

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/23/00456/FPA
FULL APPLICATION DESCRIPTION:	Change of use from dwelling (use class C3) to House in multiple occupation (HMO) (use class C4).
NAME OF APPLICANT:	Ms Anya Lautenbach
ADDRESS:	3 Wentworth Drive Durham DH1 3FD
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Lisa Morina Senior Planning Officer Telephone: 03000 264877 Lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises a detached dwelling located on Wentworth Drive within a predominantly residential area of the city at Mount Oswald. The wider area represents a modern, residential development of recent construction characterised by large, detached dwellings. The property to which this application relates benefits from an existing detached garage which sits to the side/rear of the site and is accessed by a long driveway which can accommodate two cars.

The Proposal:

2. Full planning permission is sought for the change of use of the property from a dwelling (falling within Class C3 of the Town and Country Planning Use Classes Order) into a 6 bed house in multiple occupation (small HMO – Use Class C4). Two additional bedrooms are proposed to the ground floor at the front of the property with a living/dining/kitchen area proposed to the rear.
3. The application has been called to be determined by the planning committee at the request of Durham City Parish Council who consider the proposal to be contrary to policies 16, 21, 29 and 31 of the County Durham Plan in that it would result in a detrimental impact to residential amenity, an imbalance to the local community and an adverse impact to highway safety such that the application should be determined by the committee.

PLANNING HISTORY

4. There is no relevant planning history on this site.

PLANNING POLICY

NATIONAL POLICY

5. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. 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.
6. 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.
7. 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.
8. 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.
9. 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.
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.

NATIONAL PLANNING PRACTICE GUIDANCE:

12. 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.

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

LOCAL PLAN POLICY:

County Durham Plan

13. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
14. 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.
15. 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.
16. 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.
17. 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
18. 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.

Neighbourhood Plan

19. The following policies of the Durham City Neighbourhood Plan (DCNP) are considered relevant to the determination of this application.
20. 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.
21. 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.
22. 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. New residential development should meet the Building for Life 12 standards provided for in County Durham Building for Life Supplementary Planning Document (2019).
23. 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.
24. 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.
25. 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:

26. Highway Authority raise no objection to the proposal.

27. City of Durham Parish Council object to the application for the following reasons:

- Increased Anti-social Behaviour
- Impact on residential amenity
- Further Imbalance in the community
- Proposal provides a driveway of insufficient width and as such parking arrangements are inadequate
- No electric charging points are provided
- Bin and Cycle Storage provision is inadequate
- Insufficient bedroom sizes

INTERNAL CONSULTEE RESPONSES:

28. HMO Licensing - Advice on legislation provided and confirmation that the property will be required to be licensed.

29. HMO Percentage – The officer initially advised that 9.3% of properties within a 100 metre radius of the site (including the host property) were Class N exempt based on data derived from Council Tax information captured in November 2022. Following an update to these figures, which reflected a more recent data join in April 2023, the number of properties registered as being Class N Exempt was subsequently confirmed as 7.4%.

30. Environmental Health (Noise) - No objection subject to submission and agreement of a management plan, as well as the installation of soundproofing measures for the ground floor bedrooms.

PUBLIC RESPONSES:

31. The application has been advertised by means of site notice and by notification letter sent to neighbouring residents.

32. To date, 47 letters of objection and 1 letter of representation have been received including comments from the City of Durham Trust and Mount Oswald's Residents Association which raise the following concerns:

- Highway Safety: concerns that insufficient parking is provided and road safety issues due to the property being on a bend in the road and increased vehicle movements.
- No designated area for cycle parking or bin storage.
- The proposal would be contrary to the Article 4 and Policy 16 of the CDP and goes against the aims of the Government's levelling up strategy.
- Wentworth drive already has over 19% of student properties which is above the Council's maximum allowance as stated in planning policy at 10%.
- The Council approved Mount Oswald to be a residential site not a Student site and the proposal will include the loss of an executive/family property.

