

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/19/00649/FPA
FULL APPLICATION DESCRIPTION:	Change of use from a C4 house in multiple occupation to a 7 bedroom HMO with a wrap round single and 2 storey extension and external alterations (sui generis use).
NAME OF APPLICANT:	Hope Estates Ltd
ADDRESS:	51 Whinney Hill, Durham. DH1 3BD
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Susan Hyde Planning Officer 03000 263961

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site forms a two storey end terraced property of a group of 4 properties to the east of Durham City in the residential area of Whinney Hill. The site lies within the settlement boundary and the City of Durham Conservation Area. Whinney Hill is an elevated street rising from the north at its junction with Old Elvet and Green Lane. It is characterised by inter-war houses originally local authority stock providing accommodation for prison officers at Durham Prison. They are arranged in groups of four either lining the main street or in short cul-de-sacs which is the case on this application. No. 51 is located at the head of a cul de sac with the front elevation facing the road, the side facing a footpath and the rear elevation facing onto an unmade track. The property is currently occupied as a C4 house in multiple occupation and benefits from gardens on three sides. A pedestrian right of way is located adjacent to the side garden linking the cul de sac with the track to the rear and Hallgarth to the north. Impressive views of Durham Cathedral can be gained from the rear elevation of the property.

The Proposal

2. This application seeks consent to change the use of the property from a C4 house in multiple occupation with 6 bedrooms to a 7 bedroom house in multiple occupation that falls within a sui generis use class. Extensions are proposed with a side extension that is single and two storey that wraps round the property and a further single storey extension to the rear. Bedroom accommodation is proposed to be provided with three bedrooms on the ground floor and four bedrooms on the first floor

3. This application is a re submission of planning application DM/18/03552/FPA that was withdrawn from consideration prior to the February planning committee and although the number of bedrooms has remained the same the scale of the extensions has been reduced in size.
4. The application is before Members at the request of Councillor Freeman and the City of Durham Parish Council as they are concerned about the impact of the development on the locality from the intensification of student use and from the scale, design and appearance of the extension in the Conservation Area.

PLANNING HISTORY

4/06/00528/FPA -Land at 50 – 51 Whinney Hill – Erection of 2 no. dwellings refused planning permission.

DM/18/03552/FPA – 51 Whinney Hill - Change of use from a C4 house in multiple occupation to a 7 bedroom HIMO with a wrap round extension and internal alterations to existing dwelling. Application was withdrawn prior to planning committee.

PLANNING POLICY

NATIONAL POLICY

5. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
6. 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.
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.
9. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

10. NPPF Part 16 Conserving and Enhancing the Historic Environment – Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

11. 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 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:

City of Durham Local Plan

12. *Policy E3 World Heritage Site – Protection* – Durham Cathedral and Castle WHS and its setting will be protected by restricting development to safeguard local and long distance views to and from the cathedral and castle and peninsula and seeking the conservation and management of buildings which make up the WHS and its setting.

13. *Policy E6 Durham City Centre Conservation Area* – states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.

14. *Policy E21 – Conservation and Enhancement of the Historic Environment* – states that the historic environment will be preserved and enhanced by minimising adverse impacts by development proposals.

15. *Policy E22 – Conservation Areas* – seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.

16. *Policy E23 – Listed Buildings* – The Council will seek to safeguard listed buildings by not permitting development which detract from their setting.

17. *Policy H13 (Residential Areas – Impact upon Character and Amenity)* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

18. *Policy T1 (Traffic – General)* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.

19. *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.
20. *Policy T10 (Parking – General Provision)* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
21. *Policy T21 – Walking* – states that existing footpaths and public rights of way should be protected.
22. 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.
23. *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.
24. *Policy U8A – Disposal of Foul and Surface Water* – requires all new development to have satisfactory arrangements for foul and surface water disposal.
25. *Policy Q5 – Landscaping – General* – requires all new development which has an impact on the visual amenity of the area in which it is located to incorporate a high level of landscaping in its overall design and layout.
26. *Policy Q9 – Alterations and Extensions to Residential Property* - The design, scale and materials are sympathetic to the main dwelling and the character and appearance of the area. Wherever possible the alteration or extension incorporates a pitched roof, the alteration or extension respects the privacy of adjoining occupiers of the property and the alteration or extension will not create a level of multiple occupation.

