecological Appraisal which does not recommend any further surveys. DCC Senior Ecologist was consulted on the application and confirmed that the report submitted was sufficient to inform the application and that no further surveys would be required. They advised that an integrated bird breeding unit should be installed into the new dwelling as ecological enhancement under the NPPF, and this could be secured by a planning condition.

Ground Conditions and Land Stability

112. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. NPPF Paragraph 180 requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.
113. The development is located partly on coalfield high risk development area, and therefore the Coal Authority was consulted on the application and raised a fundamental concern with the proposal. The Coal Authority's information indicates that a coal seam is conjectured to outcrop at or close to the surface of the site, which may have been worked in the past. Voids and broken ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases. Therefore, the Coal Authority advised the applicant that they would need to submit a Coal Mining Risk Assessment to support the planning application.

114. A Coal Mining Risk Assessment has not been provided by the applicant and so the objection from the Coal Authority remains. It therefore cannot be determined whether the proposed development would either contribute or be put at unacceptable risk from or being adversely affected by unacceptable risk from pollution or land instability and would be contrary to the NPPF Paragraph 180 and County Durham Plan Policy 32.

Planning Contributions

115. CDP Policy 25 states that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations. Such mitigation will relate to the provision, and/or improvement, of physical, social and environmental infrastructure taking into account the nature of the proposal and identified local or strategic needs.
116. Policy 25 goes on to state that developers will be required to enter into Planning Obligations which are necessary to make the development acceptable, directly related to the development, and fairly and reasonably related in scale and kind to the development, in order to secure the mitigation that is necessary for a development to be acceptable in planning terms. In this regard, CDP Policy 25 reflects NPPF Paragraphs 55 and 57.

Public Open Space Provision

117. Policy 26 (Green Infrastructure) of the CDP requires proposals for new residential development to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA). Where it is determined that on-site provision is not appropriate, the Council will require financial contributions secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality.
118. On small-scale development, a contribution towards green infrastructure/open space improvement is necessary to make residential development acceptable in planning terms on account that the future residents of these proposed houses would be using the open space in the vicinity and wider area in which the new house(s) would be situated. It is therefore directly related to the development, and fairly and reasonably related in scale and kind to the development (para 57, NPPF).
119. The Development viability, affordable housing and financial contributions SPD was adopted in June this year which requires schemes of between 1 to 19 dwellings to make and off-site financial contribution for open space, sport and recreational facilities. In the event that the application is approved, an offsite contribution of £1739.10 would be required to be secured by a S106 agreement.

Broadband Connection

120. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) requires all new residential and commercial development to be served by a high-speed broadband connection. A suitably worded planning condition could secure high-speed broadband for the dwelling.

CONCLUSION

121. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
122. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
123. The proposal constitutes new residential development in the open countryside and Policy 10 does not permit such development unless allowed for by the listed exceptions or another policy in the plan. Policy 12 provides support in principle for the development of new permanent agricultural worker's dwellings providing they demonstrate compliance with certain specified criteria. In this instance there are already two existing properties on the site which could fulfil any functional need, and it is not considered that sufficient information and justification has been submitted to demonstrate an existing essential functional need for the dwelling contrary to policies 10 and 12 of the County Durham Plan.
124. In addition insufficient information has been provided to demonstrate why any functional need could not be met by another dwelling in the nearby area. Consequently, it is considered that the proposal is contrary to guidance contained within NPPF paragraph 80 and CDP Policies 10 and 12.
125. The application site is situated within the Green Belt and does not draw any support from the exceptions listed within paragraph 154 of the NPPF. Consequently, it is inappropriate development in the Green Belt and the proposal would not provide sufficient justification that would clearly outweigh the harm by reason of inappropriateness, the harm to the openness of the Green Belt and the harm by reason of conflict with policy 12 to constitute very special circumstances. The development would therefore not accord with the NPPF Part 13 and CDP Policy 20.
126. The dwelling would be partially situated within a Coalfield Development High Risk Area, and no information has been provided to demonstrate that the development would not either contribute or be put at unacceptable risk from pollution or land instability contrary to the NPPF Paragraph 180 and CDP Policy 32.

127. When assessed against other relevant policies in the development plan, it is not considered that the development would result in significant harm to the character of the landscape, that could not be mitigated. In addition, there are not considered to be any significant adverse impacts in terms of residential amenity, highway safety, ecology and flooding. It is considered that other matters such as provision of broadband could be dealt with via condition.
128. While support from the County Councillor is acknowledged, as described above it is considered that the development would be contrary to CDP Policies 10, 12, 20 and 32 and there are not considered to be any material considerations in this instance that would outweigh that conflict. Therefore, on that basis, the application is recommended for refusal.

Public Sector Equality Duty

129. 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.
130. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

That the application be **REFUSED** for the following reasons:

1. The applicant has failed to demonstrate that the demands of the work involved means there is an essential existing functional need for a permanent worker to live at the site in order for the business to function effectively contrary to Policy 12(a) of the County Durham Plan.
2. The applicant has failed to demonstrate that the functional needs of the business could not be fulfilled by another existing accommodation within the area contrary to Policy 12(e) of the County Durham Plan.
3. The development is inappropriate in the Green Belt would also cause visual and spatial harm to the openness of the Green Belt, and other considerations do not clearly outweigh this harm caused to the Green Belt, therefore the very special circumstances to justify the development do not exist conflicting with the aims of Part 13 of the NPPF and CDP Policy 20.
4. The applicant has failed to demonstrate that the development would not either contribute to or be put at unacceptable risk from pollution or land instability contrary to the NPPF Paragraph 180 and CDP Policy 32.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

National Planning Practice Guidance Notes

County Durham Plan (2020)

Trees, Woodlands and Hedges SPD (2024)

Development Viability, Affordable Housing and Financial Contributions SPD (2024)

Residential Amenity Standards SPD (2023)

Parking and Accessibility SPD (2023)

Statutory consultation responses

Internal consultation responses

External consultation responses



<p>In</p> <p>Planning Services</p>	<p>Outline application for the erection of 1 no. rural workers dwelling (with all matters except access reserved)</p>	
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