- There is a shortfall in family homes in the City and people are eager to buy these.
- Adverse impact to residential amenity and social cohesion articulated as being that children don't want the additional noise from the proposed HMO, they just want more friends.
- Concern regarding the impact from increased noise and disturbance, especially in the evening which they consider to be contrary to policy 31 of the CDP.
- There is a brand new purpose built student accommodation 200 yards from this property therefore, no need for another student house or additional student accommodation in any guise given the university is forecasting a reduction in numbers.
- There will be no contribution to council tax if this property changes.
- Discrepancies in the report regarding the location of the property not being within a residential area
- Reason behind the change of use in that it is required to fund the care bill of the elderly occupant
- Concern over information given to purchasers when buying their existing property in that the dwellings would not be used as HMOs
- Licensing requirements are substandard including insufficient bedroom sizes and sanitary requirements.
- Questions raised over how many people the property can be let out too.
- The proposal is on a primary access route and as such is contrary to CDP policy 16.
- Insufficient consultation undertaken by the LPA.
- Increased Anti-Social Behaviour.
- Devaluation of properties
- Precedent will be set in the application is approved.
- It is not clear that the site would be management effectively.
- Latest Class N data figures should be used when determining the application

APPLICANT'S STATEMENT:

33. This application was never destined to be popular, however just as the local residents have a right to object it is the applicant's right to make the application. The reasons for the application are made clear in the application and it is not for the committee nor the local residents to pass comments on the financial state of the applicant nor the cost of long-term care.
34. The application was made following careful consideration of Policies 16, 29 and 31 of the Durham County Plan 2020.
35. On the issue of Policy 16 the application is within the policy by whatever measure is applied. It is an objective and quantitative policy. If the matter was judged by weight of numbers, then the outcome may have been different, but the local residents seemed confused and badly advised over this policy and whilst there were very many objections, most bore little substance relating to the policy which is in itself is very clear.
36. It is notable and regrettable that the company which sold the houses seemed to have somewhat over promised in their ability to protect the properties which had no protection at all until the Article 4 direction was introduced.
37. Policies 29 and 31 are very subjective but the officer's recommendation to recommend approval of the application was somewhat inevitable once the Issues

under policies 29 and 31 were clarified by statements from the highways departments and the Nuisance Action Team.

38. The case is almost identical to that of the application at 3 St Monica Grove which was as deeply unwelcome but recommended for approval and consented by committee. I am sure that there will be members of the committee who express disquiet in having to approve such an application but the fault, if any, does not lie with the applicant or the application. Under the current policies I see no alternative than to approve the application following the officer's advice.
39. The question remains as to whether as a species we desire balanced communities or that we wish to live with people like us. As it stands policy 16 is not welcome by residents of new housing estates, nor by residents trapped in streets that cannot reach the upper threshold required by Policy 16, due the measurement of houses being taken, not only from that street, but from streets nearby but which have totally different characteristics. Unless the policy is tightened at one end and loosened at the other and re-engineered in the middle you will have a stream of such unpopular applications, taking up valuable committee time which you will find impossible to refuse.

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

PLANNING CONSIDERATIONS AND ASSESSMENT

40. 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.
41. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in this regard. The County Durham Plan is the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 219 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
42. The County Durham Plan is now adopted and is considered to represent the up-to-date Local Plan for the area. Consequently, consideration of the development should be led by the plan if the decision is to be defensible.
43. In this context, it is considered that the main planning issues in this instance are as detailed below:

Principle of the Development

44. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses falling within Class C4 (houses in multiple occupation HMOs). HMOs are 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.
45. The proposed floor plans submitted with the application indicate that the proposal is such that the development would normally benefit from the provisions contained

within the GPDO. However, an Article 4 Direction is in effect withdrawing permitted development rights in this regard and as such planning permission is required.

46. 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.

47. In addition, Policy 16 of the County Durham Plan (CDP) is also of relevance to this application which relates to student accommodation/HMO's. It 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 Class C4 (House in Multiple Occupation), where planning permission is required;
or
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, the conversion of houses for multiple occupation/ student use.

48. 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.