Interim Policy on Student Accommodation

27. On the 17th 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 and adopted. 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.

RELEVANT EMERGING POLICY:

28. 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

STATUTORY RESPONSES:

29. County Highway Officer – The development sits within the Council's Controlled parking zone and no additional parking permits would be issued to permit residents to park on street within the zone. It is therefore unlikely any increase in car ownership will result from the increase in size. I would not object to the proposal from a highways perspective.

30. City of Durham Parish Council – Raise concerns about the increase in the number of bed spaces being contrary to the Interim Policy on Student Accommodation as the % of students in the area is over 50%. They raise concerns about the impact on local residents, bin storage and cycle storage.

Consultee Responses

31. Environmental Health – Noise. Considers the site is located in a residential area and although the proposal is not likely to create a statutory nuisance and he does not raise an objection he does raise concerns that the increase in number of 'additional households' with the separate bedrooms will lead to additional noise and disturbance through the party wall and more comings and goings to the property, and increased congregation outside the property which will have an increased impact in this location as the property is sited at the head of a cul de sac.

32. HMO officer – Provided details of the standards of rooms required for a HMO.

33. Durham Constabulary – Raise no objection

34. Conservation Officer – Raises no objection to the extension element of the proposals on the setting and appearance of the City of Durham Conservation Area.

PUBLIC RESPONSES:

35. The application was advertised in the local newspaper by neighbour letters and a site notice.

36. Objections have been received from the City of Durham Civic Trust, Whinney Hill Residents Group and received from 8 local residents on the following grounds:

36. Adjoining neighbouring property at no. 52 objects as they are C3 occupants and the level of noise and disturbance is already high and this proposal will make the situation worse. The extensions will block light into his property, affect a private right of access to his rear yard and detract from his residential amenity.

37. Parking is already difficult in the area and additional people will make this worse with more supermarket and other deliveries even if the students do not have a car which will add to congestion in the cul de sac location. In addition the rear access track is not suitable for any additional traffic or construction traffic. Concern construction traffic may block the rear lane.

38. The extensions are out of keeping with the property and will detract from the appearance of the conservation area.

39. The addition of further student bedrooms – even if it is one additional bedroom – impacts on residents from more comings and goings especially late at night, more students congregating, more noise and disturbance, more impact on parking and deliveries.
40. Vehicular access into the site is from a private narrow rear lane and is not suitable for construction traffic or any additional comings and goings.
41. The resident's association and local residents have raised concerns that the applicant is flouting planning legislation in the locality advertising a C4 house in multiple occupation for 7 students (evidence provided). They therefore raise concerns that such a large extension is likely to lead to more bedrooms than that shown on the submitted plan as the internal floorspace can accommodate more than one additional bedroom. A resident has also noted an earlier submitted plan was annotated to show 2 additional bedrooms are proposed in the sui generis property.

APPLICANTS STATEMENT:

This application is for an extension to an existing 6 bed student HMO property. The property has been used for student accommodation for some time before the article 4 deadline was introduced and that has been established by the supply of previous tenancy agreements. The application will take the unit from 6 beds to 7 beds and thus comes under a Change of Use from C4 to Sui Generis. The application will also address the minimum area requirements under the student HMO regulations and provide improved accommodation standards for the residents.

Recent New Licensing requirements for two storey HMO units have brought about a re-inspection of existing HMO's that previously did not need licences and Environmental Health Inspections by the HMO teams. This coupled with the desire of students for higher quality accommodation has brought a number of Landlords to consider their existing housing stock rather than look to convert new units.

