

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/21/03860/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of part two-storey/ part single-storey extension to rear of existing small 4-bed HMO (use class C4) to include provision of 2 no. additional bedrooms
<b>NAME OF APPLICANT:</b>	Mr Nick Swift
<b>ADDRESS:</b>	76 Whinney Hill Durham DH1 3BG
<b>ELECTORAL DIVISION:</b>	Elvet and Gilesgate
<b>CASE OFFICER:</b>	Michelle Penman Planning Officer Michelle.penman@durham.gov.uk 03000 263963

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site is an unlisted two-storey semi-detached property located within the Whinney Hill area to the east of Durham City Centre, and within the Durham City Centre Conservation Area. The street occupies an elevation position and curves gently from its junction with Old Elvet/Green Lane to the north to Stockton Road roundabout in the South. The property is surrounded by residential properties and there is a high student population resident in the area.
2. The property is currently in use as a 4-bedroom student House in Multiple Occupation (HMO), therefore falling with a C4 use class.

#### The Proposal

3. Planning permission is sought for the construction of a part two storey/part single-storey extension to the rear of the property in order to provide 2 no. additional bedrooms (subsequently providing 6 in total) to be used for student occupation in association with the existing C4 HMO use of the property and also includes associated alterations to the internal layout.
4. The application is referred to Planning Committee at the request of both Cllr R Ormerod and the City of Durham Parish Council who consider the proposal to be contrary to relevant local plan policies and consider that the proposal would fail to provide a mixed and balanced community.

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## **PLANNING HISTORY**

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5. No relevant planning history for this site although the adjoining property at No. 75 Whinney Hill was subject to similar application in 2020 which was refused by this committee, and against which an appeal was subsequently allowed. The specifics of this decision are considered in greater detail elsewhere in this report.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

#### National Planning Policy Framework

6. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
7. NPPF Part 8 – Promoting healthy and safe communities. The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
8. NPPF Part 9 – Promoting sustainable transport. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
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.
11. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

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

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

13. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; and; water supply, wastewater and water quality.

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

#### **LOCAL PLAN POLICY:**

##### The County Durham Plan

14. Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation) seeks to provides a means to consider student accommodation and proposals for houses in multiple occupation in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.
15. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.
16. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards

17. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
18. Policy 44 (Historic Environment) seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
19. Policy 45 (Durham Castle and Cathedral World Heritage Site) seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal values (OUVs) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances.

#### Neighbourhood Plan

20. The following policies of the Durham City Neighbourhood Plan are considered relevant to the determination of this application.
21. Policy S1 (Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions) seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet.
22. Policy D4 (Building Housing to the Highest Standards) seeks to ensure that all new housing, extensions and other alterations to existing housing must be of a high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and the improvement of energy efficiency and the reduction of carbon dioxide emissions.
23. Policy H1 (Protection and Enhancement of the World Heritage Site) requires development within the Durham Cathedral and Castle World Heritage Site to sustain, conserve and enhance its outstanding universal value and support the current adopted management plan. Development within the WHS must take account of the historical and present uses of the site, propose high quality design, use appropriate materials and seek balance in respect of scale, density, massing, form, layout, landscaping and open spaces.
24. Policy H2 (The Conservation Areas) expects development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness.

25. Policy T1 (Sustainable Transport Accessibility and Design) seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility and design.
26. Policy T2 Residential Car Parking seeks to ensure that proposed development would be served by sufficient car parking spaces.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

27. DCC Highways - Raised no objection to the application. In doing so they note that the dwelling falls within the CPZ and the additional increase in bedrooms would not lead to an increase in the number of permits for which the property is eligible.
28. City of Durham Parish Council – Objects to the application on the grounds that the proposals are unacceptable due to 76 Whinney Hill being located in an area already identified as exceeding the 10% threshold for the number of properties exempt from Council Tax as being wholly occupied by Students as set out in Policy 16.3 of the County Durham Plan, and is also in contravention of CDP Policies 29 and 31, and paragraph 127 (f) of the National Planning Policy Framework.
29. Following amendments to the application which reconfigured the internal layout to ensure that all bedrooms complied with minimum space standards for single bedrooms the Parish Council were reconsulted and resolved to maintain their objections commenting that no amendments to this application satisfy any of their original grounds for objection.