49. Various concerns have been raised from residents with respect to the principle of the development in that the percentage of properties within the area which are exempt from Council tax is already in excess of 10%, thereby the proposal would be contrary to Policy 16 and is also contrary to the aims of the Article 4 Direction and would result in an over proliferation of HMOs in the area, creating an unbalance in the community.

50. In addition, concern has been raised questioning the need for another student property in the locale given there is an existing purpose-built student accommodation nearby. They also note that the existing estate was intended for families and not students, and that there is already a shortfall in family homes and that a change of use to a student property reduces this even further. Objections also cite that Durham University is predicting a reduction in student numbers.
51. Concerns have also been raised regarding how the HMO data used in Policy 16 is collected and the methodology of the Policy itself. Specifically, concern centres on the use of Council Tax data alone which they consider is not a sufficiently accurate representation of all HMOs present within the area.
52. 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. Since 2020 this has been done on 1st November and 1st April. It is considered that this is a reasonable reflection of the academic year as it is likely to capture any late joiners and any subsequent variance during the academic year would also be accounted for.
53. The Council Tax information is economically sensitive personal data and it is therefore only made available to Planning Officers in a fully anonymised format. No information is provided about particular properties or occupiers, however, where relevant, the Officer is made aware of any pending or recently determined applications which are yet to be implemented which are located within the 100m radius. A percentage including these is also provided.
54. 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 sufficiently 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. Comments have also been raised that the HMO percentage should be updated in April as per the guidance. A percentage based on the April figures has been obtained.
55. The most recent up to date Council Tax information which includes the date received in April 2023, identifies that within 100m radius of, and including 3 Wentworth Drive, 7.4% of properties are Class N exempt student properties as defined by Council Tax records. This is a reduction in the percentage from the November figures which confirmed 9.3% (i.e., from the figures provided one property which was originally exempt in the November figures is no longer registered as exempt in the April figures).
56. This concentration is presently below the 10% threshold stated in Policy 16 of the CDP and as such the development can be considered acceptable in principle subject to satisfactory consideration of the other requirements listed in the policy.
57. In addition, whilst comments have been received to say that the property is on a street which is considered a primary access route this is not considered to be the case. Policy 16 states that if the street is on a primary access route between Purpose Built Student Accommodation and the town centre or any university campus, then the proposal would not be supported. Given the position of the estate being located to the west of an existing PBSA, with the town centre and university

campus being located to the east of the PBSA. Given this it is not considered that the proposal would fail on this point.

58. 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.
59. Notwithstanding this, it nevertheless remains that whilst Part 2 of Policy 16 requires an application for PBSA to demonstrate need (along with several 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.
60. 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.
61. 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 considered to be met.
62. 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.
63. 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.
64. In summary and whilst concerns are noted, the principle of the development could be supported in principle subject to proper consideration of the impact of the proposal upon residential amenity and highway safety.

Residential Amenity

65. Paragraph 130 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users. In line with this, Policy 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.

66. The proposed development will also need to demonstrate that future occupiers have acceptable living conditions. Proposals which will have an unacceptable impact from overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated. 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.
67. Concerns have been raised with regards to increased noise and disturbance, especially during evenings, and that student occupation stimulates the growth of existing children within the estate. In addition, concern has been raised regarding the state of other student properties in the area in that several of the student houses on the estate are poorly kept with bins left on the street for days at a time, bottles of alcohol stored in the windows and therefore due to this will this property be maintained appropriately,
68. The Environmental Health Officer (EHO) has provided comment on the application and considers that the information submitted demonstrates that the application complies with the thresholds stated within the TANS.
69. The property is a detached house. Although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO than a single dwelling. This is due to the increase in the number of residents 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.
70. However, to some extent this is anecdotal as the potential for impact is associated with the individuals residing in each individual case and as such might differ greatly depending on the circumstance. It should also be noted that bedrooms five and six will be on a ground floor and may lead to a greater impact for the individuals residing in those rooms from noise when the ground floor is in use.
71. In light of the above it is considered that a scheme of sound proofing shall be submitted to and agreed by the LPA secured by way of planning condition should planning permission be granted. Whilst inclusion of a management plan was suggested by the Council's Environmental Health Section, it is considered that given the small scale of the proposal to secure this via planning condition is not required to make the proposal acceptable in planning terms. However, an informative can be included should planning permission be granted which reminds the applicant of the importance to be a considerate development.
72. Similarly, disruption to neighbouring properties during the construction phase was also raised as a potential concern and it was suggested that a working hours condition was added. Notwithstanding this, it is noted that limited alterations are proposed to the application property and as such a condition restricting working hours during construction is not reasonable. However, a planning informative can be included regarding being a considerate developer which provides advise on working hours.
73. Policy 16 of the CDP includes a requirement to ensure that adequate bin storage is provided and that other shared facilities are also adequate. In this regard it is considered that there is adequate space to ensure sufficient bin storage can be delivered and this is identified to be within the existing garage. An area has also been identified within the existing garage for bike storage which is considered appropriate. It is considered that this is acceptable, and a condition will be added to

