



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/20/01107/FPA
Full Application Description:	Resubmission of DM/20/00387/FPA for the erection of a single House in Multiple Occupation (Use Class C4)
Name of Applicant:	Mr Frank Stephenson
Address:	Land To The West Of The White House, Newcastle Road Crossgate Moor DH1 4HZ
Electoral Division:	City of Durham
Case Officer:	George Spurgeon (Planning Officer) Tel: 03000 261 959 Email: george.spurgeon@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

Site:

1. The application site relates to land that forms the rear garden of the White House, Crossgate Moor, to the west of Durham City centre. The White House is a detached dormer bungalow that was granted planning permission in 2019 for a change of use to a C4 HMO. The White House is located behind Abbey Vets and is accessed from the A167 by a narrow unlit road along the northern side of the dwelling.
2. The area is an established residential area with mainly large detached houses to the south, and detached bungalows and a Sainsbury's Local supermarket to the north. To the west lies open countryside. The land level slopes down from the east towards the west.

Proposal:

3. The application seeks full planning permission for the erection of one detached dwelling that would be in use as a C4 HMO. The dwelling would consist of five bedrooms with associated en suites, a kitchen, lounge, utility, lobby and built in cycle storage area. Due to the sloping land levels the dwelling would appear as single storey when viewed from the east and two storey when viewed towards the west, with three dormer windows each serving a bedroom. The dwelling is proposed to be finished in a combination of buff brick and white render for the external walls and brown concrete tiles for the dual pitched roof.

4. The application is reported to the Planning Committee at the request of Councillor Brown on the grounds of residential amenity.

PLANNING HISTORY

DM/20/00387/FPA Erection of two Houses in Multiple Occupation (Use Class C4). Refused 23rd April 2020

DM/19/00195/FPA Change of use from a dwelling (Use Class C3) to a 5 bedroom house in multiple occupation (Use Class C4) with associated parking. Approved 19th March 2019

DM/16/02170/FPA Demolition of existing dormer bungalow and erection of one detached dwelling together with ancillary works. (Amended plan) Refused 29th September 2016 Appeal Dismissed 22nd March 2017

PLANNING POLICIES

National Policy

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
6. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
7. *NPPF Part 8 Promoting Healthy 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.
8. *NPPF Part 9 Promoting Sustainable Transport* – Planning policies and decisions should ensure appropriate opportunities to promote sustainable transport modes can be taken up given the type of development and its location; safe and suitable access to the site can be achieved for all users; and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
9. *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.

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.

Local Plan Policy:

11. The following policies of the City of Durham Local Plan are considered relevant to the determination of this application.
12. Policy E14 (Trees and Hedgerows) sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
13. Policy E15 (Provision of New Trees and Hedgerows) states that the Council will encourage tree and hedgerow planting.
14. Policy E24 (Ancient Monuments and Archaeological Remains) sets out that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ. Development likely to damage these monuments will not be permitted. Archaeological remains of regional and local importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ.
15. Policy E25 - (Neville's Cross Battlefield) - seeks to protect the area of the battlefield that occurred in 1346 and is on Historic England's Register of Historic Battlefields.
16. Policy H10 (Backland and Tandem Development) sets out that such development will not be permitted unless a safe and satisfactory access is provided, the amenities of existing and prospective occupiers are not adversely affected and finally, that the development would be in keeping with surrounding development.
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 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.
20. Policy Q5 (Landscaping General Provision) sets out that any development which has an impact on the visual amenity of an area in which it is located will be required to incorporate a high standard of landscaping.

21. Policy Q6 (Structural Landscaping) sets out that all new development located on the outer edge of settlements or exposed sites will be required to include peripheral structural landscaping within the site in order to minimize any adverse visual impact of the proposal.
22. Policy Q8 (Layout and Design - Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
23. Policy U8a (Disposal of Foul and Surface Water) requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.

Emerging County Durham Plan:

The County Durham Plan

24. The County Durham Plan (CDP) which in time will replace the existing saved Local Plans in County Durham commenced its Examination in Public (EiP) in Winter 2019. The programmed hearing sessions subsequently closed on 6th February 2020, and the Inspector's issued his post hearing advice on 20th February 2020. An amended CDP has been prepared to take account of the specific instructions from the Inspector, and all the minor/main modifications which the Council proposed following the hearing sessions and in response to the action points issued by the Inspector. Consultation on the CDP (Main Modifications) commenced on Tuesday 26th May and will last until 21st July 2020 (an eight-week period). All comments that are received during this consultation period will be sent to the Inspector to inform his final report. Paragraph 48 of the NPPF states 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. Although the CDP is now at an advanced stage of preparation, it is considered that it should not be afforded any weight in the decision-making process until the Inspector's final report has been received.

Emerging Durham City Neighbourhood Plan:

The Durham City Neighbourhood Plan

25. Following consultation with the community at 'Pre-Submission Draft' stage, the submission draft of the Durham City Neighbourhood Plan (DCNP) was approved by an Inspector in July 2020, who considered that the plan satisfied the Basic Conditions and that, subject to some recommended modifications, the plan should proceed to referendum. Paragraph 48 of the NPPF states 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. The DCNP is now at an advanced stage of preparation that it is considered that it can be afforded

some weight in the decision-making process, dependent upon the unresolved objections to relevant policies.

26. The following policies of the City of Durham Neighbourhood Plan are considered relevant to the determination of this application:
27. Policy S1: Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions
28. Policy H3: Our Neighbourhood Outside the Conservation Areas- Development proposals within Our Neighbourhood outside the Conservation Areas should demonstrate an understanding of the area of the proposed development and its relationship to Our Neighbourhood as a whole.
29. Policy T1: Sustainable transport accessibility and design- Development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility and design.
30. Policy T2: Residential Car Parking- Development proposals incorporating or having an impact on car parking will be supported if they comply with specified conditions.
31. Policy T3: Residential Storage for Cycles and Mobility Aids- Residential development proposals for new build or change of use should provide storage facilities for cycles and mobility aids

CONSULTATION AND PUBLICITY RESPONSES

Consultee Responses:

32. HMO data- confirmed that the proportion of properties occupied by students within 100m of the application site, as defined by Council Tax data, is under 10%.
33. Highways-raise no objections as no additional parking is to be created to serve the proposed dwelling.
34. Landscaping- comments that the development is unlikely to impact the character of the landscape as seen from western public viewpoints but that a landscaping scheme is required to mitigate for any tree removals.
35. Trees- requests that further information is submitted for consideration.
36. Archaeology- comments that the site forms part of the designated Neville's Cross Historic Battleground and so recommends archaeological monitoring of all groundworks on the site and requests that two conditions be attached to any approval.
37. Environmental Health- no objections raised as the development would not cause a statutory nuisance.
38. Contaminated Land- requested that the Screening Assessment Form (Version 10.3) in Appendix 2 of the YALPAG Guidance 'Development on Land Affected by Contamination' and site photographs is completed and submitted for consideration. Upon receipt of this it was confirmed that no further survey work is necessary.

39. Northumbrian Water- raise no objections.

40. Police- no response received.

Public Responses:

41. The application was advertised by neighbour notification letter to the adjacent landowners and by way of a site notice.

