

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/22/03823/FPA
FULL APPLICATION DESCRIPTION:	Change use of dwellinghouse (C3) to 7 bed large HMO (Sui Generis) including changing the use of the garage into a habitable room
NAME OF APPLICANT:	Ms Gabrielle Moore
ADDRESS:	3 St Monica Grove Crossgate Moor Durham DH1 4AS
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Michelle Hurton Planning Officer Michelle.hurton@durham.gov.uk 03000 261398

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is a two-storey semi-detached property located within St Monica Grove, Crossgate Moor which is a residential housing estate set back towards the east from the A167. The majority of the houses within the estate have been subject to some means of extension previously.
2. The property has a single storey garage to the side which appears to have previously been subject to a first floor extension above and has a bay window arrangement to the ground floor principle elevation. The front lawn is enclosed with a low brick boundary wall with pillars and hedge, to the rear garden is enclosed by timber fencing.

The Proposal

3. The application seeks planning permission for the conversion of the property from a dwellinghouse (Use Class C3) to a large House in Multiple Occupancy (Use Class Sui Generis) to include the conversion of the garage into a habitable room.
4. The application is being reported to planning committee at the request of the Durham City Parish Council who consider the application raises issues relating to residential amenity, parking, cycle storage and highway safety which require consideration by the committee.

PLANNING HISTORY

5. None relevant to the current application although it is noted that the adjoining property at No. 1 St Monica Grove was recently subject to the grant of planning permission for a change of use from a Residential Dwellinghouse (Use Class C3) to a Small House in Multiple Occupancy (Use Class C4).

PLANNING POLICY

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 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
8. NPPF Part 4 Decision-Making - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
9. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
10. NPPF Part 8 Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
11. NPPF Part 9 Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
12. NPPF Part 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.

13. NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
14. 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.
15. 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:

16. 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

17. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
18. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change

implications; makes use of previously developed land and reflects priorities for urban regeneration.

19. 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.
20. 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.
21. 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
22. 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.
23. Policy 35 Water Management states that all new development should adopt the hierarchy of preference in relation to surface water disposal.
24. Policy 36 Disposal of Foul Water states that all new development should adopt the hierarchy of preference.
25. The Council's Residential Amenity Design Guide (SPD) which provides detailed guidance in relation to extensions and other works to dwellinghouses to ensure that these do not have an adverse impact upon the host dwelling, the character of the wider area and residential amenity.

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

NEIGHBOURHOOD PLANNING POLICY

Durham City Neighbourhood Plan

26. The following policies of the Durham City Neighbourhood Plan (DCNP) 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) seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet
28. Policy H3 (Our Neighbourhood Outside the Conservation Areas) requires development outside of Conservation areas to, where appropriate, demonstrate an understanding of the area of the proposed development and its relationship to the Neighbourhood area. Such development should sustain and make a positive contribution to the character and distinctiveness of the area and avoid the loss of open space and public realm that contributes to the area, to be appropriate in terms of scale, density, massing, form, layout, landscaping and open spaces and use appropriate materials and finishes.
29. Policy D4 (Building Housing to the Highest Standards) states all new housing, extensions and other alterations to existing housing should be of 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 improvement of energy efficiency and the reduction of carbon dioxide emissions.
30. New residential development should meet the Building for Life 12 standards provided for in County Durham Building for Life Supplementary Planning Document (2019)
31. 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, impact and design
32. Policy T2 (Residential Car Parking) supports developments with or impacting on car parking provided that car parking is designed to reduce vehicle movements on residential streets and is in designated bays or small groups separated by landscaping or features and designed with safety in mind. Consideration should be given to communal off street parking for dwellings without garages. Any EV requirements should not hinder movement by pedestrians or disabled people and should be in keeping with area character. The policy supports the use of car clubs. Should the parking demand require parking controls these will need to be funded through developer contributions.
33. Policy T3 (Residential Storage for Cycles and Mobility Aids) requires residential development including change of use to seek to provide storage facilities for cycles and, where appropriate mobility aids. Cycle parking should meet DCC standards and should be adaptable for other types of storage with access to electricity. Where there is communal storage and a travel plan this should be managed appropriately in terms of removal and capacity needs. Design and location of storage should accord with the style and context of the development