To improve the provision of accommodation given to the occupants the client looks to expand the bedroom sizes beyond the minimum required and provide better shared amenity within the dwelling and thus an extension is proposed that raises the unit from currently 6 bedrooms to 7 bedrooms, a modest increase. Objectors to the initial application noted an illogical layout and a large extension and expense to create 1 extra bedroom. However the existing drawing (1043 – 01 Existing Plans Elevations and Section) shows that bedrooms 1, 2 and 3 are below the minimum requirement of 6.5sqm and can only be expanded by the alteration and expansion of the property. Alongside this, regulations state that a HMO holding this amount of shared rooms should have a combined kitchen/lounge/dining room area minimum of 21.5sqm and at least 2 bathrooms or shower room provisions, the existing drawing shows that the dwelling falls short of these requirements and hence the need for the application.

Thus the proposed scheme brings the property up to HMO spatial and building standards (which as it stands is undersized in 3 bedrooms, the kitchen/lounge/dining room and down an extra bathroom). The original proposed two storey extension to the rear along the boundary to 52 Whinney Hill has been reduced to single storey at this location to avoid overbearing on this property and reduce the apparent mass of the proposed extensions with a setback in the two storey element. The bin and garden access gate between 51 and 52 will be maintained albeit relocated maintaining the rights of access through the application site. We also note that 52 Whinney has its own independent access onto the rear track now shown on drawing 1043-03. The proposed side extension has been further reduced to the front elevation and the extended element has been set further back at ground floor and a further set back included first floor.

Therefore the appearance of the extended property will match that of other extended properties in Whinney Hill and the materials proposed will match of the current property.

Due to comments to the previous application the neighbouring house has asking about shared access to the front of the property, a new walk path has been added to the current proposal. This path follows from the rear of the property around the side to the front and allows space for bins to be taken from the rear to the front.

PLANNING CONSIDERATIONS AND ASSESSMENT

42. 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 are the principle of development, the impact on residential amenity, impact on interim policy on student accommodation, design, impact of the development on the conservation area, and highway safety.

The Development Plan

43. 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 (CDLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the CDLP 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.
44. 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 alterations and extensions to existing properties already in HMO use. This policy is considered consistent with the NPPF, as it is up to date and not time limited and can therefore be afforded full weight in the decision-making process. Paragraph 11 of the NPPF is not engaged.
45. Policy H9 of the City of Durham Local Plan states that proposals to extend or alter properties which are already in an established HMO use class 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 the extension would be in scale and character with the host dwelling and surrounding area. Policy H13 seeks to ensure that the character of residential areas are protected and that new development is not granted for development that adversely affects the character or appearance of residential areas, or the amenities of residents within them. The approach contained within policy H13 of the City of Durham Local Plan is considered consistent with the general aim of the NPPF in paragraph 62 to create mixed and balanced communities and as such it remains a relevant policy of the current development plan and as such can be attributed weight accordingly in determination of this application. The various points within Policy H9 and H13 are covered in the relevant sections of the report below.