42. 47 objections have been received, including from Councillor Scott, Councillor Brown, the City of Durham Parish Council, the City of Durham Trust, Neville's Cross Community Association and the Quarryhouse Lane Environmental Association. The following issues were raised:

- The city is unbalanced with students; there are 717 students in the immediate environment, 277 at Duresme Court, 30 at Ward Court, and 410 at Sheraton Park, and these are not fully occupied
- The three postcodes north of the railway cutting at Nevilles Cross and to the east of the A167 show (south to north) densities of 14.7%, 12.5% and 15.4%.
- Whatever the very narrow post code arguments are, taking a line from the Sainsbury's express store to the Duke of Wellington and about 100 metres either side there is now an overall average of over 11% Council tax exemptions recorded
- The development would encourage people to move away harming the local housing stock
- High concentration of students increases house prices making them unaffordable for residents
- Student properties are often poorly maintained
- Questions whether the proposal is actually for PBSA in which case a need for it would need to be demonstrated by the applicant
- The proposal is contrary to the Interim Policy
- The proposal is contrary to Policy 17 in the emerging County Durham Plan and Policy D3 of the City of Durham Neighbourhood Plan
- The house is designed for students and precludes being used by other groups
- The development is not necessary as there are already many students and accommodation for them in the area, and there are empty properties on Hawthorn Terrace within a mile of the site. Concerns over whether there is demand for more student accommodation
- COVID 19 may result in less HMOs being needed as more students choose to learn from a distance and online, including international students
- Management plans do not provide assurances that the tenants will behave acceptably; the applicant will not own the properties forever. New problems arise as new students move in. The Parish Council have received complaints that management plans are not followed and are not enforceable
- Bins are not returned and overflow, which adversely affects visual amenity and blocks the footpath
- There are not many amenities in the vicinity for students, and concerns over takeaways being introduced to the area
- Approval would set a disastrous precedent
- There are no provisions for disabled facilities
- The house could be burgled when the tenants are not there i.e. University holiday periods

- Concerns over what checks could be implemented to ensure any visitors to the new houses are genuine
- The proposal would lead to an increase in noise and disturbance due to an additional 5 students living on the site
- There would be a significant increase in cars / taxis / learner drivers / driving instructors, maintenance vans, delivery vans etc. likely to use the narrow access at possibly anti-social hours (especially in the case of taxis and takeaway deliveries), there would be an unacceptable loss of amenity
- A noisy party led to a police raid
- The communal garden area could be used to hold large parties
- Compliance with building regulations would not solve issues over noise as stated in the applicants Design and Access Statement
- Traffic generation at unsociable hours
- Fumes from cars
- The external door within north side elevation could lead to congregating and smoking close to the boundary with the garden of neighbouring property Langdale
- Light pollution as dark gardens will be lit up
- Loss of garden space for the occupants of the White House
- Security of houses when empty over university holiday periods
- The development would overshadow the rear garden of Langdale
- The development would restrict the outlook and sense of space from Langdale
- The bin storage area is adjacent to the boundary with Langdale and would generate odours, especially in summer
- The windows within the side elevation are not stated to be non-opening
- Outlook from the field to the west, belonging to the occupant of 9 Neville Dene, would be compromised as the houses would be 1m away from the boundary. Also, this land would be overlooked by the development.
- Loss of privacy for the occupants of the ground floor bedrooms of the White House, which do not have curtains
- Proximity of communal garden area to the ground floor bedrooms of the White House would cause noise and disturbances
- Any CCTV would compromise privacy of surrounding residents
- Applicant previously felled trees at 7am in the morning, concerned that construction work could take place at early and late hours
- There are few examples of backland development in the area
- The siting of the house behind the building line of Langdale and the White House is in conflict with the character of the area
- The area is characterised by properties with long rear gardens which this development would compromise
- A dwelling in this location would compromise the character of the green fields beyond
- The proposal constitutes overdevelopment as the site is relatively small and the White House itself a modest property. Another objector commented that a 5-bedroom detached dwelling, as proposed here, cannot be considered small
- Gives the example of application DM/16/02170/FPA which was refused because it was contrary to local plan policy H10
- The siting close to the northern boundary imbalances the site on a stretch of Newcastle Road where dwellings are located centrally in their land.
- The fencing shown on the plan is shown to overlap the ancient hedge between Langdale and The White House
- Commercial rental / student properties are out of character with the area

- Several mature trees have already been felled, the existing site plan still shows trees that have already been removed, and the hedge to the south side has been removed
- Beech hedge has not been properly maintained
- No mention of archaeological significance or safeguards
- Existing access into the site is dangerous
- Insufficient number of car parking spaces
- Questions whether the grassed area shown on the site plan will be used for parking and potentially hard surfaced or finished in grasscrete, 0.5m high fence around existing parking area is a trip hazard
- Lack of on-site parking spaces would result in other nearby car parking spaces being taken up or parking on street
- Lack of car parking spaces would not prevent visitors (family and friends) and deliveries, the proposal is in conflict with the Council's Parking and Accessibility Standards and is not within 800m of the large town centre bus station
- Increase in traffic along with the current traffic generated by the vets and the existing busy nature of the A167 would adversely affect highway safety and increase the risk of collisions
- Future occupants would park alongside the A167, obstructing the visibility of drivers and pedestrians. It is accepted that parking on the pavement is illegal and enforceable, but it is a burden on the community to report, and the overstretched police to enforce such situations. The onus should be on developers to "design out" the causation of the illegality, not on the community to waste time and resources to continually rectify an issue created by overdevelopment and bad design. Parking occurs on the pavement either side of the access road.
- Disputes that students have fewer cars than families. The information in the applicants Design and Access Statement is based on a national study
- The access lane is narrow, steep and not illuminated, questions whether this is sufficient for emergency vehicles and construction traffic, vehicles would be unable to turn around
- Pedestrian safety concerns over children walking to and from school
- Refuse vehicles would have to stop on the A67 to collect more bins, bins left on the footpath could be a traffic hazard
- Construction vehicles will struggle to enter the site
- There would be an increased number of trips at beginning and end of term times
- There are two study rooms on the first floor that could be used as additional bedrooms
- The houses should be built for families which are badly needed in the area; more affordable houses are needed
- The plan does not show the closest part of Langdale to the new dwelling, but instead takes the distance of 40m from the garage
- Lack of management control from the properties the applicant already owns
- The applicant was in breach a planning condition relating to the creation of the existing parking area (EN/19/00442)
- The area has not received investment for benches etc. since the large PBSA at Neville's Cross, whereas other places in the County such as Bowburn have
- Crossgate Moor is a high respected area with high taxpayers who don't want students
- Disagrees with the description of the application as a re-submission and questions why the Council accepted the application as an amendment
- Quarry House Lane residents not consulted. Objectors of the previous application were not directly notified of this application.
- Concerns raised by the community during the processing of the previous application have not been resolved.

Applicants Statement:

Current position

43. Arriving at the current proposal has taken almost 5 years much consultation and consideration. When I met with Highways in Autumn 2019 they said they would have no objection to me building two houses on this site based on the houses being HMOs with no cars. Planners have indicated support for one dwelling. I, together with the Architectural Consultant, Garry Hodgson and Planning Consultant, Darren Ridley have looked at all of the objections. We are empathetic and want to address concerns falling within planning guidelines.

Site density/residential amenity

44. The proposed dwelling is on a large, wide plot and given that it is almost 30 metres away 1 from the nearest corner of the neighbouring property Langdale (taken from topographical survey and OS maps) and over 21 metres away from the White House, I believe that one small HMO would work well. Taking on board comments from Planning and the Inspector from the earlier application for a large family home, this proposal is for a much smaller house, much further away from neighbours' properties and designed so that it does not overshadow in any way. Perhaps more important than the physical distance between the properties, our building has been carefully designed so the windows to habitable rooms face away from the neighbour's house. The house is considered well designed by DCC Planning department, using the natural slope of the land to make the property largely inconspicuous from the front elevation. It is further obscured by hedges, trees and fences which give great shelter. In addition, to go above and beyond these concerns, additional landscaping and hard boundary treatments can also be introduced if members deem this necessary. With regards to site density, the proposed dwelling will bring the total site density to around 12% versus an average site density of 23% for neighbouring properties. Braeside and Dunleigh House are 35% and 36% density respectively (taken from the average of Braeside, Dunleigh, Langdale, Glengarth and Long Orchard from OS maps)

Traffic and Highways

45. Since families tend to have more cars, the HMO route is deemed the best option. The proposed new dwelling is a non-car house. The site has ample parking and turning space (introduced as a condition of the change of use planning approval for The White House and providing an increase in provision of 178%) Previously, there were no restrictions on the number of cars parked on site and a former occupant has advised that there were up to 5 cars parked in the past when it was his parental home. Last year and up until July 2020 only one tenant had a car and we aren't aware of any tenants having any cars currently. Abbey Vets which is immediately in front of the White House, has 10 car parking bays and cars coming and going all day. By comparison, any traffic to and from the White House is and will be negligible. Highways have been engaged throughout the process and support this proposal, as do the DCC Planning department.