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

34. The Highway Authority raises no objection to the application and notes that the current DCC parking standards only consider parking requirements for properties of up to 5 bedrooms which would be a requirement of 2 off street spaces.
35. While this property would have 7 bedrooms, it is reasonable to assume that an uplift of an additional space would be required from the 5 bed standard of 2 spaces. The proposed plans demonstrate that 3 off-street parking spaces are available and so provides that uplift. The front of the property does have scope to be widened to make further off-street parking, although there is no policy basis to require that to be done through this application.
36. Durham City Parish Council objects to the application citing that one of the bedrooms fails to meet NDSS standards and minimum HMO licencing requirements, that the proposal fails to provide adequate parking (including lack of any provision in relation to an EV charging point) which would result in increased on street demand in an area which is highly trafficked as evidenced by local concern and objection.

INTERNAL CONSULTEE RESPONSES:

37. Environment, Health and Consumer Protection (Nuisance Action Team) raise no objection to the application subject to the inclusion of conditions relating to construction works, the proposed bedrooms being adequately insulated, a management plan being submitted and a condition limiting the number of occupants.
38. HMO Data have confirmed that the percentage of properties within the 100m radius of and including the application site that are exempt from Council Tax is 6.7%.
39. HMO Licensing have confirmed that the property will need to be licensed following completion of the works due to the property forming a 7-bedroom, 2 storey house in multiple occupation and that one of the bedrooms failed to meet minimum licencing requirements.

PUBLIC RESPONSES:

40. The application was advertised by way of site notice and neighbour notification letters were sent to nearby properties. Twenty-six letters of objection (including responses from the City of Durham Trust and the Neville's Cross Community Association Trustees) have been received in objection to the application. Reasons for objection are summarised as:
 - Impact upon existing residential amenity in that the proposal would adversely impact upon neighbouring properties from increased noise and disturbance, potential double occupancy in the bedrooms, one bedroom fails to meet minimum NDSS Standards. In addition, some licencing requirements have not been met in the relation to the kitchen/dining room.
 - Impact upon parking and highway safety, specifically that the site would increase traffic congestion on what is a well-used route into the city centre that has poor visibility and is used by children and parking and travelling to Durham Johnson. Existing issues in relation to congestion on this stretch of residential estate is cited along with photographic evidence of parked cars.

- Impact upon social cohesion in that the introduction of an additional HMO would imbalance the community to the extent that there would be an over proliferation of this type of accommodation in the locality forcing families out of residential areas within the city. In addition, occupation of the property by students would result in the property being empty for long periods and this would further erode the sense of community.
- The development would be contrary to Policy 16 in that the 10% threshold has been met as several other HMOs are present in the locality which are not reflected in the % figure of Class N Exempt properties. Concern is raised at the methodology used in policy 16 which they consider to be fatally flawed. In addition, respondents considered that there is no identified need for additional student housing in the area which already has PBSAs and HMOs and that St Monica Grove is a primary route into the city. Also raised as a concern is the presence of the previously approved HMO granted at the adjacent property and both developments should be considered as one proposal.
- The HMO data does not appear to capture properties that are occupied during university term time.
- Some of the bedrooms are of suitably size occupation by 2 persons which would lead to more than 7 persons living in the property which would have a greater impact in terms of noise/disturbance/access and parking.
- Adverse impact from increased volume of waste/recycling and that the site does not include sufficient space to accommodate refuse storage requirements for 7 persons and as such would increase nuisance and vermin.
- Loss of council tax income
- Concern at the extent to which the LPA carried out publicity of the application which respondents considered was unduly limited.

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:

41. I have requested change of use and change of layout for 3 St Monica's Grove DH1 4AS.

The house will be sound-boarded to reduce noise levels for people in the house and for neighbours.

Bedroom 4 will have the (original internal) wall moved to make the room 2.838 by 2.848 making it 8.08 sq metres, it also has storage space in the bulkhead of the stairs which will be made into a wardrobe in addition to the floor space.

