

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/19/00426/FPA
FULL APPLICATION DESCRIPTION:	Change of use from C3 to C4 property
NAME OF APPLICANT:	Mr Andrew Wilkinson
ADDRESS:	13 Bevan Grove Gilesgate Durham DH1 2LQ
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Jennifer Jennings Planning Officer Telephone: 03000 261057 jennifer.jennings@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is located to the east of Durham City Centre within a modern residential estate built in the 1970s. It is a two storey semi-detached property, comprising three bedrooms and bathroom on the first floor, with living room, conservatory, kitchen and integrated garage on the ground floor. It is located within an established residential area at the end of a cul de sac, with driveway and small grassed garden to the front and rear garden space, accessed by a side gate.

Proposal

- The proposal seeks full planning permission for the change of use of the property from C3 family house to a C4 house in multiple occupation (HMO). At present the property is rented out to two students, and thus falls within the C3 use class, but the owners are seeking to rent the third bedroom, which would bring the property into C4 use class. No alterations are proposed internally or externally to bring about the proposed change of use.
2. The application is referred to Committee at the request of Eric and Lesley Mavin (Local Councillors for the Ward) and by Belmont Parish Council who consider the nature of the proposal to be such that the potential impact upon the residential character of the area and parking should be considered by the planning committee.

PLANNING HISTORY

3. There is no planning history for the site.

PLANNING POLICY

NATIONAL POLICY

4. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
5. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
6. NPPF Part 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.
7. 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.
8. 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.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

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

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

LOCAL PLAN POLICY:

The City of Durham Local Plan (2004) (CDLP)

10. *Policy H9 – Multiple occupation / student households* - seeks to ensure that where houses are sub divided or converted to flats, bedsits or multiple occupancy, they do not adversely affect the character of the area, the amenity of nearby residents and the concentration of sub-divided dwellings to the detriment of the range and variety of the local housing stock.

11. *Policy H13 – Residential Areas – Impact upon Character and Amenity* – protects residential areas from development that would have a significant adverse effect on their character or appearance, or the amenities of residents within them.
12. *Policy T1 – Traffic Generation – General* – states that development proposals which would result in a level of traffic generation detrimental to highway safety should not be granted planning permission.
13. *Policy T5 – Public Transport* – The council will encourage improvements to assist public transport services including the provision of suitable facilities and ensuring new development can be conveniently and efficiently served by public transport.
14. *Policy T10 – Parking* – States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
15. *Policy T21 – Walking* – states that existing footpaths and public rights of way should be protected.
16. *Policies Q1 and Q2 - General Principles Designing for People and Accessibility* – states that the layout and design of all new development should take into account the requirements of all users.
17. On the 15 July 2015, Cabinet approved consultation on an Interim Policy on Student Accommodation. The consultation took place during September and October 2015. Responses received during the consultation period were considered and amendments were made to the Policy. On the 16 March 2016, Cabinet recommended that full Council adopt the revised Interim Policy. As the Interim Policy has been adopted, it can be afforded weight in the decision making process, although the weight to be afforded to it must be less than if it were part of the statutory Development Plan for the area.
18. On the 16 September 2016 an Article 4 direction that removed permitted development rights to change from a C3 dwelling to a C4 house in multiple occupation in the Durham City area was confirmed.

RELEVANT EMERGING POLICY:

19. Paragraph 48 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

20. Highways Authority offered no objections.
21. Belmont Parish Council – objects on the basis that the proposals would adversely affect residential amenity and is contrary to Policy H13 of the City of Durham Local Plan. Concerns also raised with regards parking within the cul de sac area and loss of affordable family housing stock and the precedent this would set.