Students

46. While it may be let to students, the proposed house cannot be compared to large student halls of residence, since it is a small house on a relatively large site in its own grounds (The total site size is 0.464 acres taken from GH Architectural Services topographical survey data). Moreover, an HMO does not necessarily mean student accommodation but also applies to those houses let to a group of professionals. In the past we have rented out property to a group of junior doctors and a film crew. Since changing the White House to an HMO, neither I, nor the managing agent for the property have received any complaints whatsoever. The tenants have looked after the house very well. There is no reason to anticipate any change to the well-managed, law abiding people who would reside in the proposed house. Although I own a number of houses and the majority are for families, the HMOs owned are all highly rated, of a very high standard. Council officers can attest to this.

Bins

47. I have picked up on some concerns about bins being left out. To address this for the future, in addition to issuing even more robust guidelines to tenants and having a dedicated bin store (20.71 meters away from neighbouring Langdale, taken from topographical survey and OS maps) shielded by both a wooden enclosure and hedge, the Managing agent and gardener will be on alert. Since the house is passed daily to and from school and often on business, my family and I can act as additional safeguard to ensure the bins are put away if required.

Other points

48. I have agreed to all conditions put forward by the Council including on tree protection and archaeology.

Conclusion

49. There has been long and extensive consultation with DCC to reach this carefully considered proposal. The house's construction will support local business at a key time and also supports the need for more housing. It is a planned and natural evolution for this large and wide bordered site. This proposal has the support of both DCC Planning officers and DCC Highways. We hope that with the details and background provided, that members will give their assent to this fair and reasonable proposal.

PLANNING CONSIDERATION AND ASSESSMENT

50. 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 character and appearance of the surrounding area, landscaping, highway safety and parking, residential amenity, archaeology and contaminated land.

Principle of Development

51. The application site is located within the settlement boundary of Durham City and forms part of the rear garden of the White House, which is itself located to the rear of Abbey Vets. The site is therefore located on backland to existing backland and Policy H10 of the City of Durham Local Plan (CDLP) is therefore relevant, which does not permit development on backland unless there is a safe and satisfactory access and adequate parking, the amenities of new and existing residents would not be adversely affected, and it is in keeping with the character, density and scale of surrounding development. This policy is considered to be compliant with the aims of the NPPF in seeking to restrict inappropriate development where it would cause harm to the local area, in terms of loss of amenity or negative impacts on character, and is of relevance to this proposal, as backland sites are defined by the supporting text of Policy H10 as those to the rear of existing houses, such as back gardens, with tandem development defined as consisting of one house to the rear of another sharing the same access.
52. The application proposes the erection of a single detached five-bedroom house in multiple occupation (HMO) within an existing residential area. Policy H13 of the Local Plan is therefore relevant and states that planning permission will not be granted for new development which would have a significant adverse effect on the character or appearance of residential areas or the amenities of residents within them. The approach contained within this saved policy is considered consistent with the general aims of the NPPF which requires the planning system to protect the amenity of neighbouring residents from inappropriate development. These policies are therefore deemed up to date policies and can be attributed weight accordingly in determination of this application. Furthermore, Paragraph 11 of the NPPF is not engaged.
53. In addition to these policies, the Council's Interim Policy relating to student accommodation is also relevant and states that the Local Planning Authority will not support the provision of new HMOs in instances where there is in excess of 10% of properties within 100 metres of the site already in use as student accommodation. Whilst the Interim Policy has less weight than the saved policies of the Local Plan it is nevertheless a material planning consideration in the determination of this application.
54. The Council's HMO Data Section has advised that the most recent up to date Council Tax Information available at this time (April 2020) identifies that 5.9%, or 1 out of 17, of the properties within 100 metres of the site are currently occupied as student let accommodation. In order to promote the creation of sustainable, inclusive and mixed communities and maintain an appropriate housing mix, applications for new build HMOs will not be permitted if more than 10% of the total number of properties within 100 metres of the application site are already in use as student accommodation exempt from Council Tax charges. The proportion of student properties within the 100 metre radius of the application site is below the 10% set out in the Interim Policy and so the proposal is not considered to imbalance the local community or harm the community cohesion of the area. The proposal is therefore in compliance with this part of the Interim Policy and, given that the proposal relates to a new build HMO rather than a conversion of an existing dwelling, is not considered to have an adverse impact on the variety of the local housing stock.
55. The Interim Policy also advises that, in all cases proposals will only be permitted where:

- a) The quantity of cycle and car parking provided is in line with the Council's adopted Parking and Accessibility Guidelines and:
- b) Acceptable arrangements for bin storage and other shared facilities are provided and other amenity issues considered; and
- c) The design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and
- d) The applicant has shown that the security of the building and its occupants has been considered along with that of other local residents and legitimate users.

56. Furthermore, Policy T3 of the emerging Durham City Neighbourhood Plan (DCNP) seeks to support development only where a sufficient level of cycle parking is provided, in line with the Council's adopted Parking and Accessibility Standards. As discussed above, the Examiners Report for the DCNP has been received and recommended that the plan proceed to referendum. Therefore, the plan is at a sufficiently advanced stage where it can be afforded weight, although the weight to be attributed to specific policies should be less where there are unresolved objections to specific policies. In the case of Policy T3, the Inspector recommended some minor changes to the wording of the policy to ensure it meets the basic conditions. Accordingly, this policy can be attributed some weight in the determination of this application.

57. The Council's adopted Parking and Accessibility Standards sets out that for a 5 bed HMO two long stay cycle parking spaces should be provided. The new dwelling is proposed to provide a built-in cycle storage space, and this is considered sufficient to comply with the relevant standards, criterion a) of the Interim Policy and Policy T3 of the DCNP.

58. In terms of criterion b), an enclosed bin storage area has been included on the proposed site plan. The occupants of Langdale have raised concerns over its siting within close proximity to their boundary. If the application were to be approved, it would be necessary to impose a condition requiring additional details of the bin storage area in terms of height and materials. Given its suggested enclosed nature, its siting is not considered to result in significant odours adversely affecting the occupants of Langdale and so the application is not considered to warrant refusal on this point. A condition (number 4) is however recommended requiring further details of the bin enclosure prior to the occupation of the dwelling and subject to this it is considered that criterion b is met.

59. Other requirements will be considered in further detail in the relevant sections below.

Character and Appearance of the Surrounding Area

60. Paragraph 124 of the NPPF advises that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development, creating better places in which to live and work. Policy Q8 of the CDLP requires development to be appropriate in scale, form, density and materials to the character of its surroundings. In addition, Policy H13 does not permit development that would have a significant adverse impact on the character or appearance of residential areas. These policies are consistent with the aims and objectives of the NPPF.

61. Furthermore, Policy S1 of the DCNP seeks to support development where it harmonises with the context of the neighbourhood in terms of scale, layout, density, massing, height, materials, colour, and hard and soft landscaping. In addition, Policy

H3 of the DCNP seeks to support development which: has a high quality design which contributes to the quality and character of the area; has a scale, density, massing, form, layout, landscaping and open spaces appropriate to the context and setting of the area; and uses materials and finishes appropriate to the context and setting of the area. The Inspector recommended some minor changes to the wording of Policy S1 and H3, but the overall aims of the policies remain and accordingly they can both be attributed some weight in the determination of this application.