Residential amenity

46. In terms of the use of property Policy H13 states that planning permission will not be granted for new development or changes of use which would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them while Policy H9 also seeks to provide such safeguards. Paragraph 91 of the NPPF states that planning decisions should aim to achieve, healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. In this case the application site has an established use for the property to be used as a small HMO for up to 6 people. Although the proposed floorspace has been reduced from the earlier submission residents have raised a concern that the amount of floorspace proposed to be added to the property is still larger than would be required for the addition of one bedroom and have noted that the applicant has amended the internal floor plan on other properties in his ownership to gain additional bed spaces. Residents noted that the earlier plan on the current application was annotated to read a room schedule of 4 bedrooms on the ground floor and 5 bedrooms on the first floor. Officers acknowledge that residents have raised a valid point and note that the floor area for the communal rooms is greater than the minimum HMO guidance, such that an altered first floor layout could provide an additional bedroom. Officers consider that the internal floor plan could be altered to provide additional bedrooms with the fenestrations as proposed and that such an alteration may not require any additional planning consent as the works would potentially be internal only and the proposal would be retained in the same use class. As such officers consider the floor space created by the proposed extension is a material consideration and it is material that the property can be occupied by more than 7 people once planning permission has been granted within the sui generis use class.
47. It is accepted that occupants of HMOs differ in their activities and general movements from that expected of family homes, and depending on individuals involved, these activities can cause levels of disturbance that create negative impacts on non-HMO residents. This is particularly from late night noise and more comings and goings and large groups of people congregating outside and within the property. In addition, the HMO properties are often left vacant for long periods of time over the holiday periods – particularly over the summer months when Durham University students have a break of over 3 months which impacts on the sense of community in the locality.
48. Environmental Health Officers were consulted on the application with regard to noise and they did raise concerns as they considered the proposal relates to a significant intensification of the use of the property. The more 'separate households' within a single property the greater the likelihood of noise arising. This relates to noise from occupiers using the property breaking through the party wall, noise from occupiers and visitors attending/leaving the property and an increased potential of noise break out from increased activities associated with larger groups. Due to the demographic of likely occupiers the likelihood of late night noise is also increased.
49. The property is located in a constrained location in close proximity to other properties at the end of a cul-de-sac as such any noise from certain activities is likely to impact on others. Officers consider this is particularly the case with having a C3 dwelling attached to the application site at no. 52 Whinney Hill.
50. The layout of the extensions provides one external door only on the front elevation of the property making access to the side and rear garden inconvenient at best. Officers are concerned that this is likely to lead to bin storage occurring on the front elevation to the detriment of the visual amenity of the street scene and a garden area that is awkward and difficult to use whilst the number of occupants within the property increases.

51. The Environmental Health Officer has assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990. He would raise significant concerns regarding the potential increase in the likelihood of noise, this is mainly based on the 'anti-social' use of the premises. He considers the property could, dependant on users, operate without raising significant noise, however the likelihood of noise is increased significantly by virtue of the use with additional people who are not related to each other
52. Officers consider that this location at the head of a cul de sac where it is a quiet location with a non student property joined onto the application site would be detrimentally affected by the property being extended to fall within a sui generis use for the above reasons. Officers consider that the limit on size of the number of people occupying the property to a C4 use of up to 6 people who are not related represents a reasonable maximum number of people in this residential area. As noted earlier a sui generis use class does not limit the number of people and so although 7 bedrooms are shown additional bedrooms could be created without the need for further planning permission. As the neighbour representation letters have explained the existing student property creates noise and disturbance for residents now and any increase in the number of occupants will increase the comings and goings and noise and disturbance. Officers consider the proposed increase in the floor area of the property provides space with potential for more than 7 occupants – which is on a property that originally had 2/3 bedrooms. Additional unrelated people are likely to lead to more noise through the party wall with the C3 dwelling, and more comings and goings – which is often noticed late at night by residents, with more people congregating etc in this cul de sac location. In addition, the reduction in the size and availability of use of the garden is considered out of keeping with the locality and is likely to lead to bin storage at the front of the property to the detriment of residential amenity. The proposed layout of the property has one external door to the front elevation only and so all comings and goings will be concentrated from the front elevation in the cul de sac. Officers therefore consider the sui generis use would have a detrimental impact on residential amenity contrary to Policy H9 and H13 of the Local Plan and paragraph 91 of the NPPF.
53. In terms of the impact of the proposed built development upon neighbouring amenity, from assessing the site, it appears that no. 52 is the adjoining terraced house that would be most directly impacted by the extension due to the proposed single storey extension to the rear of no. 51. It is noted that no. 52 has habitable room windows in the rear elevation at both the ground floor and first floor. However, as the single storey extension is 3 metres in depth this is commensurate with the scale of permitted development extensions, and a refusal of planning permission could not be justified on this basis alone.
54. The impact of the proposed side extension on no. 50 is more limited as the dwelling is detached from the application site and located at right angles to the host property. Number 50 appears to have a conventional floor plan with the main habitable rooms located on the front and rear of the dwelling. The submitted layout for the host property no. 51 shows the extension that forms the side elevation has no habitable room windows at the first floor. The residential amenity of the neighbour's property and garden (50) is therefore considered to be protected. The windows on the ground floor of the host property (no. 51) are into habitable rooms and assessed to be screened from views of the neighbouring garden by existing boundary treatment.