I have asked to be allowed to use the house as an HMO. I am a responsible landlord living locally and rarely have problems from my tenants. Neighbours occasionally contact me, any problem is swiftly dealt with. I have full time employees who maintain my properties so my houses are at least as well kept as others in the street.

PLANNING CONSIDERATIONS AND ASSESSMENT

42. 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, impact on the character and appearance of the area, impact on residential amenity and community balance/social cohesion, impact on highway safety and other matters.

Principle of the Development

43. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a 7-bed HMO (Use Class Sui Generis).
44. Policy 6 (Development on Unallocated Sites) of the County Durham Plan (CDP) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
45. In addition, Policy 16, Part 3 of the CDP is also relevant which relates to the conversion of houses for multiple occupation. The policy states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and sui generis), extensions that result in specified or potential additional bedspaces and changes of use from any use to a House in Multiple Occupation in a sui generis use (more than six people sharing) will not be permitted if:
- a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);
 - b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area; or
 - c. less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.
46. In addition to the above applications will only be permitted where:
- d. the quantity of cycle and car parking provided has regard to the council's adopted Parking and Accessibility Supplementary Planning Document (SPD);
 - e. they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues;

- f. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and
- g. the applicant has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.

47. It is noted that objections have been received from neighbouring residents raising concern that the proposed change of use would result in the over proliferation of HMOs in the area where they feel the 10% has already been met, therefore unbalancing the community and that the applicant has not demonstrated any need for accommodation of this type in this location. It is noted that this was also raised in objection to a previous application relating to No. 1 St Monica Grove for change of use from C3 to C4. In addition, concerns have also been raised regarding how the HMO data is collected and the methodology used in Policy 16, Part 3 of the CDP. Specifically, the concern in this regard is that the use of Council Tax data alone is not a sufficiently accurate representation of all HMOs present within the area. Whilst the concern in relation to the use of Council Tax Exemption Data is noted it is the case that all properties registered as class N exempt within 100 metre radius of the property are captured within the data collection, and this information is gathered twice a year. The policy and the methodology contained within it was considered sufficiently accurate and robust during examination in public of the CDP in 2020, and the policy adopted as presently exists within the adopted CDP. The policy has proven sufficient robust in this regard and the Council has successfully defended several appeals against refusal of similar changes of use where these were in clear conflict with the policy.
48. The most recent up to date Council Tax information identifies that if planning permission was granted for the change of use of the dwellinghouse into a small HMO that within 100 metre radius of, and including 3 St Monica Grove, 6.7% of properties are class N exempt properties as defined by Council Tax records. There is however a previous planning permission relating to No. 1 St Monica Grove for the change of use from C3 to C4 and if implemented would increase the percentage of properties within 100m to 8.3%. As this concentration would be below the 10% threshold stated in the CDP. Whilst concern has been raised by residents that the street represents a primary access route between a PBSA and university campus this is not considered to be the case, and with that in mind the development can be considered to comply with policy 16, Part 3, criteria a), b) and c) and is acceptable in principle, subject to further consideration of the proposal against other criteria on Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.
49. It is noted that objections have been received citing that the application fails to demonstrate need for accommodation of this type in this location, and that there is a perceived surplus of student accommodation within the city as a whole. Whilst these points are noted there is recognition that market forces will, in the main, deliver the level of student accommodation required without resulting in a significant oversupply of accommodation, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration. Notwithstanding this, it nevertheless remains that whilst Part 2 of policy 16 requires an application for PBSA to demonstrate need (along with a number of other requirements) this is not mirrored in Part 3 of the policy which relates to applications for changes of use to HMO and is the part of the policy which is relevant to the current application. For that reason, it is considered that the proposal would accord with the requirements set out in Part 3 of Policy 16 of the CDP and that the lack of any specific information within the application with regards to need, is not sufficient to sustain refusal of the application in this instance.
50. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning

policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). Given that less than 10% of properties within 100m of the application property are Class N exempt and this would remain the case post development, should permission for the current change of use be granted the aims of Paragraph 62 would be met.