62. The proposal is to erect one new detached dwelling within the rear garden of the White House. The dwelling itself has been designed to a good standard with the use of buff brick and white render to the external walls and brown concrete tiles to the dual pitched roof considered to be appropriate for the area. Due to the lower land levels to the west, the dwelling is proposed to be built into the landscape resulting in the dwelling being viewed as single storey from the east and two storeys from the west. Because of this, the dwelling is considered to be of an appropriate scale and density for its location. Although the dwelling could be glimpsed from Newcastle Road along the access road, it would not appear as visually obtrusive and would mostly be screened from public viewpoints from the east by the buildings in front of it.
63. Paragraph 70 of the NPPF advises that plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area, whilst Paragraph 122 advises that planning decisions should support development that makes efficient use of land, taking into account: d) 'the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change'.
64. In line with NPPF Paragraph 70, the City of Durham Local Plan has a policy on backland and tandem development, H10, of which the supporting text states, 'In most cases such sites are inappropriate for new houses due to poor access, inadequate standards of space or privacy, or because development would entail the loss of open or amenity areas. The residential character of certain areas consists of dwellings with large rear gardens and this must be protected from inappropriate development. Where backland development would be detrimental to this character, it will not be permitted.' With regards specifically to tandem development the supporting text of Policy H10 advises that, 'Such development will almost always be unsatisfactory because of disturbance and lack of privacy to the house at the front, as well as problems of access to the house at the rear. It can also be damaging to the character of an area.'
65. The application site is effectively backland to existing backland, on which the White House itself is sited on behind Abbey Vets. The White House has a similar building line to Langdale to the north, which benefits from a long front garden rather than being sited on backland itself, with the properties to the south being situated further forward with shorter front gardens. A characteristic of all the residential properties along this section of Newcastle Road is that they benefit from elongated rear gardens.
66. Paragraphs 70 and 122 of the NPPF seek to protect residential garden areas from development which would harm the character of the surrounding area, with Policy H10 of the CDLP specifying that dwellings with large gardens can form part of the areas character and that these must be protected. Application DM/20/00387/FPA for the erection of two detached dwellings in this location was refused earlier this year due to officers concerns that this would result in the loss of the distinctive elongated rear garden that typifies the properties along this section of Newcastle Road, adversely affecting the character and appearance of the area. However, this application relates to

the erection of one dwelling rather than two, so the potentially different impact of this proposal needs to be carefully considered.

67. Whilst elongated gardens are characteristic of the properties on this section of Newcastle Road, it should be noted that the rear garden of The White House is wider than that of the other properties but of a similar length. This can be seen as the width of the rear garden belonging to The White House is approximately 35 metres, with the rear garden belonging to Langdale to the north being approximately 18 metres wide; this width is more typical of the rear gardens belonging to the properties along this section of Newcastle Road. The result of this is that the erection of one dwelling sited to the north west corner of the rear garden of the White House would allow the retention of an approximate 40 metre long and 20 metre wide area of undeveloped garden space directly to its south, which would continue to be legible in its elongated form. Given the amount of undeveloped garden space that would remain after the proposal, it is not considered to constitute overdevelopment. This differs from the previous application in that the erection of two dwellings would have resulted in the complete loss of the legibility of the elongated garden that contributes to the character of the area.
68. A concern was raised from a neighbouring resident that the dwelling is not sited centrally on its land and that this would be at odds with the other properties on this stretch of Newcastle Road. However, this dwelling differs from the other properties referred to that front directly onto Newcastle Road, as the application site consists of backland to existing backland, and that the rear garden of the White House is wider than that of the other properties nearby.
69. Despite the application site consisting of backland to existing backland, the rear garden of The White House is wider than those of the other properties along this section of Newcastle Road and so whilst the erection of a single dwelling in this location would inevitably change the character of this site, its siting to the north west corner of the rear garden would result in a large part of the garden remaining undeveloped, allowing the distinctive elongated shape to continue to be legible after the development. This would avoid detrimentally affecting the character of the area. The proposed dwelling is considered to be of an appropriate scale, density, massing and materials, in accordance with Policy H10, H13 and Q8 of the CDLP and Policy S1 and H3 of the DCNP.

Landscaping

70. Paragraph 170 of the NPPF aims to recognise the intrinsic character and beauty of the countryside and the benefits of trees. Policy E14 of the CDLP requires development to retain important trees and hedgerows wherever possible and to replace those of value which are lost. Policy E15 also encourages tree and hedgerow planting. Policy Q8 requires development to take into account the need to retain existing features of interest within the site including trees and hedgerows. These policies are considered to be consistent with the aims and objectives of the NPPF.
71. Furthermore, Policy Q5 of the CDLP requires development that has an impact on the visual amenity on which it is located to incorporate a high standard of landscaping in its design, whilst Policy Q6 requires development located on the outer edge of settlements to include peripheral structural landscaping within the site in order to minimise any adverse visual impact of the proposal. In addition, Policy S1 and H3 of the DCNP both

make reference to how landscaping can help to assimilate development into the setting and context of an area.

72. The site is located on the outer edge of the settlement boundary of Durham City, with the land to the west of the site and beyond being open countryside. The topographical information included on the site plan identifies a number of large trees contained within the rear garden area of the proposed dwelling. The crown of these are in very close proximity to the proposed dwelling, approximately 50 centre metres away, and there is hard surfacing shown within the crown spread.
73. The Landscaping Officer has commented that it is unlikely that the proposed dwelling would have any significant effect on the visual amenity value or character of the local landscape as seen from western public viewpoints, but that any tree removals would necessitate a mitigating landscape scheme. Having visited the site it was observed that most of the trees shown on the proposed site plan have already been removed, as they would have been in the way of the development. Whilst no consent would have been required to do this, as the trees are not covered by any Tree Preservation Orders and the site is not located within a conservation area, no Arboricultural Impact Assessment has been submitted to clarify which trees have been removed and the impact of this on the visual amenity of the area and the character of the landscape.
74. The Council's Arborist has commented that three trees are remaining to the rear of the garden, two of which are in poor condition with pathogens and cavities and are therefore not worthy of a Tree Preservation Order. However, one tree, an ash located within the hedge line, could be retained. This would not be in conflict with the proposed works as such but would need protecting along with the hedge throughout any proposed development. Due to the loss of trees and the action of the owner in felling mature trees, the Arborist has requested that a landscaping scheme be submitted showing the location and species of new trees to be planted if permission was to be granted.
75. It is considered that the development would be acceptable with the inclusion of two recommended pre-commencement conditions; number 5 to require a Tree Protection Plan to show the retention of the ash tree and the hedgerow along the boundary of the site along with details of measures to protect them for the duration of site works; and number 6 relating to a landscaping scheme to be submitted to and approved in writing by the Local Planning Authority. With these conditions the proposal is not considered to conflict with Policy E14, E15, Q5, Q6 or Q8 of the CDLP and Policy S1 and H3 of the DCNP.

Highway Safety and Parking

76. Policy T1 states that permission should be refused for development which would generate traffic that would be detrimental to highway safety and/or have a significant effect on the amenity of the occupiers of neighbouring properties, whilst Policy T10 states that parking should be limited to promote sustainable transport. Furthermore, the Council's Interim Policy requires that new HMO's provide adequate parking and access. Policy H10 also requires development on backland to provide safe and satisfactory access. These policies are considered to be consistent with the aims and objectives of the NPPF.
77. Policy S1 of the DCNP also seeks to ensure the location and layout of the development maximise public transport, walking and cycling opportunities, and provide paving,

lighting and signs which meet all needs, including those of people with disabilities, older people, and children. The Inspector recommended some minor changes to the wording of Policy S1 but the overall aims of the policy remain and accordingly it can be attributed some weight in the determination of this application.