INTERNAL CONSULTEE RESPONSES:

22. Environment, Health and Consumer Protection (Nuisance Action Team) – comments that HMOs due to the increase in the number of occupants and the likely occupying demographic within the area i.e. students, have an increased likelihood of leading to an increase in noise above a C3 use. This is due to a general increased living noise associated with a greater number of separate households and the increased likelihood of noise such as from visitors, music and accessing the night time economy. The potential impact is further increased due to the cul-de-sac location and therefore likely fairly low existing noise climate. However the proposed increase is by one occupant over that already residing in the property and as such it is not considered that the impact of this increase is likely to reach a significant observed adverse level. They further comment that the development is unlikely to cause a statutory nuisance.
23. Spatial Policy – comment that 2.6 per cent of properties within a 100 metre radius are in use as HMOs.
24. HMO Section –comment that the property would need to be licensed under the Housing Act 2004 Part 2 and provide further details on the criteria associated with this legislation.

PUBLIC RESPONSES:

25. The application has been advertised by means of site notice on site and by notifying neighbouring residents by letter. 3 letters of objection have been received, including one from Durham Constabulary (Crime and Communities Issues Team) and one letter from each of the Ward Councillors, raising the following points:
 - Concerns over loss of family home
 - Concerns that it will have an adverse impact on amenity of surrounding residents.
 - Limited parking available on site and within the cul de sac in general.
 - Concerns that HMO uses generate more noise and disturbance at unsocial hours than average family homes that exist within the cul de sac.
 - Concerns regarding nuisance and bins being left in street.
 - Comparisons made with Laburnam Avenue where police have been called to deal with complaints specifically related to HMO properties.
 - Concerns regarding an increase in the fear of crime that would be created by letting property out as HMO
 - Concerns regarding size of house and amenity space for future tenants.

APPLICANT'S STATEMENT:

26. We have let the property for the last 3 years and have been very selective as to who we rent the property to. Every time I visit the property I try and catch up with the neighbours and enquire about how they find the tenants. I have had nothing but positive comments and indeed they have been very complimentary. Very quiet, friendly, helped clear the snow, helped me move heavy furniture, etc. The neighbours are a retired policeman and his wife on one side and an elderly lady on the other. The tenants also interact with other neighbours in the street and know several on first name terms.
27. The tenants themselves have requested that a third person join them in July and so this has triggered the application for change of status under local regulations. It is by no means certain that the house will always have 3 tenants, but it leaves the possibility open. Having 4 sons ourselves, we appreciate the financial pressures on young people today and appreciate that they wish to reduce their costs by splitting the rent and bills 3 ways instead of 2.
28. Currently the property has space for 2 vehicles to park off road (one in a garage and one on the drive). However, we are prepared to pave the front garden to create a third car parking space if required, as we would not wish to inconvenience neighbours. Tenants to date have usually caught the bus from the end of the street or walked/cycled into town, so car parking has not been an issue.
29. To put our application in context, my wife and I are not "commercial" landlords and have this one property in Durham which we initially purchased to assist our son living in Durham. We use the rental income to support our family.
30. We appreciate the time taken to consider this request to approve an extra person to live at 13 Bevan Grove.

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

PLANNING CONSIDERATIONS AND ASSESSMENT

31. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development, the impact on the residential amenity and highway safety.

Principle of Development

32. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses within C4 (houses in multiple occupation HMOs). HMO's are classified as small shared houses occupied by between three and six unrelated individuals, as their only or main residence and who share basic amenities such as a kitchen or bathroom. The proposed floor plans submitted with the application indicate that the proposal is such that the development would normally benefit from the provisions contained within the GPDO. However, an Article 4 direction came into effect on 16 September 2016 withdrawing permitted development rights in this regard and as such planning permission is required.

33. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (Local Plan) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the Local Plan was adopted in 2004 and was intended to cover the period to 2006 and, whilst the NPPF advises at Paragraph 213 that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF, it is considered nonetheless that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. In such circumstances the weight to be afforded to existing Local Plan policies should depend upon their degree of consistency with policies of the NPPF.
34. In consideration of the above, saved policy H9 relating to multiple occupation and student accommodation is directly relevant to the proposal as it deals with conversion of houses to HMO use. In addition, policy H13 of the Local Plan is also relevant as it relates to changes of use and seeks to minimise their impacts on the character and amenities of residential areas. The approach contained within these saved policies is considered consistent with the general aims of the NPPF which requires the planning system to support strong, vibrant and healthy communities by ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations. The policies are therefore deemed up to date and consistent policies which can be attributed weight accordingly in the determination of this application. Paragraph 11 of the NPPF is therefore not engaged.
35. Policy H9 of the City of Durham Local Plan states that proposals to convert houses to HMO use will be permitted provided that there is adequate parking, there is sufficient privacy and amenity areas for occupiers, the proposal would not adversely affect the amenities of nearby residents and would not involve significant extensions that would unacceptably alter the scale and character of the host dwelling and surrounding area in compliance with Policy Q9. The policy further requires that conversion should not result in concentrations of sub divided dwellings to the detriment of the range and variety of the local housing stock. The various points within Policy H9 are covered in the relevant sections of the report below.
36. In addition to policy H9 of the Local Plan, the Council's Interim Policy relating to student accommodation is also relevant and states that the Local Planning Authority will not support the change of use of properties in instances where there is in excess of 10 per cent of properties within 100 metres of the site already used as student accommodation. Whilst the Interim Policy has less weight than the saved policies of the City of Durham Local Plan it is nevertheless a material consideration and has been endorsed by cabinet following a 6 week consultation period ending April 2016. The threshold of 10 per cent was derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', 2008 and in this respect is considered up to date and accords with the aims of the NPPF.
37. The Council's Spatial Policy section advises that the most recent up to date Council Tax information identifies that 2.6 per cent of those properties within 100 metres of the site are currently occupied as student let accommodation. This concentration clearly falls well below the 10 per cent threshold stated in the Interim Policy. In consideration of this, the proposals are therefore considered to accord with the Interim Policy and with policy H9 which is permissive in principle of conversion of properties to HMO use.

38. The combination of the Interim Policy and Article 4 Notice, along with Policies H9 and H13 of the Local Plan, provide the policy framework for determining the acceptability of development and changes of use to HMO and student accommodation. In consideration of the details of the proposals against this policy context it is considered that the change of use from C3 to C4 can be supported in principle given the relatively low numbers of student HMOs in the area. However further consideration on the potential impacts are detailed below.

Impact on residential amenity

39. Saved policies H9 and H13 of the Local Plan both seek to protect residential amenities. These align with NPPF paragraph 180 which requires planning decisions to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions.
40. The application site is a two storey semi-detached property located at the end of a quiet cul de sac within a residential area. The nearest residential property adjoins the application site at no. 14 Bevan Grove to the south west, whilst the next block of semis, nos. 11 and 12 are located to the north. Directly east of the application site and south of Bevan Grove lies industrial units associated with Dragonville Park.
41. The dwelling is already let out to two students, and the proposal now seeks to let out the third bedroom, bringing the use of the property into a C4 use class. The objections received from Durham Constabulary, Belmont Parish Council and the Local Ward Members raise concerns that the HMO use will generate more noise and disturbance at unsocial hours than average family homes that exist within the cul de sac. Durham Constabulary also confirmed from their statistics that streets containing HMOs can create a higher likelihood of police call outs to deal with incidents of anti-social behaviour. There is a view that overall amenity for surrounding residents would be adversely affected should the change of use be approved and regret over the loss of a family house that would be more suited for the area.
42. The Council's Environmental Health (Nuisance Action Team) provided detailed comment on the proposals. Whilst the development falls within the scope of their Technical Advice Notes (TANS) due to being a potential noise generating development affecting residential amenity, the nature of the development cannot be assessed against the thresholds contained within the TANS. Nonetheless they acknowledge that HMOs have an increased likelihood of leading to an increase in noise above a C3 use and that the potential impact of this proposal is further increased due to the cul de sac location which would be expected to have a low existing noise climate. However they further comment that the proposed increase of one individual within the property is not considered to create an increase in noise levels to the point of a significant observed adverse level. Increased noise risks would be very dependent on future occupants and should their actions be anti social there is well established legislative controls to address this via the local authority and police. In any case, a dwelling with three occupants is not expected to lead to a level of noise above that ascribed to a family use. They confirm overall that they do not believe the development would cause a statutory nuisance.
43. In light of the above considerations it is accepted that HMO accommodation occupied by students does result in differing patterns of activity to a standard family household, however, in this case it would be difficult to demonstrate that this would be materially more harmful in terms of loss of residential amenity through significant increase in noise and general disturbance, than activities associated with a family home. On this basis the potential harm associated with the change of use cannot be sufficiently demonstrated to warrant a refusal to this application. It is further noted that no objections to the application have been received from neighbouring properties.