51. Objections have been received citing that the development would have an adverse impact upon social cohesion and unbalance the community. Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of policy 16 which includes a threshold of no more than 10% of properties being in HMO use and also reflected in the themes and aims of the Neighbourhood Plan. As already noted above, in light of the low level of Class N exempt properties within 100m radius of the site at present, it is not considered that this proposal would be contrary to the NPPF or CDP in this regard. Whilst it is noted that tenants would likely change on a yearly basis this is unlikely to have any adverse impact capable of sustaining refusal of the planning application.
52. As already noted concerns have been raised regarding St Monica Grove being a primary route into the city and whilst it may present a possible route into the city used by visitors, it is not considered a primary route between a PBSA and University building or Town Centre location for the purposes of criteria c of part 3 of policy 16 and as such there is not considered to be any conflict with this part of the policy.
53. Objections have been raised at the precise point at which the 100 metre radius is calculated variances in this would likely bring additional HMOs into the resulting percentage figure taking this beyond the 10% threshold contained in policy 16. For the purposes of assessing compliance with policy 16 the 100m distance is taken from the properties Basic Land and Property Unit (BPLU) point which is a unique address point given to each property. This methodology is reflected in policy 16 which was recently been subject to Examination in Public as part of the CDP and was considered sufficiently robust and as such is considered an appropriate method of assessing compliance with policy 16 of the CDP.

Impact on residential amenity

54. Paragraph 130 of the NPPF requires that planning decisions create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. Policy 31 (Amenity and Pollution) of the CDP displays broad accordance with the aims of paragraph 130 in this regard and sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
55. In this instance the application site is a semi-detached property located within a residential area and as such the nearest residential property adjoins the application site to the west, with further residential properties to all sides. As already noted, the

adjoining property does benefit from planning permission for a change of use to a small HMO. In nearly all cases those responding to the application in objection cite concerns around increase noise, disturbance and antisocial behaviour as a result of the development, and in some cases consider the development should be assessed as a single large student accommodation facility given the applicant is also the owner of No. 1 St Monica Crescent. In addition, concerns have been raised that insufficient space is available within the site to accommodate the amount of waste and recycling storage generated by 7 occupants, which they believe is likely to overspill into the wider curtilage and beyond. There is also a concern that the development would result in an increase in nuisance from pests and vermin as a consequence.

56. The Council's EHO has been consulted and confirmed that the development would fall within the thresholds associated with Council's TANS. They have noted that although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO use than a single dwelling. This is due to the increase in household numbers and activity to and from the property. The demographic that use this type of accommodation are often associated with greater use of the night time economy and as such an increased level of night time noise may occur. However, it is anecdotal as the potential for impact is associated with the individuals residing there and as such might differ greatly.
57. The application site is located within a residential area predominantly characterised by small family homes. The impact of the development upon residential amenity is a material consideration in determination of this application. In most cases it is held that changes of use from C3 dwellinghouses to HMO use can be adequately mitigated to within acceptable levels subject to planning conditions. Where a HMO is proposed within a residential area with an existing high proliferation of HMO accommodation, the cumulative impact of an additional HMO in this context has been considered to have a detrimental impact upon residential amenity from increase in noise and disturbance sufficient to sustain refusal of planning permission. The LPA has refused a number of previous applications in this regard and proved successful in defending a subsequent planning appeals. However, in this instance it is noted that there is no identified over proliferation of existing HMOs within 100 metres of the application site, and as such it is not considered that the introduction of a single additional HMO in this location would result in a level of cumulative impact that would be detrimental to residential amenity.
58. The Council's EHO has requested that the applicant provides an effective plan detailing how the property would be managed, the submission, agreement and implementation of this can be secured through planning condition should planning permission be granted. Subject to the inclusion of a planning condition in this regard, the development is considered to accord with the requirements of policies 16 and 31 of the CDP.
59. The EHO also notes that two bedrooms will be on the ground floor and that one of these would be adjacent to a kitchen/dining area in the adjoining house which could lead to a greater impact for the individual residing in this bedroom, as well as leading to complaints against the reasonable use of the neighbouring ground floor.
60. Notwithstanding the above, the EHO noted that should the bedrooms be adequately insulated this would mitigate any adverse impact in terms of the transfer of noise. As such a condition could be attached to planning permission requiring a sound proofing scheme to be submitted to and agreed by the LPA and thereafter implemented prior to first occupation of the development and retained at all times whilst the HMO is in use as such.