### **INTERNAL CONSULTEE RESPONSES:**

30. Design and Conservation – Raised no objection commenting that, overall, there would be no harm to the Conservation Area or inner setting of the Durham World Heritage Site.
31. DCC HMO Data – Confirm that within a 100m radius of, and including 76 Whinney Hill Durham, 45.5% of properties are currently Class N exempt student properties as defined by Council Tax records.
32. DCC HMO Licensing – Commented that part of the dwelling will be capable of forming a 6-bed licensable house in multiple occupation. However, they have provided advice and guidance to assist the applicant in ensuring compliance with all relevant amenity and fire safety standards relating to a licensed HMO of this type.
33. DCC Environment, Health and Consumer Protection (Nuisance Action Team) – Confirmed that based on the information submitted the application complies with the thresholds stated within the TANS and the development is unlikely to cause a statutory nuisance as a consequence.

### **PUBLIC RESPONSES:**

34. The application has been advertised by means of site notice and by notifying neighbouring residents by letter.

35. To date, 3 no. letters of objection have been received (including representation from the City of Durham Trust, Whinney Hill Community Group, and a resident). The concerns raised in relation to the development are summarised as follows:
- building disruption and impact on privacy
  - overlooking of neighbouring properties
  - parking issues and lack of spaces to support more cars
  - poor management of refuse bins
  - noise issues
  - does not meet the requirements of County Durham Plan Policies 16.3 and 29, including the NDSS and the Residential Amenity Standards SPD.
36. Following receipt of amended proposals and a re-consultation process, the City of Durham Trust resolved to maintain their earlier objections.

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

#### **APPLICANT'S STATEMENT:**

37. The application is an extension of an existing HMO and will not affect the availability of housing in the city or address any imbalance local policies seek to re-address. The dwelling will remain a student property and the applicant will extend the property either more sympathetically as the application or via PD rights that remain open to him and that would result in an inferior scheme and inferior accommodation quality which is surely not the aim of planning policy. The application has been carefully amended during the consideration process with detailed discussions with the planning officers to limit any impact on neighbouring houses. We therefore respectfully ask the committee to seek to resolve and approve this application.

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#### **PLANNING CONSIDERATIONS AND ASSESSMENT**

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38. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, the impact on the character of the area and residential amenity, the impact on Durham City Centre Conservation Area and World Heritage Site (WHS), and impact on parking and highway safety.
39. The NPPF is a material planning consideration in this regard and advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF. Paragraph 11 requires development which accords with an up-to-date Local Plan to be granted planning permission without delay.
40. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area along with the Durham City Neighbourhood Plan which is also now adopted, both are the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP and NP.

## Principle of the Development

41. The property in question is currently in use as a small C4 HMO (C4) which are defined as small, shared houses occupied by between three and six unrelated individuals, as their only or main residence, and who share basic amenities such as a kitchen or bathroom. As part of the proposal, the number of occupants would be increased from 4 to no more than 6, therefore, the property would remain in C4 use and as such this application does not propose any material change in use of the property.
42. Part 3 of Policy 16 of the CDP is relevant to this application which relates to student accommodation/HMO's and states that in order to promote, create and preserve inclusive, mixed and balanced communities and protect residential amenity, extensions that result in specified additional bedspaces will not be permitted if, including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N student exemption).
43. Policy 16 confirms that where the 10% has been exceeded it is considered that there is an existing imbalance between HMO's occupied by students and homes occupied by other non-student residents.
44. The most recent up to date Council Tax information identifies that 45.5% of those properties within 100 metres of the application site are currently occupied as student accommodation and are Class N exempt. In this case, the application relates to extensions to the existing C4 HMO property to create 2 no. additional bed spaces and the current concentration of properties within 100 metres of the site recorded as being Class N Council Tax exempt is 45.5% which is above the 10% threshold and therefore the proposal conflicts with Part 3 of Policy 16 in this respect.
45. Notwithstanding the above, the applicant has advised that the existing property benefits from permitted development rights capable of delivering an extension that would provide 2 additional bedrooms. In this regard a scheme was submitted that shows how those permitted development rights could be utilised to provide a total of 6 No. bedrooms by extending the property at ground floor level to the rear, together with some associated internal alterations. It should be noted that the Council has scrutinised that position and upon further amendment by the applicant to reduce the height of the single storey rear extension this element would benefit from permitted development. The evidence confirms that although the scheme which forms the subject of this application would be the applicant's preferred approach to extending the property, permitted development rights would allow an alternative proposal that would deliver additional accommodation of a similar type and that this would be pursued by the applicant if the current application were to be refused.
46. Specifically, that fallback position would provide the same number of bedrooms as the current scheme, although slightly smaller and the kitchen/lounge area slightly larger. The general arrangement and functioning of the accommodation is nevertheless comparable and would accommodate two further bedspaces for two additional students. Therefore, the fallback position would result in the same number of additional bedspaces as the current proposal and in this respect the two schemes to extend the property are considered sufficiently similar.
47. It is noted that a recent appeal decision (APP/X1355/D/20/3258480) in relation to a similar scheme for the erection of a part two storey-part single storey extension, to the rear of the adjoining property no. 75 Whinney Hill, (to form a 6-bedroom C4 HMO) was allowed on appeal in 2020.