78. Policy T1 of the DCNP seeks to support development that is sustainable and accessible to all users through walking, cycling and public transport. The Inspector recommend some minor changes to the wording of this policy, but the overall aim is considered to remain the same. Accordingly, this policy can be afforded some weight in the determination of this application.
79. Policy T2 of the DCNP sets out under criterion g) that extensions to the Controlled Parking Zone (CPZ) in order to mitigate the effects of a proposed development will have the costs recovered via planning obligation and provides examples of some circumstances in which this would apply. However, the Inspector considered this policy to be too onerous and recommended some extensive changes to its wording. Therefore, at this time it is considered that there are substantial unresolved objections to this policy that greatly limit the amount of weight that can be attributed to it.
80. Paragraph 109 of the NPPF advises 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.
81. Highways Officers have previously raised concerns over the conflict between vehicles heading north on the A167 and turning right into St Monica Grove and vehicles heading south on the A167 and turning right into the driveway leading to the application site. The existing highway layout contains a significant risk of road traffic accidents due to head to head collisions. The introduction of a further dwelling would increase the risk of collisions if this resulted in an increase in number of vehicular movements. Neighbours have also raised concerns in relation to the footpath at the entrance of the access road to the site being regularly used by children walking to school.
82. Although students may tend to have fewer cars than a family, with typical car ownership for student occupants of HMOs being less than 20%, a C4 use is not restricted to students only and it would not be possible to condition this. Therefore, it could not be guaranteed that students would be living there. It is possible that any new dwellings would be let out to non-students, such as young professionals, who could live together and travel to work separately, which could result in more cars being used compared to an average family. As such, officers have requested that no new car parking spaces are provided with the proposed development in order to limit the number of new vehicular trips.
83. The submitted site/roof plan shows that no additional car parking space is to be provided for the new HMO dwelling. In effect this will result in occupants of the HMO dwelling being unable to park vehicles on site. A 0.5m high fence is proposed to be erected along the southern and western sides of the existing three car parking spaces numbered 2, 3 and 4 on the proposed site plan and this is considered to be sufficient to prevent the lawn from being used to park cars on. A condition (number 7) is recommended to require the applicant to install and retain this fence. Further to this, a condition (number 8) is recommended to remove the permitted development rights for the creation of additional areas of hardstanding to prevent new parking areas within the site being created and used in the future.

84. These measures are likely to significantly impact on car ownership for the dwelling and as such occupants are highly unlikely to be car users. It is acknowledged that there is a conflict between providing parking space in accordance with the County Council's parking standards and not providing parking space to attempt to limit trips to the site. The lack of identified provision does not comply with parking and accessibility standards. However, this position would need to be accepted if the development was to be approved. Because of this, the dwelling is not considered to be appropriate to be occupied by families and therefore it is also recommended that a condition (number 9) removing the permitted development rights for changes of use from C4 to C3 is imposed.
85. Although it could not be guaranteed that any future occupants would not own cars and bring them with them, the measures detailed above would help to dissuade them from bringing cars with them. A condition (number 15) is also recommended restricting the curtilage of the proposed dwelling from being used to park vehicles. As such, the amount of car parking sought by future occupants would be expected to be of a minimum level that would not significantly increase the amount of traffic in the area.
86. Objectors have commented that a lack of parking spaces for the future occupants would not prevent other visitors to the dwelling using the access road and thereby increasing the risk of collisions. There would be no change in the current amount of parking spaces at the site which would restrict the number of vehicular trips to the site from friends and family to no more than current levels. Whilst it is accepted that the Council would have no control over deliveries and taxis to the proposed dwelling, it is considered that the number of trips generated from these would be minimal and would not significantly increase the amount of traffic in the area.
87. Objectors have also raised concerns over vehicles parking on the A167. However, it is highly unlikely that any driver would park on the A167 given the volumes of traffic it presently carries. Officers were not aware of such an issue from any residential areas fronting the A167 at present and it could not be envisaged that this would be the case with this development. Notwithstanding that point, the Council could consider extending the A167 Clearway through highway authority powers using traffic regulation, which prohibits parking if that did become an issue.
88. One of the objectors then provided photographs of cars parked on the footpath nearby to the access road from the A167 to the application site, which clearly show existing vehicles at some point in time parking on the footway close to the access point. Parking on a footway in itself creates an obstruction offence and is therefore illegal and can be dealt with through Police enforcement. It is not known who is parking on the footway or the reason that has taken place, although it appears one of the vehicles is commercial and may be related to existing commercial activity in the area. In considering the new development it must be considered that the parking is illegal and that there are legal mechanisms for dealing with that existing problem of obstruction. There is no evidence to suggest residents parking illegally associated with the new development will take place. If such a situation occurs there is a legal remedy that could be invoked. Illegal obstruction of the footway by existing drivers is not considered to be a reason why the development should be opposed. In assessing the planning application, it must be assumed that occupiers will comply with the law.
89. One objector also commented that it is not possible to see if the car parking spaces are full when entering, which could lead to vehicles having to reverse out of the site access onto the A167. Officers disagree with this view as there is a vehicular turning area to

avoid this type of situation occurring. Highways Officers have also commented that the driveway is sufficiently wide to accommodate delivery and emergency vehicles.

90. Given that there is unlikely to be any additional private car movements to the development site over and above the existing levels, Highways Officers are satisfied that risk to road users at the access would be no greater than at present. The site is in a highly accessible location close to public transport links and within walking and cycling distance of amenities and facilities within Durham City. Whilst it would not provide parking in accordance with the Durham County Council parking and accessibility guidelines, Highways Officers are satisfied, given the limitation on parking and the accessibility of the site, that no significant highways impact will arise and therefore raise no objections to the proposal. Whilst the proposal is not fully in accordance with Policy H10 of the CDLP, it is considered that the development would not have an adverse impact on highway safety and so, in line with Paragraph 109 of the NPPF, the proposal does not warrant refusal on highways grounds.

Residential Amenity

91. Paragraph 127 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users. In line with this, Policy H10, H13 and Q8 all seek to avoid development that would have an adverse impact on the amenity of neighbouring residents. Furthermore, criterion b) of the Interim Policy requires 'other amenity issues' to be taken into account. In addition, Policy S1 of the DCNP seeks to secure a design and layout of development which is capable of reducing crime and/ or the fear of crime, as well as respecting privacy of, and visual impact on, occupiers of neighbouring properties. The application site consists of backland to existing backland and concerns have been raised by numerous neighbouring residents in relation to the proposal having an adverse impact on their amenity.

92. One of the main issues identified with backland developments relates to the level of disturbance caused to surrounding residents. This is particularly true where residents of existing houses would have enjoyed privacy to the rear of their properties but find this privacy and level of amenity eroded through the comings and goings of new occupiers.

93. During the processing of previous application DM/20/00387/FPA for two dwellings, officers raised concerns over the intensification of the use of the site through the addition of ten new occupants. This application instead proposes only one new dwelling, which would take the total number of occupants on the White House site from five to ten. Despite the reduction in the number of dwellings proposed, the introduction of a further five student residents would still increase the potential for noise and disturbance for neighbours, although to a lesser extent than if two dwellings were proposed.

94. Environmental Health have commented that the demographic that is expected to use this type of accommodation, HMOs, are those in full time education and are associated with greater use of the night-time economy. Environmental Health receive a number of complaints associated with loud music and noise in the street associated directly with HMOs of this nature, and from past experience these complaints may arise from immediate neighbours; however, they also arise from residents in the greater area; demonstrating the potential for cumulative area noise impact which is likely to increase the more properties of this nature in an area. No indication was given that noise

complaints have been received in relation to the White House. Furthermore, the use class applied for is residential in nature and therefore has limited significant noise sources associated with "reasonable use". As stated above, complaints relating to a statutory nuisance such as late-night parties etc are more likely to arise from the above class than expected from a single household dwelling, however these complaints tend to be for irregular events, and are associated with the actions of individuals, and therefore can arise in any demographic of accommodation.