61. Objections have been received from a neighbouring resident citing that the dwelling does not meeting minimum separation distances between facing elevations of adjacent properties. Whilst it is noted that the arrangement falls below minimum standards advised in the Council relevant SPD at approximately 15 metres, it should be noted that this is a pre-existing and well-established arrangement which concerns windows to existing habitable rooms. It is therefore not considered that the proposal would have any impact materially different to that which currently exist and the requirements of the SPD in terms of minimum separation distances cannot be retrospectively applied to existing arrangements. The development is not considered to have any unacceptable impact upon overbearing, overshadowing or loss of privacy as a result, in accordance with policy 31 of the CDP or the relevant SPD.
62. The property includes adequate external space to accommodate sufficient bin and cycle storage facilities within the garden area which extends to the east of the property. Whilst it would have been preferable to have precise details of the specification submitted for consideration of the application there is sufficient evidence to demonstrate suitable provision can be provided with the submission, agreement and installation of precise detail prior to first occupation secured via planning condition. In addition, noting the extent of the garden area contained within the curtilage it is considered there is sufficient external amenity space to serve the inhabitants and as in accordance with policy 16 of the CDP.
63. In relation to internal space the Nationally Described Space Standards (NDSS) is a government introduced nationally prescribed internal space standard which sets out detailed guidance on the minimum standard for all new homes and was created with the aim of improving space standards within new residential development across all tenures. Evidence compiled during formulation of the County Durham Plan identified that many new homes in the county were being built below NDSS and that this was having an impact on the quality of life of residents. As a result, 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.
64. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate to the current application. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of policy 29(e) of the CDP which requires new development to provide high standards of amenity and privacy.
65. The failure of the one of the bedrooms to the ground floor to meet minimum NDSS and Licencing space standards was raised in objection to the application. Consequently, the applicant has amended the scheme altering the internal layout and relocating an internal wall. This has increased the footprint of the bedroom in question from approximately 6.05sq metres to 7.8sq metres. As such this now complies with minimum NDSS and Licencing Requirements. All of the bedrooms now meet the minimum requirements of the NDSS being in excess of the required 7.5sq metres per room.
66. With regard to the total overall internal space provided across the dwelling as a whole it is noted that the NDSS does not provide guidance specifically relating to 7 bedspace, 7 person dwellings. However, it does include standards in relation to 6 bedspace 7 person dwellings and it is noted that this requires an overall area of no less than 123sq metres. As already noted, whilst the rigid application of NDSS is not considered appropriate for the reasons outlined above the proposed change of use would provide

adequate internal space delivering approximately 125sq metres of total internal floorspace.

67. Notwithstanding the above, it is noted that should one of the communal rooms not identified for use as a bedroom be converted to use as a bedroom upon completion of the development, this would unacceptably reduce the amount of communal space to below levels considered sufficient to cater for the number of occupants. As such, it is considered appropriate to include a planning condition limiting the total number of occupants to no more than 7.
68. Objection has been raised to the application noting that the footprint of the kitchen/diner would be approximately 14.5sq metres which is below the 19.5sq metres reflected in licencing requirements. Whilst below 19.5sq metres it is noted that when considered in conjunction with the lounge this would deliver an overall area of 42.8sq metres which would comply with licensing requirements relating to a combined living/dining/kitchen area (21sq metres). In any event such matters fall outside of the scope of planning control and as such cannot be afforded weight in determination of this application and NDSS requirements would be met in terms of internal space as noted above.
69. Concern has also been raised in relation to the ability of the kitchen/dining area to accommodate all of the storage and cooking equipment required to serve a 7 person HMO. However, upon assessment it is considered that the space in question is sufficient to provide the level of provision required in this regard and there is no objection from the Council's Licensing Section.
70. In light of the above proposal is considered to comply with policy 29(e) of the CDP in that it provides a suitable amount of internal and external amenity space to meet the needs of future occupiers and deliver a suitable quality of development in relation to policy 29(E) of the CDP policy 16 of the CDP and Paragraphs 130 and 174 of the NPPF.