55. In terms of separation distance, Policy Q8 of the Local Plan provides details of separation distances for new dwellings. This policy indicates that a separation distances of 21 metres should be achieved between windows of habitable rooms. No alterations are proposed to the fenestrations in the existing property on the front elevation and the proposal meets the minimum standards specified in the justification in Policy Q8 of the local plan.

Interim Policy on Student Accommodation

56. The Interim Policy on Student Accommodation goes further than policy H9 as it states that extensions that result in additional bed spaces will not be permitted if more than 10 per cent of the total number of properties within 100 metres of the application site are already in use as HMOs.

57. When assessed against the Interim Policy, which seeks to curtail extensions and creation of bed spaces, the proposals are contrary, particularly as the percentage of properties within the 100 metres radius of the application site equates to 49.2 per cent. It must be noted however that the proposed extension would not impact on the percentage of properties in HMO use as the application site already falls within this category, albeit as a C4 rather than a sui generis larger HMO. On this basis, the proposal would equate to one additional bedroom creating a 7-bed HMO over a 6-bed HMO and in consideration of this, the proposals do not offend against the aims and objectives of the interim policy which seeks to maintain an appropriate housing mix by assessing the change in the percentage of housing in student accommodation within a 100 metres radius. This would still be the case if the number of bedrooms was to be increased beyond 7 as discussed above. On this basis, the addition of one or more additional bed spaces to an existing C4 property does not undermine this principle. It must also be noted that the interim policy is not part of the adopted development plan and therefore less weight must be afforded to it as a result and in the event of conflict with save local plan policies, those policies must prevail.

58. Furthermore, a recent appeal decision (reference APP/X1355/W/16/3160444) for a two-storey rear extension of a class C4 HMO to provide 3 additional bedrooms at 40 Hawthorn Terrace, Durham, considered the issues associated with the creation of additional bedrooms within established HMOs and whether such development is considered to conflict with the Interim Policy. The Inspector found that within the Interim Policy there is no explicit reference made on how to address extensions to existing HMOs against the 10 per cent tipping point. This would suggest that the Council has essentially sought a moratorium on extensions to HMO properties within the Durham City area where the majority of residential areas are in excess of 10 per cent HMOs. The Inspector considered that such a stance would be at odds with the more permissive approach of saved Policy H9 of the local plan. The Inspector further commented that the provision of additional bed spaces to an existing HMO in an area where more than 10 per cent of properties within 100 metres of the appeal site are in use as HMOs would not result in an adverse impact on the overall range and variety of local housing stock in the area. On this basis, the Inspector allowed the appeal.

59. In these circumstances, Officers are of the view that it would be very difficult to sustain a refusal reason based on conflict with the Interim Policy.