In that instance a similar fall-back position was submitted in support of the appeal which demonstrated that 6 no. bedrooms could be achieved by utilising permitted development rights, and the Inspector gave this significant weight in allowing the appeal. That decision is a material consideration in the determination of the current planning application. In that instance the Planning Inspector was also satisfied that the proposal would not have a harmful effect on the living conditions of nearby residents with regard to noise and disturbance, or the character and appearance of the area in accordance with Policy 16 of the CDP and the Framework where it seeks to ensure that places are inclusive and do not undermine quality of life or community cohesion.

48. However, the City of Durham Trust note that the previous application (and subsequent appeal) was considered against the policies of the now superseded City of Durham Local Plan and the Interim Policy on Student Accommodation, having been replaced by the new County Durham Plan which was only taken into account by the Inspector at the appeal stage. The Trust note that the Local Plan Inspector's Report was not submitted as part of the appeal and, therefore, contend that this led the Appeal Inspector to reach the erroneous conclusion that there would not be any adverse impact upon residential amenity when balancing the conflict with Policy 16.3 of the CDP against possible harm in relation to nearby residents' living conditions and the character and appearance of the area.
49. It is acknowledged that the draft of the CDP did not propose controls over extensions to HMOs and that this was introduced following the Examination in Public where in the Local Plan Inspector's report it was considered that cumulatively over time additional bedspaces could lead to a significant increase in the number of students living in an area, undermining the objective of the policy. However, as already discussed, in this instance there is a legitimate fall-back position where the same bed spaces could be provided through the provisions of the Permitted Development Order, and this was given significant weight by the Inspector of the appeal at no. 75 Whinney Hill. Irrespective of the change to the policy, the fall-back position in this regard remains unchanged from the previous appeal in relation to No. 75 and the current proposal.
50. Therefore, whilst it is noted that the development would be contrary to Policy 16 of the CDP, the presence of a permitted development fall-back position and associated appeal decision relating to the adjoining property are sufficient material considerations to, on balance, outweigh the conflict with planning policy in this instance. In particular, the Planning Inspectors previous decision to allow the appeal for a comparable extension at an adjoining property afforded significant weight to that position. Accordingly, it is considered that the proposal is acceptable in principle.

#### Impact on the character of the area and residential amenity

51. Paragraph 126 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users.
52. Policy 31 of the CDP states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. Proposals will also need to demonstrate that future occupiers of the development will have acceptable living conditions. In addition, criterion e) of Policy 29 states that all development proposals will be required to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.