Impact on the character and appearance of the area

71. 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 29 of the CDP requires development to contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
72. Neighbouring residents have raised objections to the proposed development stating that a HMO's will have a negative impact on the residential housing estate, HMOs are not adequately maintained and that students are short term occupiers with no stake in local community.
73. It is noted that limited external alter is proposed to facilitate the change of use comprising solely of the removal and replacement of the garage door with brickwork and windows in association with its conversion to a bedroom. This is considered acceptable in principle and similar to other works undertaken at properties in the locality subject to the inclusion of a planning condition which requires materials used to match the host property.
74. The character and appearance of the surrounding area incorporates two storey semi-detached properties. There is a variety of boundary treatments within the local vicinity

of the site and there is a difference in opening styles. With regard to concerns that the general appearance of the property would deteriorate as a consequence of the proposed use there is no evidence that this would occur and the applicant has reiterated that the property would be appropriately maintained.

75. It is therefore considered that the proposed development would fit with the character and appearance of the area and would not have a detrimental impact on the appearance of the wider streetscene.
76. Taking the above into consideration, it is considered that the proposed development would accord with Policy 29 of the CDP and Part 12 of the NPPF.

Highway Safety and Access

77. Policy 16 of the CDP requires new HMO'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. This displays broad accord with paragraph 110 of the NPPF which requires new development to provide safe and suitable access to the site. Policy T2 (Residential Car Parking) of the DCNP supports developments with or impacting on car parking provided that car parking is designed to reduce vehicle movements on residential streets and is in designated bays or small groups separated by landscaping or features and designed with safety in mind. In turn, Policy T3 (Residential Storage for Cycles and Mobility Aids) of the DCNP requires residential development including change of use to seek to provide storage facilities for cycles which should meet DCC standards.
78. Objections have been raised that the development does not provide sufficient in-curtilage parking provision to serve the number of occupants proposed and that this would create unsustainable additional pressure to existing on-street provision in an area which is used by school children, has poor visibility due to the number of vehicles parked on the street, experiences high volumes of traffic by those accessing the city centre, and within close proximity to an existing junction with the A167.
79. The Highway Authority offer no objection to the application and do not considered there would be any adverse impact in terms of highway safety as a result of the proposals. They assess the proposal against the requirements of the current DCC parking standards which they note only considers parking requirements for properties of up to 5 bedrooms, but nevertheless confirm that the requirement in this regard would be 2 off street spaces. While the proposed HMO would have 7 bedrooms, it is reasonable to assume that an uplift of an additional space would be required from the 5 bed standard of 2 spaces. The proposed plans demonstrate that 3 off-street parking spaces are available and as such sufficiently demonstrates that the required uplift could be provided. However, they note that the front of the property does have scope to be widened to make further off street parking if the applicant was minded to explore this, but noted that there is no policy basis upon which to require this to be done in association with the current application.
80. Consequently, the amount of in-curtilage parking proposed is in accordance with the Council's parking and accessibility standards and is therefore acceptable in this regard.
81. With regard to concerns that the development would increase in vehicle movements along this section Monica Grove and the presence of parked vehicles narrowing the carriageway width, it is considered that the proposed use would not increase vehicle movements to an extent that it would adversely impact upon existing network capacity

or on street parking. In instances where vehicles presently obstruct the adopted footway this is subject to legislative control via the Highways Act and cannot be afforded weight in determination of this application.

82. Therefore, notwithstanding the concerns raised by residents in relation to parking and access it is not considered that the development would have a detrimental impact upon highway safety sufficient to sustain refusal of the application. In light of the above, it is considered that the development would accord with the aims of policy 16 and 21 of the CDP and paragraph 110 of the NPPF.