Design of the extension

60. In terms of policy Q9, this states in point 1) the design, scale and materials should be sympathetic to the main dwelling and the character and appearance of the area. In addition, the justification for the policy also requires extensions to appear subordinate to the host dwelling and incorporate pitched roofs wherever possible. Officers note that the scale of the extension has been reduced from the former submission and that the flat roofs have been removed from the extensions and pitched roofs are now proposed. However the proposed extension would result in an enlarged property which increases the floorspace of the host property by over 60 % and includes a two storey extension that wraps round the rear elevation. Officers consider that although the front elevation has incorporated appropriate acceptable design characteristics, the development overall would still appear overly dominant and out of character with the host dwelling.
61. It is noted that whilst a number of properties have been extended in the locality officers do raise concerns over the scale and appearance of this proposed wrap around two storey rear and side extension relative to the host property. Officers consider the front elevation of the extension appears subservient in nature resulting from the in-step in the front building line and lower ridge level. The side and rear return elements are less successful as they combine to create a wrap-around two storey extension of high density that officers consider overpowers the original building. Both the side elevation and the rear elevation are visible from public vantage points with a footpath providing pedestrian access adjacent to the side elevation of the host property and an access track to the rear linking Whinney Hill to Hallgarth. The design of the extension from the side and rear provides an extension that both overwhelms the host property from the mass of the extension that is contrary to Policy Q9 and is also out of character with the host property and the neighbouring properties. The scale of the extensions visually moves the building away from appearing 'domestic' to having more of a 'commercial' appearance reflecting the sui generis house in multiple occupation use proposed. This is considered to be contrary to Policy H9 which requires extensions to be 'in scale and character with its surroundings and with any neighbouring residential property', and 'not involve significant extensions having regard to Policy Q9, alteration or rebuilding which would unacceptably alter the character or scale of the original building'. The proposal is also considered contrary to Para 130 of the NPPF which states, 'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans.'

Visual impact of the development on the conservation area

62. Local authorities have a duty to preserve or enhance the Conservation Area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Local authorities also have a duty under Section 66 of the same legislation to pay special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

63. Policies E22 and E23 of the Local Plan reflect these legislative requirements and are also deemed to be consistent with the NPPF. Within the policies there is a requirement that development be refused where it would detract from the character of the area and that all development should be sensitive in terms of siting, scale, design and materials, reflecting where appropriate existing architectural details. In addition, the policy requires that trees, hedgerows, views and undeveloped areas which contribute to the character or appearance of the area should be protected.
64. Whinney Hill is located within the eastern part of the designated conservation area and is an elevated street rising from the north at its junction with Old Elvet and Green Lane. It is characterized by inter-war houses originally local authority stock providing accommodation for prison officers at Durham Prison. They are arranged in groups of four either lining the main street or in short cul-de-sacs, and are typical of designs of the social housing of their time. As such they themselves are of little historic interest or merit architecturally but the plan arrangement and streetscape of the area is positive deriving from the varying topography and layout of housing blocks, the wide verges, street trees, green open spaces, and mature front gardens. These elements combine to great effect to create a public realm of high quality with a distinctly suburban character. Furthermore, impressive views of Durham Cathedral can be gained between the houses and above from the rising land to the east.
65. Design and Conservation officers provided comments on the proposals, stating that the proposed front extension is set back and set down on the roof and is subservient to the host property. The side and rear elevation are less successful as they combine to create a wrap-around extension and would still represent a fairly large extension of high density, which would be visible from the adjacent public footpath. However, the location of the extensions in the setting of the conservation area, and the views of the world heritage site beyond are not detrimentally affected. As such the Conservation Officer has not raised an objection with regard to the impact of the extension on the character/appearance of the Conservation Area as the proposal would only impact at a localised level being visible from within the cul-de-sac and from a very small area within The Hallgarth, both modern estates neutral in character. It would therefore not be considered harmful to the special historic and architectural interest, character or appearance of the area underpinning its conservation area status. Due to the property's location at the south end of the block, the extension would not intrude into or harm the fine view of Durham Cathedral attainable from the public realm along the main street. As a consequence of the above the development proposal would be considered to have a neutral and thus preserving impact on the character and appearance of the Conservation Area in accordance with the principles of NPPF Section 16 and local policy E3, E6 and E22.
66. The National Planning Policy Framework in part 16 requires that the impact of the development is considered against the significance of the Heritage Asset which in this case is Durham City Centre Conservation Area. Part 12 of the NPPF deals with good design generally advising that it is a key aspect of sustainable development, indivisible from good planning that can lead to making places better for people. At a local level Policy E6 and E22 of the City of Durham Local Plan are also considered to be relevant. These policies state that the special character, appearance and setting of conservation areas will be preserved or enhanced. This will be achieved by only approving development that would be sensitive in terms of its siting, scale, design and materials. Policies H9 and Q9 require any extensions to such dwellings are in scale and character with its surroundings and neighbouring residential properties.