53. In relation to the amenity of future occupants of the development, concerns have been raised by the City of Durham Parish Council, City of Durham Trust and Whinney Hill Community Group in terms of the proposed bedroom sizes and shared spaces within the property which they contend would fail to meet the minimum Nationally Described Space Standards (NDSS).
54. NDSS is a government introduced nationally prescribed internal space standard which sets out detailed guidance on the minimum standard for all new homes and was created with the aim of improving space standards within new residential development across all tenures. Evidence compiled during formulation of the County Durham Plan identified that many new homes in the county were being built below NDSS and that this was having an impact on the quality of life of residents. As a result, Council determined that it was necessary to introduce the NDSS in County Durham with the aim of improving the quality of new build development coming forward. The plan included a 12-month transition period from the adoption of the plan in October 2020 to allow house builders sufficient time to adjust their products according to meet those standards.
55. It is noted that the current application relates to extensions to an existing C4 HMO to form additional bedspaces and would not therefore result in a change of use of the property or any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate to the current application. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of policy 29(e) of the CDP which requires new development to provide high standards of amenity and privacy.
56. Regarding the above, the proposal as originally submitted did not comply with NDSS. However, amended plans have been submitted and all 6 of the proposed bed spaces now meet the minimum 7.5sq metres internal floor space. As such, these are considered to provide an acceptable amount of internal space in accordance with policy 29(e) of the CDP. In relation to the total overall internal space provided across the dwelling as a whole it is noted that the NDSS does not provide guidance specifically relating to 6 bedspace, 6 person dwellings. However, it does include standards relating to 5 bedspace, 6 person dwellings and 6 bedspace, 7 person dwellings and recommends minimum gross internal floor areas of 110sq metres and 123sq metres respectively. While the proposal would provide approximately 99sq metres floor space and would therefore fall below that recommended by approximately 11 and 24sq metres respectively, as already noted, the rigid application of the NDSS is not considered appropriate in this instance for the reasons outlined above.
57. Notwithstanding the above, consideration of the acceptability of the overall internal space provided is still required in the context of policy 29(e) of the CDP. In assessing the acceptability of the quality of internal space provided in that regard it is important to note that the scheme includes communal space to the ground floor, in the form of a lounge/kitchen area which provides an area within which to socialise and is larger than the existing lounge/kitchen space. It is also recognised that some of the bedrooms provide space in excess of the minimum standard required by NDSS.
58. It is noted that the City of Durham Trust has raised concerns that 76 Whinney Hill currently meets the NDSS, whereas the proposed scheme does not and also does not meet the minimum floor space for a double bedroom. They therefore contend that a well-designed building that meets the requirements of the NDSS should not be modified so it fails the standards. However, it is noted that, following amendments to the application, the bedrooms all now meet the NDSS and given that the property is expected to be occupied by students it is considered likely that each bedroom would be single occupancy.

59. As such, it is considered that the development provides an adequate level of internal space in accordance with policy 29(e) of the CDP.
60. Concerns have also been raised by both the City of Durham Parish Council and the City of Durham Trust with regards to the two-storey rear extension and impact on neighbouring properties. Policy 29 requires that all development proposals will have regard to supplementary planning documents, which includes the council's Residential Amenity Standards Supplementary Planning Document (SPD) referred to in Paragraph 5.303 of the CDP. This sets down standards for alterations, extensions and distances between new dwellings.
61. During the application process the position of the rear two-storey extension has been amended and is now sited closer to the boundary with the adjoining property no. 75 Whinney Hill. The distance between the extension and rear elevation of no. 78 and 79 Whinney Hill would fall below the 13m recommended minimum privacy distance as outlined in the SPD by approximately 2m. However, paragraph 3.5 of the SPD confirms that it is not intended to apply the standards rigidly and as such, taking into account the modest depth, orientation and siting of the extension, it is considered unlikely that the development will have a significant additional adverse impact on the amenity of neighbouring occupants to the north to the extent that would warrant refusal of the application in this instance.
62. In terms of overlooking a concern was also raised by the Parish Council and a neighbouring resident, prior to the submission of amended plans, in relation to the position of the proposed first floor bedroom window and potential for overlooking of private amenity space of neighbouring properties. However, since the extension has been re-sited it is considered that the window will predominantly overlook the host properties own rear private amenity space and is unlikely to result in significant additional overlooking of neighbouring gardens including the adjoining property.
63. Following receipt of amended plans the case officer noted that there appears to be a bedroom window to the rear of the adjoining property in close proximity to the two-storey extension. However, the agent has demonstrated that the proposals would comply with the Council's '45 degree-code' which paragraph 2.3 of the SPD explains is used to minimise the potential for overshadowing to neighbouring properties. In respect of the single-storey element, the proposal would meet permitted development guidance of a 3m projection and as such is considered acceptable.
64. Other concerns have also been raised by the Parish Council and neighbouring resident in relation to additional student occupants and the potential resulting noise and disturbance. While cumulatively, the increase in numbers of students could lead to additional noise and disturbance, due to an increase in comings and goings to the application property, it is not considered that this would create harm to such a degree to warrant refusal of the application. Similarly, in this regard, the appeal Inspector in the decision for the no. 75 Whinney Hill appeal (APP/X1355/D/20/3258480) concluded that because of the additional students living at the property, there would be a small increase in the comings and goings to the appeal property and there would be some limited additional noise and disturbance associated with the additional residents living at the property. However, again the Inspector acknowledged the permitted development 'fallback position' and gave this significant weight.
65. In addition, the Council's Environmental Health Officer was consulted on the proposals and confirmed that the information submitted demonstrates that the application complies with the thresholds stated within the TANS (Technical Advice notes) and the development is unlikely to lead to a statutory nuisance. The officer advised that given this and since the existing use is already a noise sensitive receptor, the addition of two further rooms will not lead to an adverse impact, they would not expect any significant controls on this development.