44. In line with policies H9 and H13, it is not considered that the proposed change of use relating to the letting out of the existing third bedroom would create a situation that would significantly compromise the amenities of residents within the area or result in increased activity that would materially affect the residential character of the area or amenities of the nearby neighbours, particularly as the property already rents to two students. The proposal is therefore considered to accord with the aims of policy H9 and H13 of the Local Plan and relevant parts of the NPPF as it is not expected that it would result in unacceptable impacts upon the amenity of surrounding residents.
45. The submitted details also accord with and address the requirements of the Interim Policy in making satisfactory provision for cycle and car parking (discussed below), bin storage and other shared facilities.

Highway Safety and Access

46. Saved local plan policy T1 requires that the council should not grant planning permission for development that would generate traffic which would be detrimental to highway safety and have a significant effect on occupiers of neighbouring properties. Policy H9 and the Council's Interim Policy both require that new HMOs provide adequate parking and access.
47. The property benefits from an integrated garage and single width drive served by a dropped kerb from the existing highway. Objections and concerns have been raised with regards the impact of the proposal on parking in this tight cul de sac area, and the potential for problems to occur if each individual has their own car as well as parking issues should visitors attend the site. However the level of parking provided for this three bed property is considered sufficient and in line with the Council's Parking and Accessibility Standards. In addition to this, the applicants note that the grassed area to the front of the property could be gravelled over to provide additional parking if required.
48. Notwithstanding this, given the types of residents proposed for the property it is not expected that all residents would have their own car. In any case the application site is well located in terms of accessibility by foot and bike to the university area and other services. The area is also well served by public transport to the city centre. The Council's Highway Authority has raised no objections. In this regard the proposals are considered to accord with Local Plan policies T1 and H9 and the Interim Policy and there is no need for the grassed area to the front of the property to be turned into an additional parking space.

CONCLUSION

49. In conclusion, the proposed change of use would accord with the requirements of the Council's Interim Policy relating to student accommodation and would not result in more than 10 per cent of the properties within 100 metres of the site being used as HMOs. Whilst the objections and concerns raised by Durham Constabulary, Belmont Parish Council and the Ward Councillors in relation to the impact of the development upon residential amenity and parking are noted, it is not considered that the introduction of a HMO use in this locale would result in any unacceptable impact in this regard in accordance with the aims of policy H9, H13 and T1 of the City of Durham Local Plan or conflict with the aims of the NPPF and the Council's Interim Policy.

RECOMMENDATION

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

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

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

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

Reason: To define the consent and ensure a satisfactory form of development is Obtained in accordance with Policies H9, H13 and T1 of the City of Durham Local Plan 2004.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

Submitted application form, plans, supporting documents and subsequent information provided by the applicant
The National Planning Policy Framework (2018)
National Planning Practice Guidance Notes
City of Durham Local Plan
Statutory, internal and public consultation responses



Planning Services

Change of use from C3 to C4 property at 13 Bevan Grove, Gilesgate, Durham..

Application Number DM/19/00426/FPA

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Comments

Date 9 April 2019

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