95. Officers previously raised concerns in relation to noise and disturbance for neighbours particularly in terms of comings and goings at unsocial hours past the two existing properties either side of the access road, as well as a more intense use of the remaining garden space. This impact would be most keenly felt by the occupants of Langdale, as well as those of the White House itself. Only one dwelling is proposed in this application, instead of two, and so the level of potential noise generation has been reduced from the previous application.
96. The erection of the dwelling could mean up to five individuals living independently of each other without parental or guardian oversight. Whilst it may be possible that occupation of such student HMOs can be formed around friendship groups from courses, sporting activities and societies or outside employment, it would not be possible to guarantee that to be the case. Even if there was a likelihood of accommodation groups forming on that basis, it does not necessarily follow that they would act as homogenous groups at all times. Wider circles of friends and acquaintances are likely amongst up to four individuals outside a family-unit and so comings and goings and social gatherings would be likely to reflect such a dynamic. Therefore, the occupants could form five separate households each with their own individual social and friendship networks, thus increasing the amount of activity and potential adverse effects on the amenity of neighbouring residents. This view has been presented by officers and agreed with by inspectors at several recent appeal decisions.
97. However, planning applications must be judged on their own merits and this application differs from these recent appeal decisions as it relates to the erection of a detached dwelling rather than the conversion of an existing terraced dwelling. The proposed dwelling would be located approximately 28 metres away from the rear elevation of Langdale, the closest neighbouring property, and 27.5 metres from the rear elevation of the White House. Given this distance, although it is accepted that the development would generate more noise than the existing garden does in its undeveloped form, general noise and disturbance caused by future occupants when spending time within the new dwelling and that would be audible within the dwelling known as Langdale is expected to be limited. Noise would be more audible from the rear garden of Langdale, but again considering the distance the dwelling would be located away from this property, noise audible from the garden area closest to the rear elevation of Langdale, which is likely to be the area most commonly used, is not considered to be so great that it would adversely affect the amenity currently enjoyed by the occupants of this property.
98. The new dwelling benefits from a small lawn to the front, a small garden area to the rear and a larger garden area to the south that would be shared with the occupants of the White House, with these occupants also benefitting from a more private side garden to the south. All of these garden areas form one larger communal garden. As stated above, the residential use of the site would be intensified by the erection of a new dwelling. However, noise generated from future occupants when spending time within the garden areas, although greater than the existing situation in its undeveloped

form, is not considered to be of a level that could be sufficiently demonstrated would adversely affect the amenity of neighbouring residents to justify refusal of the application.

99. In relation to noise in terms of comings and goings, this application also differs from recent appeal decisions in that vehicular trips to and from the application site would be minimised by there being no newly proposed car parking provision to serve the new dwelling. The only car parking that would exist at the site is the current car parking that can be used by the occupants of the White House. This would limit noise generated from vehicular movements associated with the new dwelling. Although there is still the potential for deliveries and taxis to and from the site, this is expected to be minimal.
100. Furthermore, the proportion of student occupied properties within the local area (the 100 metre radius from the application site) is relatively low, with only one out of 17 properties currently being occupied by students. This is lower than has been the case in recent appeals that have been dismissed by Inspectors, with the proportion of student occupied properties being above 10% in all cases. Although it is accepted that the erection of a dwelling in this location would intensify the use of the site and result in additional noise being generated to an extent, the amount of noise generated and audible within the dwellings and their associated gardens is expected to be limited; to a level that would not adversely affect the amenity currently enjoyed by neighbouring residents, given the few student occupied properties within the local area as well as the distance away from the rear elevations of the closest neighbouring properties.
101. Whilst officers have noted some concerns over intensification of the use of the land, officers are satisfied that the proposed development would not result in an adverse effect on the living conditions of the neighbouring residents, in terms of noise generated from additional comings and goings.
102. The Councils adopted Residential Amenity Standards Supplementary Planning Document sets out the typically required separation distances that should exist between dwellings. A distance of 21m is required between the elevations of two storey buildings that contain habitable room windows and a distance of 18m when the buildings are bungalows. The White House is a bungalow with windows within the ground floor rear elevation serving bedrooms and a window within the roof space also serving a bedroom. The elevation of the proposed dwelling facing the rear of the White House features one habitable room window, serving a kitchen, with no habitable rooms within the roof space. There is a 27.5m distance between the east facing elevation of the proposed dwelling and the rear elevation of the White House. The proposed dwelling is situated on ground that is thought to be at least 1m lower than that of the White House, and taking this into account the proposed dwelling would still comply with the required separation distance. The proposed dwelling also complies with the relevant space standards and would provide a sufficient amount of outdoor garden space for the future occupants.
103. The dwelling is sited towards the end of the rear garden of the White House and as such would sit well behind the rear elevation of this dwelling, as well as the closest dwellings of Langdale to the north and Braeside and Fairway to the west, which themselves sit forward of the White House. Due to the distance of the proposed dwelling away from the rear elevations of the closest neighbouring properties and its siting on lower ground level, it is not considered to have an overbearing impact on any neighbouring resident. The occupants of Langdale objected on the grounds that their outlook and sense of space would be greatly restricted, but although the dwelling would

be visible, given the above it is not considered to prevent outlook being gained through the windows within the rear elevation nor have an overbearing impact.

104. As Langdale is located to the north of the application site there would be the potential for some overshadowing of the rear garden belonging to the property for a limited period around midday, however due to the relatively small scale and the siting of the proposed dwelling towards the end of the rear garden of the White House and away from the rear elevation, only the very end of the rear garden of Langdale would be affected and this is not considered to amount to a sufficiently detrimental impact to warrant the refusal of the application. Neighbours also raised concerns over light pollution, but the dwelling would only contain one habitable room window within the east facing elevation and given the relatively small size of this window it is not considered to cause light pollution that would harm the amenity of neighbouring residents. No external lighting is proposed.
105. It is acknowledged that the property has been located to ensure that privacy distances meet the required standards and a condition (number 10) is recommended to secure the inclusion of obscured glazed windows on the first-floor side elevations, serving the en suites of bedroom 3 and 5. Therefore, the proposal is not considered to allow direct overlooking into neighbouring gardens and properties.
106. An objection was received from Langdale in relation to the existing boundary hedge being threadbare, thus not providing a great level of privacy or security if a new dwelling with five occupants is to be erected. It was observed from a site visit that the hedge is threadbare in places. Paragraph 127 f) of the NPPF advises that planning decisions should aim 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. Criterion d) of the Interim Policy requires that the security of the building and its occupants has been considered along with that of other local residents and Policy S1 of the DCNP also seeks to protect residents from development that could result in a fear of crime. A 1.8m high fence was erected along the section of hedging closest to the rear elevation of Langdale as part of application DM/19/00195/FPA to prevent light pollution from vehicle headlights. To ensure the privacy of and security for the occupants of Langdale it is recommended that a condition (number 11) be imposed requiring details of additional fencing to be erected along this shared boundary in order to provide a more secure permanent border, in line with criterion d) of the Interim Policy and Paragraph 127 f) of the NPPF. Although the entire length of hedgerow along the shared boundary is not threadbare, in the interests of the visual amenity of the site it may be necessary to erect a fence from the edge of the existing section of fencing to the end of the proposed dwelling to avoid isolated patchwork sections of fencing. The applicant has indicated his agreement to such a condition if considered necessary to make the development acceptable.
107. A condition (number 14) is also recommended to restrict the construction hours of the development in order to protect the amenity of neighbouring residents during the works.
108. With the recommended conditions, the proposed new dwelling is not considered to result in a loss of privacy or outlook, overshadowing, or have an overbearing impact on neighbouring residents. The new dwelling is also not considered to generate a significant increase in noise and disturbance that would detrimentally affect the amenity

of neighbouring residents. Therefore, the proposal is in accordance with Policy H10, H13 and Q8 of the CDLP.

Archaeology

109. The area of Neville's Cross takes its name from the battle which took place in 1346 between the English and Scottish. It is believed that there were in excess of 15,000 combatants with severe casualties recorded and so the potential for significant archaeological and human remains in the area is quite high. The proposed development area is where some of these remains may be located and so Officers have recommended archaeological monitoring of all groundworks on the site.
110. Archaeology Officers requested two conditions to be imposed if the application were to be approved: a written scheme of investigation setting out a programme of archaeological work in accordance with 'Standards for All Archaeological Work in County Durham and Darlington' prior to the commencement of works (number 12) and a post investigation assessment prior to the first occupation of the development (number 13). These conditions are recommended to ensure the proposed development complies with Policy E24 and E25 of the CDLP and Policy S1 of the DCNP.

Contaminated Land

111. Paragraph 178 of the NPPF advises that planning decisions should ensure a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. The County Environmental Health Officer has been consulted on the proposal and has confirmed the information provided in the screening assessment form dated 7th July 2020 and site photos is sufficient and that there is no requirement for a contaminated land condition.