66. In summary, the proposals have been assessed against SPD guidance and although do not fully comply with recommended privacy distances, it is not considered that the proposals would be unacceptably harmful in terms of the amenity of neighbouring occupants and mutual privacy is considered to be suitably protected. Specifically, it is noted that the single storey element would have no greater impact than the fall-back position afforded through permitted development rights with regard to the two storey element, given the orientation of the properties involved there would be no unacceptable impact to existing privacy levels. Space standards have also been largely complied with to ensure suitable amenity standards for future occupiers. The proposals are therefore considered to accord with policy 29 and 31 of the County Durham Plan and the SPD in this regard.

#### Impact on the conservation area and world heritage site

67. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
68. Part 16 of the NPPF requires local planning authorities, in determining planning applications, to take account of the desirability of sustaining and enhancing the significance of heritage assets and Part 12 states good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
69. Policy 44 of the CDP seeks to ensure that developments contribute positively to the built and historic environment and Policy 45 seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset. Whereas Policy 29 relates to sustainable design and states that all proposals will be required to achieve well designed buildings and places.
70. Policies H1 and H2 of the DCNP seeks to ensure that proposals within the Durham Cathedral and Castle World Heritage Site and Durham City Conservation area sustain, conserve, and enhance its Outstanding Universal Value and the significance of the Conservation Area. In addition, Policy D4 seeks to ensure that all new housing, extensions and other alterations to existing housing must be of a high-quality design.
71. Whinney Hill is located within the eastern sector of the designated Durham City Centre Conservation Area. The area is characterised by interwar semi-detached houses and dwellings in groups of four either side of Whinney Hill. The original regular block arrangement, varying topography, landscape features, and the gaps between the properties that channel views towards Durham Cathedral combine to create a distinctive suburban environment that is identified in the Councils adopted appraisal as contributing positively to the surrounding conservation area.
72. Policy H2 of the neighbourhood plan requires proposals to enhance the conservation area and provides a set of criteria to consider in this regard, outlining where such criteria are relevant. The stated criteria is as follows:
- a) sustaining and enhancing the historic and architectural qualities of buildings, and
  - b) sustaining and enhancing continuous frontages, street patterns, boundary treatments, floorscapes and roofscapes; and
  - c) respecting historic boundaries and curtilages;
  - d) avoiding demolition of assets of historic and/or architectural interest which contribute to the character and appearance of the area; and

- e) avoiding loss of, or harm to, an element of an asset which makes a positive contribution to its individual significance and that of the surrounding area; and
- f) avoiding loss of open space that contributes to the character and appearance of the surrounding area; and
- g) protecting important views of the Durham City Conservation Area from viewpoints within and outside the Conservation Area; and
- h) taking opportunities to open up lost views and create new views and vistas; and
- i) having appropriate scale, density, massing, form, layout, landscaping, and open spaces; and
- j) having materials, detailing and lighting appropriate to the vernacular, context and setting; and
- k) using high quality design sympathetic to the character and context of the local area and its significance and distinctiveness, and to the immediate landscape; and
- l) avoiding adding to the cumulative impact of development schemes which dominate either by their scale, massing or uniform design.