Other Matters

83. Objections have been raised regarding the proposed change of use resulting in the loss of council tax from the class N exemption from student occupiers, that house prices are rising and young families are being pushed out of the area. House prices itself is not a material planning consideration and the issue of social cohesion has been discussed elsewhere in this report.
84. Objections have been raised in relation to the impact that the loss of garden area and that this would have a detrimental impact upon surface water flooding at the junction with the A167. Whilst these concerns are noted the footprint of the building remains unchanged by the development and there are no proposals to extend the current driveway and as such the development would not have any material impact upon surface water disposal beyond the current situation in accordance with policy 35.
85. Concern has been raised in relation to the capacity of the existing foul water network to accommodate additional flows. In this regard it is noted that the occupation by 7 individuals whilst likely to have a greater impact upon utilities than that of a large family is nevertheless unlikely to fundamentally undermine the capacity of the wider network to the extent that it would conflict with policy 36 of the CDP. It should be noted that the application is not a type which requires consultation with either the Councils Drainage and Coastal Protection Team or Northumbrian Water.
86. Some respondents have raised concern at the extent to which the Council publicised the planning application. Whilst the concerns are noted the application was advertised by means of a site notice adjacent to the application property and letters sent to adjoining occupiers which exceeds the minimum statutory requirements as contained in the Town and Country Planning (Development Management Procedure) Order.

CONCLUSION

87. In summary, it is considered that the principle of development is acceptable in planning terms and would accord with the aims of policies 6 and 16 of the CDP subject to appropriate planning conditions described within the report and listed below.
88. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the introduction of a large HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs, and nor would it result in any unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of HMOs or highway safety in accordance with policies 6, 16, 21, 29 and 31 of the County Durham Plan or parts 9, 12 and 15 of the NPPF.
89. In addition it is considered that on balance the development is acceptable in that it provides appropriate levels of amenity space for residents, protects the privacy and

amenity of existing and future residents whilst also being acceptable in terms of highway safety and flooding, in accordance with Policies 6, 16, 21, 29, 31, 35 and 36 of the County Durham Plan, Policies S1, H3, D4, T1, T2 and T3 of the Durham City Neighbourhood Plan and Parts 2, 4, 8, 9, 12 and 15 of the National Planning Policy Framework.

Public Sector Equality Duty

90. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
91. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

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

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

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

2. The development hereby approved shall be carried out in 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 Policies 6, 16, 21, 29 and 31 of the County Durham Plan and Parts 2, 4, 8, 9, 12 and 15 of the National Planning Policy Framework.

3. The large HMO hereby approved shall be let to a total of no more than 7 tenants at any one time.

Reason: To ensure that adequate internal space is provided to serve the number of occupants in the interest of residential amenity in accordance with the aims of policy 29 of County Durham Plan.

4. No development shall commence until a scheme of sound proofing measures shall be submitted to and approved in writing by the local planning authority. The aim of the scheme shall be to ensure that the noise insulation of walls, floors, windows, roofs between the adjoining properties shall be sufficient to prevent excessive ingress, egress of noise sufficient to achieve the following noise levels;

- o 30 dB LAeq 8hr in all bedrooms during the night-time (2300 - 0700)
- o 45 dB L_{Amax} in bedrooms during the night-time.

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

Reason: To protect residential amenity in accordance with Policy 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

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

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

6. Notwithstanding the details submitted within the application the development shall not be occupied until a detailed strategy of precise management methods, approaches and techniques for the operation of the site has been submitted to and agreed in writing by the Local Planning Authority. The strategy shall include measures of CCTV coverage, 24-hour security or warden presence, student warden schemes or other management operations, a scheme for the storage, removal of waste generated by the development and cycle storage.

Thereafter the development shall be implemented in accordance with the agreed details, with adherence to the agreed management scheme in perpetuity.