In response to other concerns raised by objectors

112. Some objectors have noted that Policy 16 within the Emerging Local Plan would not permit the erection of new HMOs where the proposal would result in there being in excess of 10% of properties within 100 metres of the site being used as student accommodation (2 out of 18 or 11.1%). The proposal would result in there being over 10% of the properties within 100m of the application site being student properties, as defined by Council Tax data. Paragraph 48 of the NPPF states 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. As set out in paragraph 24, although the CDP is now at an advanced stage of preparation, it is considered that it should not be afforded any weight in the decision-making process until the Inspector's final report has been received.
113. An objector also commented that the proposal is contrary to the emerging Durham City Neighbourhood Plan. The Examination Report by the Inspector was received in July of this year however the Inspector concluded that Policy D3 did not satisfy the basic conditions. This was because the condition "is negatively worded and highly restrictive and does not constitute a proportionate response to the issue based on the limited evidence which is presented. I note that the approach closely aligns with that in Policy 16 of the emerging County Durham Local Plan but departs from it in some areas...It includes policy criteria and thresholds that lack an adequate evidence base and there is also significant potential for confusion with the emerging County Durham

Local Plan when adopted. The matter is also addressed in the existing policy framework provided by the interim policy on student accommodation.” The Inspector recommends that Policy D3 is deleted and so it carries no weight in the determination of this application.

114. In response to concerns that the city is already unbalanced with students: The Interim Policy was brought in to promote the creation of sustainable, inclusive and mixed communities and maintain an appropriate housing mix. The proposal has been assessed against this and is considered to comply with its requirements.
115. In response to questions over whether the proposal is actually for Purpose Built Student Accommodation: The proposal is for one five-bedroom detached dwelling. Although it is considered likely that the property would be occupied by students, the dwelling would not preclude being occupied by other groups such as young professionals and so is considered to be a house in multiple occupation rather than purpose-built student accommodation.
116. In response to concerns that the development is not necessary as there are already many students and accommodation for them in the area, and that there are empty properties on Hawthorn Terrace within a mile of the site, although it is considered likely that the properties would be occupied by students, the dwelling would not preclude being occupied by other groups such as young professionals. There is no requirement for applications for HMOs to demonstrate a need for this type of accommodation. Furthermore, given Highways concerns over the access, the site is not considered suitable for family homes due to the increased likelihood of car ownership.
117. In response to concerns that COVID 19 may result in less HMOs being needed as more students choose to learn from a distance and online, including international students: the dwelling does not have to be occupied by students and could be occupied by different groups such as young professionals.
118. In response to comments that there are two study rooms on the first floor, which could be used as additional bedrooms: If both study rooms were converted to bedrooms, taking the total to seven, planning permission would be required for a change of use to a larger HMO (sui generis use class) where the potential impacts of this would be considered.
119. In response to concerns that approval would set a disastrous precedent: Applications submitted in the future would be judged on their own merits.
120. In response to concerns over traffic generation at unsociable hours: There would be no provision for car parking spaces serving the new dwelling which would restrict vehicular movements.
121. In response to concerns over the potential for the proposed external door within north side elevation, serving the utility room, to lead to congregating and smoking close to the boundary with the garden of neighbouring property Langdale: Given the siting of the proposed dwelling towards the end of the rear garden, the utility room door is estimated to be approximately 28 metres away from the rear elevation of Langdale and therefore the impact of comings and goings specifically through this door is not considered to have a significant adverse impact.

122. In response to comments that the applicant previously felled trees at 7am in the morning: this was not within the control of the Local Planning Authority, but a condition (number 14) is recommended to restrict the hours of construction to protect the amenity of neighbouring residents.
123. In response to comments that noise from a party on the site previously led to a police raid: The Police were consulted on the application, but no response was received.
124. In response to comments that bins are left overflowing and are not returned promptly: Although this is a problem commonly associated with students, it is a problem with individuals rather than students as a whole. A bin storage enclosure is identified on the proposed site plan and this is considered to be sufficient to comply with the requirements of the Interim Policy.
125. In response to comments that there is no provision for disabled facilities: Due to the sloping nature of the site, there are internal stairs connecting the kitchen to the lounge on the ground floor. Building Control have confirmed that disabled access is covered by Part M of Building Regulations and would therefore be assessed as part of any building regulations submission. They have commented that the layout would likely be acceptable due to there being a W.C. located on the accessible level and that the installation of a stair lift could provide access to the lower level.
126. In response to concerns over light pollution and the development compromising the character of the green fields to the west of the site: The dwelling would contain six habitable room windows within the west facing elevation and one habitable room window within the east facing elevation. This would have some impact in terms of lighting up the garden area that is currently not lit up, but a condition is recommended requiring a landscaping scheme to be agreed with the Local Planning Authority which would provide screening from the fields to the west. Because of this, light pollution in itself is not considered to harm the character of the area or the landscape, and the development is not considered to harm the character of the countryside beyond.
127. In response to a comment that a neighbouring resident owns the field to the west of the application site and will have reduced outlook and loss of privacy: Although the proposed dwelling would be located within close proximity to this field, it would not adversely affect the outlook from this field as views across the open countryside lie to the west. A landscaping scheme involving the replanting of previously felled trees would help to screen the field from the application site.
128. In response to comments that the dwelling could be burgled when the tenants are not there and concerns over what checks could be implemented to ensure any visitors to the new houses are genuine: Although the property is not guaranteed to be occupied by students it is considered likely that the end users would be students. As with many student properties they may well remain empty for periods of time over the University holiday period as they may return home whilst there is no scheduled contact time, although this is not guaranteed. This could be for an extended period particularly over the summer months. Given the backland to existing backland location the site is not visually prominent, and it would seem unlikely that any potential burglars would be able to break into the houses without being detected given the access past neighbouring properties. The application is not considered to warrant refusal on this point.

129. In response to comments that application DM/16/02170/FPA on the same site was refused because it was contrary to local plan policy H10: The application referenced above proposed the demolition of the White House and its replacement with a dwelling of a larger scale, in height and proportion. The Inspector concluded that, "Due to its proximity, scale and massing, the proposed main block would be likely to greatly reduce the sense of space enjoyed by the residents of Langdale when using the habitable rooms served by windows in the rear elevation of their property, which include a lounge, dining room and a number of bedrooms, as well as the area of garden near to the back of the house." Several objectors have used this example to contend that this application will similarly adversely affect the residential amenity of nearby properties. However, the scale of the dwelling proposed in this application is considerably lesser, particularly in terms of height, and is sited much further away from the rear building line of the White House and Langdale. Therefore, it does not stand to reason that this proposal must also have the same impact on surrounding residents as that of DM/16/02170/FPA. The impact of the proposal on the amenity of the surrounding residents has been discussed in detail earlier in the report.
130. In response to a comment that the fencing on the plan is shown to overlap the ancient hedge between Langdale and The White House: This fencing is existing not proposed. No changes are proposed to this hedge.
131. In response to comments that several mature trees have already been felled: The trees are not protected by any Tree Preservation Orders and are not located within a conservation area so no consent would have been required to do this. However, conditions requiring details of a Tree Protection Plan and a landscaping scheme are recommended to protect the remaining tree and hedging and mitigate the loss of previous trees.
132. In response to comments that the applicant was in breach of a planning condition relating to the creation of the existing parking area (EN/19/00442): This breach was resolved and if any of the conditions imposed to the approval of this application were to be breached they would be investigated by planning enforcement.
133. In response to comments received regarding the description of the application as a re-submission and questioning why the Council accepted the application as an amendment: The application was described as a resubmission because the proposal consists of development of the same character on the same site and the inclusion of the reference number of the previous application was intended to make this clear to neighbouring residents and any other interested parties. The Council cannot prevent applicants submitting new planning applications for amended schemes.
134. The concerns raised by the community during the processing of the previous application have not been resolved: This application has reduced the number of dwellings proposed from two to one which officers consider overcomes the refusal reasons of previous application DM/20/00387/FPA. Although this application has not included any further details of aspects such as landscaping, archaeology etc., these can be secured by the relevant recommended conditions.
135. In response to questions over the extent of neighbour notification carried out: The Local Planning Authority is required to notify all directly adjacent landowners and this has been carried out. The properties on Quarry House Lane are not directly adjacent to the application site and so were not sent a neighbour notification letter. A site notice was posted to advertise the application to the wider population. People who were not

directly notified of the previous application but objected were able to find out about the application, through the site notice posted at the site entrance, and despite COVID-19 resulting in fewer trips outside, it is noted that a higher number of people have objected to this application compared to the previous one, suggesting people have not struggled to become aware of the application. Out of the 25 people who objected to the previous application 22 have again objected to this one; and the comments from the three people who objected to the previous application but not to this one have still been taken into account where relevant. It is considered that the Local Planning Authority has fulfilled its statutory duty to notify neighbouring landowners and has also taken due account of the comments received.