73. The Council's Design and Conservation Officer was consulted on the application and advised that it is the front elevation that is the greatest contributor to the Conservation Area that would be unchanged due to the development being to the rear. As such, given the small-scale nature of the proposal and the fact that matching materials will be secured through planning condition, points i - l are met. In respect of points c, d, f and h it is considered that these are not relevant in the determination of this application.
74. With respect to the remaining points, it is considered that, given the position of the proposal to the rear of the existing dwelling, the development would meet the aims and objectives of policy H2 of the local plan as the historic block form layout of this part of the estate and property frontages would be unaffected and it is these attributed which make the greatest contribution to the surrounding Conservation Area.
75. With regards to Policy H1, this seeks to ensure development proposals throughout Our Neighbourhood sustain, conserve and enhance the setting of the World Heritage Site and provides a set of criteria to consider in this regard which are as follows:
- e) carrying out an assessment of how the development will affect the setting of the World Heritage Site, including views to and from the World Heritage Site; and
  - f) protecting important views; and
  - g) taking opportunities to open up lost views and create new views and vistas.
76. The Conservation officer confirmed that the side elevation of the proposed extension would not obstruct the gap between the site and its neighbour from the main street that provides a view towards the central tower of Durham Cathedral. The development would therefore comply with criteria 'f', and it is not considered that criteria 'e' and 'g' are relevant in the determination of this application.
77. In terms of the overall design of the development, the extensions would be sited to the rear of the property and would not therefore appear prominent in the street scene. The extensions would be subordinate to the host dwelling and would comply with the general design principles as outlined in the SPD guidance.
78. Overall, in the context of the street scene, the core special characteristics of the area, and key heritage views including towards the World Heritage Site, there would be no harm, by default the impact on the character, appearance, and significance of this part of the CA and setting of the WHS would be neutral. As such, the proposals are considered to be in accordance with the principles of Parts 12 and 16 of the NPPF, Policies 29, 44 & 45 of the CDP, and Policies D4, H1 & H2 of the DCNP and Section 72 of the Act.

## Parking and Highway Safety

79. Paragraph 110 of the NPPF which requires new development to provide safe and suitable access to the site. Policy 16 of the CDP requires proposals to extend an existing House in Multiple Occupation to accommodate additional bed space(s) to provide adequate parking and access and Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. Policy T1 of the DCNP which seeks to ensure that development proposals demonstrate best practice in respect of sustainable transport accessibility and design.
80. Concerns were raised by a resident with regards to impacts on parking due to the additional students as a result of the development.
81. The development site is in a highly sustainable location with good access to public transport and within walking distance of local amenities. The Highways Development officer was consulted on the application and advises that from a Highways perspective, this development would be considered acceptable as the dwelling falls within the Controlled Parking Zone and the additional increase in bedrooms would not lead to an increase in the number of permits the property is eligible for. Therefore, the impact on the local highway network would not be considered material in this instance.
82. Notwithstanding the above, is noted that Policy 16 of the CDP includes requirement for the provision of sufficient cycle parking, bin storage and other shared facilities. It is considered that the application site provides sufficient opportunity to accommodate appropriate bin storage and cycle parking within the curtilage of the property. However, should the committee be minded to approve the application, the submission and agreement of full details of bin storage and cycle parking, prior to the first occupation of the development, could be secured through planning condition.
83. The proposals could be safely and satisfactorily accommodated without adverse impact upon highway safety and as such is considered compliant with Policy 16 and 21 of the CDP and paragraphs 110 and 111 of the NPPF.

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## **CONCLUSION**

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84. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
85. In summary, while the proposals would be contrary to the aims of Part 3 of the Policy 16 of the CDP, in that it would exceed the 10% threshold contained within the policy, it is considered that the presence of a legitimate fall-back position which would likely be implemented should the application be refused, and the previous appeal decision to allow an appeal against a similar decision to refuse planning permission for a similar arrangement are sufficient material considerations to outweigh that conflict with planning policy.
86. When assessed against other criteria contained within policy 16 and the remaining policies of the County Durham Plan relevant to the application, it is considered that the extension to the existing small C4 HMO would not have a detrimental impact on the amenity of existing or future residents or the character and setting of the Conservation Area or World Heritage Site, or have any adverse impact on highway safety in accordance with Policy 16, 21, 29, 31, 44 and 45 of the CDP and Parts 9, 12, 15 and 16 of the NPPF.

87. Whilst the concerns raised by the City of Durham Parish Council, City of Durham Trust, Whinney Hill Community Group and neighbouring residents are noted, for the reasons discussed within this report they are not considered sufficient to sustain refusal of the application.
88. In light of the above, the application is reported to the Committee with a recommendation to approve, subject to conditions.

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## **RECOMMENDATION**

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That the application be **APPROVED**:

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

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 16, 21, 29, and 31 of the County Durham Plan and Parts 8, 9 11 and 12 of the National Planning Policy Framework.

3. Notwithstanding the details shown on the submitted application, the external building materials to be used shall match the existing building.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy 29 and 44 of the County Durham Plan and Part 12 and 16 of the National Planning Policy Framework.