67. The aforementioned policies and guidance require the local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this case the extensions to the property are considered to have a neutral impact on the Conservation Area and the proposal is therefore considered to be in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Highway and access issues

68. The County Highway Officer has raised no objection to the proposal as the site is located in a controlled parking area and no additional parking permits will be provided. The site is located in a sustainable location close to a range of services and public transport and no objection is raised on this sustainable site. The proposal is therefore considered to be in accordance with Policy T1 and T10 of the Local Plan.

Comments on the objector's concerns

69. Residents' concerns about the impact of additional noise and disturbance is discussed above in the report.

70. The neighbouring property at no. 52 raised an objection about an access from his property over the rear garden of no. 51 being blocked by the proposed development. Officers consider this is a private legal matter with regard to whether the neighbour has a legal right of access that falls outside planning legislation. It is noted that an amended plan now includes an access round the property for the neighbouring property for the removal of bins.

71. Residents made comments about parking being difficult in the narrow cul de sac area, the existing garden being used for parking and additional people making the situation worse and more supermarket and other deliveries occurring even if the students do not have a car. As explained above as the site is located in a sustainable location the highway officer does not require the existing parking areas to be retained and as the area is a controlled parking area and no additional parking permits will be provided officers consider that the impact on parking will be minimal. With regard to shopping being delivered to the premises officers consider that whilst this is a temporary occurrence it adds to the impacts on disturbance to residential amenity explained above in the report.

72. Residents concerns about the additional use of the rear access track are noted and concerns relating to this track being used for construction work if planning permission is granted is also noted. However, these concerns would not form the basis of a justification to refuse planning permission.

73. Comments about the design and appearance of the property and its impact on the conservation area are discussed above in the report.

74. The possibility of the large floor plan for the extension leading to more than one additional bedroom is also discussed above.

CONCLUSION

74. This application has been fully assessed and considered in relation to the relevant policies including H9, H13, Q9, T1, and T10, of the City of Durham Local Plan and criteria detailed in the NPPF. In reaching a recommendation on this application, supporting information submitted with the application has been fully considered along with comments received from consultees and the objectors.

75. The application is submitted for the change of use from a C4 house in multiple occupation to a sui generis 7 bedroom HIMO with a wrap round 2 storey extension and single storey extension to the side and rear. Officers conclude that the scale and character of the extension is not subordinate to the host property and would involve significant extensions out of keeping with the host property, and the remaining garden is restricted and difficult to access from the front door only. In addition, the change to a sui generis use class with seven or more occupants in the dwelling within this cul de sac location would have a detrimental impact on residential amenity from noise and disturbance from additional comings and goings particularly at unsocial hours, and disturbance through the party wall to the adjoining C3 dwelling. For these reasons officers consider the application is not acceptable and is contrary to Policy H9 and H13 of the City of Durham Local Plan 2004.

76. The application is therefore recommended for refusal.

RECOMMENDATION

That the application be refused for the following reason:

1. The proposed wrap around two storey extension on the side and rear elevation is considered to unacceptably alter the character and scale of the host property contrary to Policy H9 and Q9 of the City of Durham Local Plan 2004 and Part 12 of the NPPF.
2. The change of use of the property from a C4 dwelling to a sui generis house in multiple occupation will result in 7 or more unrelated people occupying a terraced property in a constrained cul de sac location to the detriment of residential amenity from additional comings and goings, and noise and disturbance contrary to Policy H9 and H13 of the City of Durham Local Plan 2004 and Paragraph 91 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to refuse 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. Unfortunately, a positive outcome was not achieved on this application. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
National Planning Policy Framework
Internal consultee responses
Public responses
Responses from statutory and other consultees
National Planning Policy Guidance



Planning Services

Change of use from a C4 house in multiple occupation to a 7 bedroom HIMO with a wrap round extension and internal alterations to existing dwelling (sui generis).

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