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

7. In undertaking the development that is hereby approved:

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

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

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

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

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

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

BACKGROUND PAPERS

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

Statutory, internal and public consultation responses

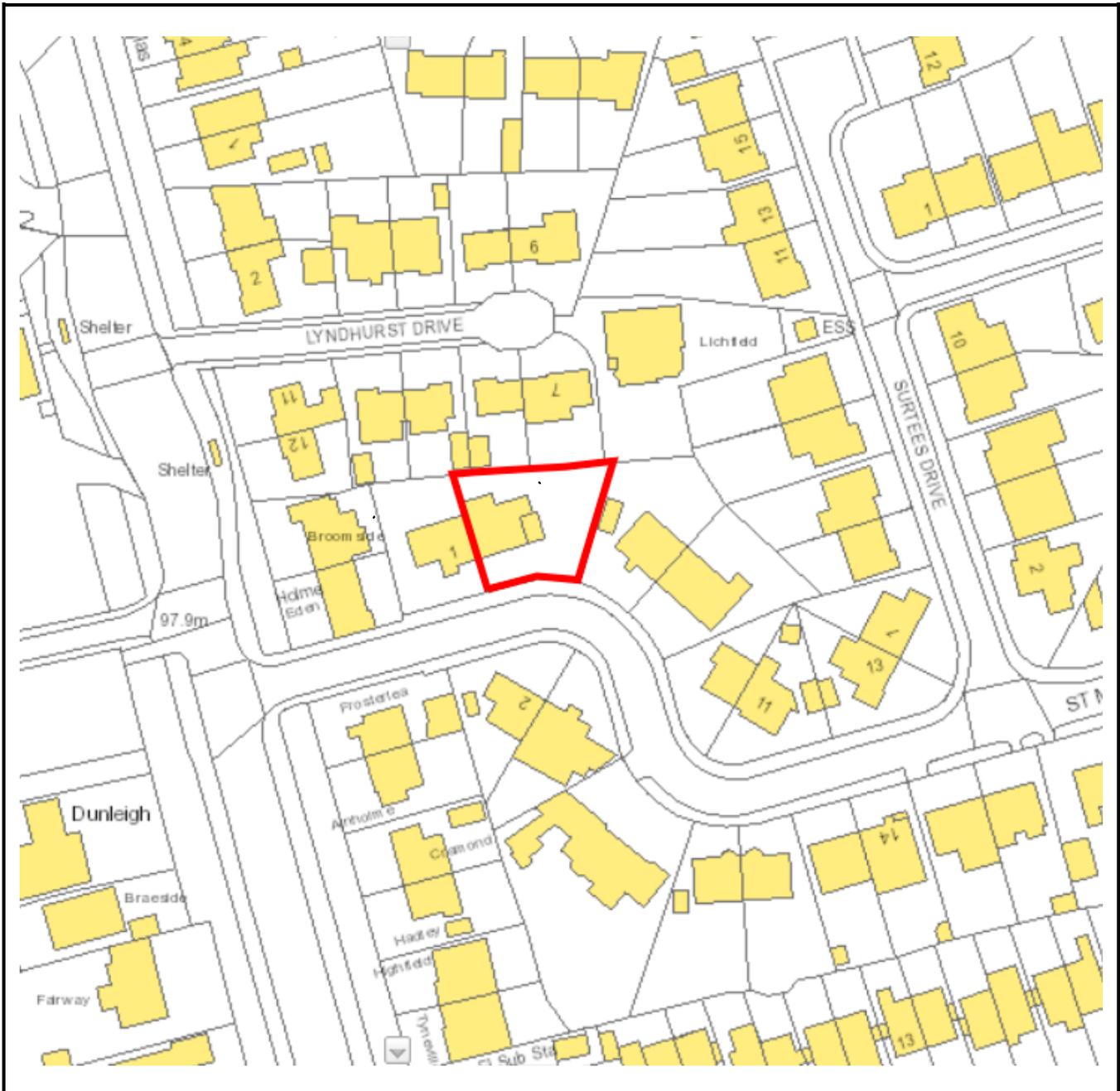
The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Durham City Neighbourhood Plan (2021)

Residential Amenity Standards SPD (2022)



Planning Services

DM/22/02364/FPA Change from dwellinghouse (C3) to small house in multiple occupation (C4) including conversion of the garage into a habitable room and single storey extension to rear at 1 St Monica Grove Crossgate Moor Durham DH1 4AS

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Date 30 March 2023

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