4. Prior to the first occupation of the development hereby approved, details of bin storage and cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The bin storage and cycle parking shall thereafter be constructed in accordance with the approved details and be made available prior to the first occupation of the development hereby approved.

Reason: In the interests of visual amenity and highway safety in accordance with Policies 21 and 29 of the County Durham Plan and Parts 9, 12 and 15 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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

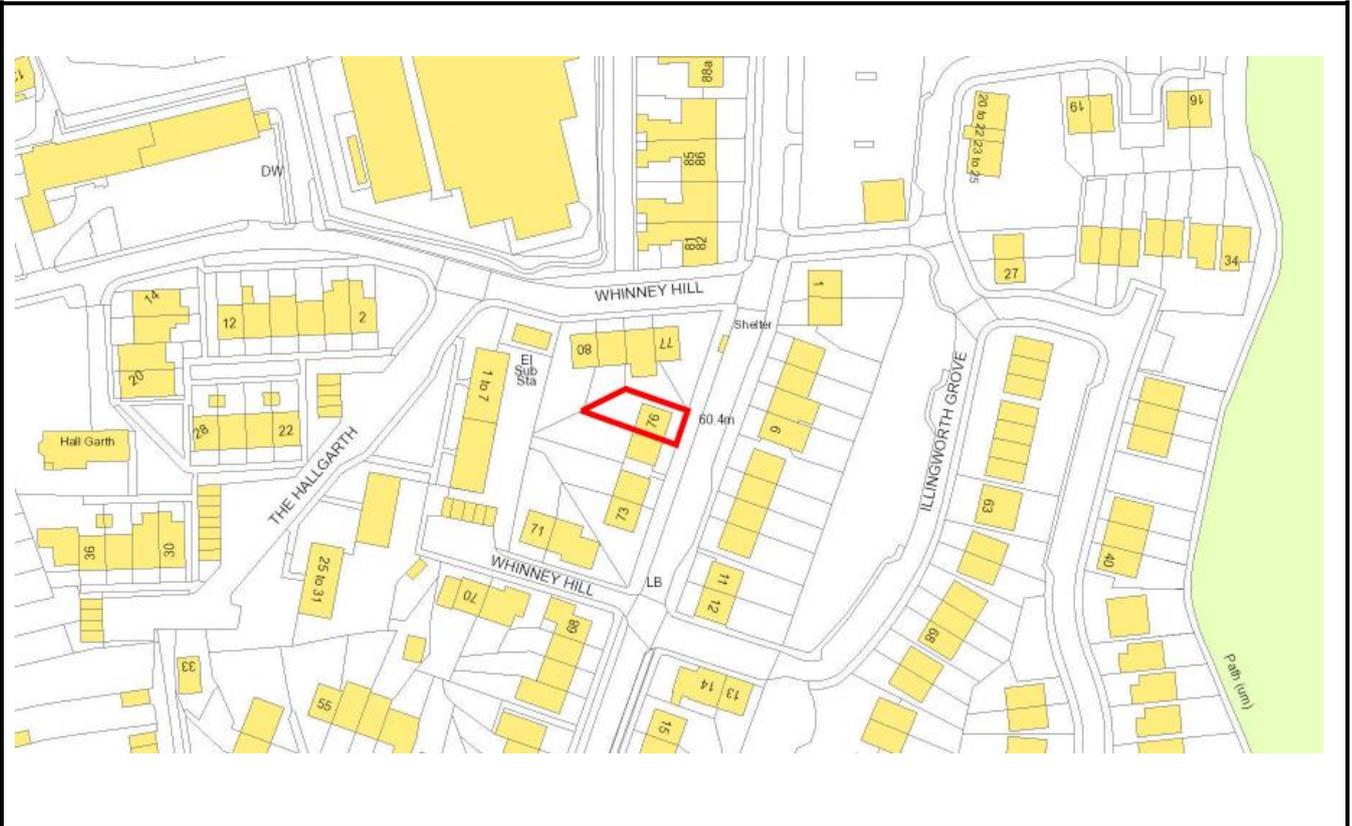
Statutory, internal and public consultation responses

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Residential Amenity Standards SPD (2020)



<p><b>Planning Services</b></p>	<p>76 Whinney Hill Durham DH1 3BG</p>	
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