Conclusion

136. The site consists of backland to existing backland and the proposal involves the erection of one new dwelling sited to the north west corner of the site. Due to the wider shape of the plot compared to others along this stretch of Newcastle Road, this would leave a large area of the garden undeveloped for which the distinctive elongated shape that characterises the rear gardens of these properties would remain legible. Therefore, the proposal is not considered to adversely affect the character and appearance of the surrounding area.
137. Whilst the erection of a new dwelling in this location would inevitably intensify the residential use of the site, given the distance away from the closest neighbouring properties and the relatively low proportion of student occupied properties within 100 metres of the site it is not considered that it can be sufficiently demonstrated that the proposal would adversely affect the amenity of neighbouring residents to justify the refusal of the application. Furthermore, due to the lack of new parking at the site to serve the new dwelling, noise and disturbance from vehicular movements would be limited.
138. Highways Officers raised concerns over the conflict between vehicles heading north on the A167 and turning right into St Monica Grove and vehicles heading south on the A167 and turning right into the driveway leading to the application site. However, because no new car parking spaces are proposed as part of the development this would ensure the number of vehicular trips is limited and conditions could be imposed to prevent the grassed area being used for parking. Car ownership among students is typically around 20% and this level dispersed through the local area would not cause concern.
139. From a site visit it was observed that trees shown on the proposed site plan are no longer in place. To mitigate this tree loss and screen the proposed development in this outer edge of settlement location, it is recommended that details of a Tree Protection Plan and a landscaping scheme are secured by condition. Details in relation to archaeological investigations are also recommended to be secured by condition.
140. The proposal is therefore considered to be in accordance with Policy E14, E15, E24, E25, H10, H13, T1, T10 and Q5, Q6, Q8 and U8a of the City of Durham Local Plan, Paragraph 70, 122 and 127 of the NPPF, and Policy S1, H3, T1 and T3 of the Durham City Neighbourhood Plan.

RECOMMENDATION AND CONDITIONS

Approved subject to the following conditions

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy E14, E15, E24, E25, H10, H13, T1, T10, Q5, Q6, Q8 and U8a of the City of Durham Local Plan and Policy S1, H3, T1, T2 and T3 of the Durham City Neighbourhood Plan..

2. 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.

3. The external building materials to be used shall consist entirely of Birtley Olde English buff brick, cream coloured render and brown concrete Marley Edgemere concrete roof tiles.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy H10, H13 and Q8 of the City of Durham Local Plan, Parts 12 and 15 of the National Planning Policy Framework and Policy S1 and H3 of the Durham City Neighbourhood Plan.

4. Prior to the first occupation of the development hereby approved, details of bin stores shall be submitted to and approved in writing by the Local Planning Authority. The bin stores shall be constructed in accordance with the approved details and be made available prior to the occupation of the development to which they relate.

Reason: In the interests of visual amenity and highway safety in accordance with Policy H10, H13, T1 and T10 of the City of Durham Local Plan, Parts 9 and 15 of the National Planning Policy Framework and Policy S1, H3 and T1 of the Durham City Neighbourhood Plan.

5. No development shall commence until details to protect all trees and hedges around the boundary of the site in the form of a tree protection plan has been submitted to and approved in writing by the Local Planning Authority. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, have been protected in accordance with the approved plan. The tree protection measures shall be retained throughout the construction period. No materials, equipment or vehicles shall be stored inside the protective fencing.

Reason: In the interests of the visual amenity of the area having regards to Policies E14 of the City of Durham Local Plan.

6. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include details of the following:
- Details of soft landscaping including planting species, sizes, layout, densities, numbers.
 - Details of planting procedures and/or specification.
 - Finished topsoil levels and depths.
 - Details of temporary topsoil and subsoil storage provision.
 - The timeframe for implementation of the landscaping scheme.
 - The establishment maintenance regime, including the replacement of vegetation which die, fail to flourish within a period of 5 years from planting.
 - A plan showing the public/structural landscaping and private/in-curtilage landscaping.
 - Full details of the management, maintenance and accessibility of all areas of open space in perpetuity.

The approved landscaping scheme shall thereafter be undertaken in accordance with the approved details and timeframes and no tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above. The Local Planning Authority shall be notified in advance of the start on site date and the completion date of all external works. No trees, hedges and shrubs shall be removed within five years from planting without the agreement of the Local Planning Authority.

Reason: In the interests of the visual amenity of the area and to comply with Policy E14, E15, H10, H13, Q5, Q6 and Q8 of the City of Durham Local Plan and Policy S1 and H3 of the Durham City Neighbourhood Plan.

7. The 0.5 metre high fence shown on the proposed site plan 18/95_200_H received 07.07.2020 shall be erected prior to the first occupation of the dwelling hereby approved and shall be retained thereafter.

Reason: To limit the amount of car parking spaces that would serve the development to prevent an increase in the number of vehicular trips to the site in the interest of highway safety and in accordance with Policy T1 of the City of Durham Local Plan.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (or any revocation and re-enactment of that order), no provision for a hard surface at the site, other than those expressly authorised by this permission, shall be permitted without the grant of further specific permission from the Local Planning Authority.

Reason: In the interests of highway safety and in accordance with Policy T1 of the City of Durham Local Plan.

9. Notwithstanding the provisions of Schedule 2 Part 3 Class L of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (or any revocation and re-enactment of that order) none of the development described therein shall be carried out on the site without an application for planning permission having first been made to and approved in writing by the Local Planning Authority.

Reason: To achieve a satisfactory standard of development in accordance with Policy T1 and T10 of the City of Durham Local Plan.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the proposed first floor en suite windows within the north and south side elevations of the dwelling shall be non-opening and obscured to level 3 or higher of the Pilkington scale of privacy or equivalent. The windows shall be maintained thereafter in perpetuity.

Reason: In the interests of the residential amenity of neighbouring properties in accordance of Policy H10, H13, and Q8 of the City of Durham Local Plan and Part 12 of the National Planning Policy Framework.

11. Prior to the first occupation of the dwelling details of fencing to be erected along the northern boundary of the site shall be submitted to and approved in writing by the Local Planning Authority. The fencing shall be erected in accordance with the approved details and retained thereafter.

Reason: In the interests of the privacy and security of the neighbouring residents in accordance with Policy H10, H13 and Q8 of the City of Durham Local Plan.

12. No development shall commence until a written scheme of investigation setting out a phased programme of archaeological work in accordance with 'Standards For All Archaeological Work In County Durham And Darlington' has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.

Reason: To safeguard any Archaeological Interest in the site, and to comply with Part 16 of the National Planning Policy Framework. Required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

13. The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

Reason: To comply with Paragraph 199 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

14. No site works shall be undertaken or deliveries received outside the hours of 8am to 6pm Monday to Friday and 9am to 2pm on Saturdays. No site works shall be undertaken or deliveries received on Sundays or Bank Holidays.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy H13 and Q9 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

- 15 No vehicles shall be parked within the curtilage of the dwelling hereby approved at any time.

Reason: To minimise the number of vehicular trips in the interests of highway safety and in accordance with Policy T1 of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

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



Durham County Council

Location	Land to the west of the White House		
Comments	DM/20/01107/FPA		
Date	25 August 2020	Scale	1:1268

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