ensure that this area is made available and retained for this purpose at all times for the duration that the property is in use as a small HMO. Concern has been raised that the arrangements are unacceptable in that bins would be unable to pass cars parked on the driveway. Whilst the proposed arrangement is considered acceptable, it is nevertheless noted that the existing use could store bins within the existing garage without planning control and as such any refusal of the current planning application on such grounds could not be sustained.

74. In respect of the current state of student properties within the area, it is noted that there are separate powers available to the LPA to resolve instances where properties are considered to amount to untidy land. Should the application site appear as untidy land in the future then this could be addressed through enforcement action where appropriate. This however would relate to the external appearance of the property only and cannot control for example, alcohol bottles in windows. As such, it is not considered that this matter could sustain refusal of the current planning application as a consequence.
75. 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, the 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.
76. 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.
77. Concern has been raised that one of the bedrooms would not meet with current licensing standards as there would be inadequate cooking facilities, a lack of food storage facilities, lack of sanitary requirements and the size of one bedroom on the ground floor would be below the NDSS space standard. The agent has confirmed that it would meet with the licensing standard of 6.51m². Objectors however with the same house type dispute this and state the floor area would be deficient by around 0.60m². No objection has been raised from the Councils HMO licensing team and given the number of bedrooms proposed the property will be required to be licensed and as such the internal layout/room sizes as well as appropriate sanitation and cooking/storage facilities will be considered at that stage. In respect of planning, it is not felt that a reason for refusal could be sustained in this instance based on the above and therefore the proposal is considered acceptable in respect of Policy 29(e) of the CDP.
78. Similarly, concern has also been raised that given some of the bedrooms are doubles up to at least 9 people could reside at the site and therefore a suitable planning condition should be added. The application however is for a change of use to a C4 House in Multiple Occupation which restricts the number of people occupying the site to a maximum of 6 (considered as a small HMO). A further change of use application to a large HMO (sui generis use) would therefore be required for more

than 6 residents to reside at the site. It is therefore considered that a condition to restrict numbers would not be relevant in this instance.

79. In light of the above the proposal is considered to be acceptable in terms of residential amenity and the proposal would accord with the requirements of Policies 16, 29 and 31 of the County Durham Plan and Paragraph 130 of the NPPF in this regard.

Impact on streetscene

80. Policy 29 of the CDP relates to sustainable design and states that all proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.

81. The NPPF supports such an approach. Part 12 states that good design is a key aspect of sustainable development and that new development should contribute positively to making places better for people. The framework sets out the importance of securing high quality and inclusive design for development, including individual buildings, and goes on to state that in determining applications great weight should be given to outstanding and innovative designs that will help raise design standards more generally in the area; it is considered that the uplift in quality compared to the existing building and the architectural/aesthetic stimulation created by the design proposals would be such that the above principles would be adhered to.

82. There would be no changes to the external appearance of the property therefore, the proposal is considered acceptable in respect of Policy 29 of the CDP and Part 12 of the NPPF.

Parking, Access and Highway Safety

83. Policy 16 of the CDP states that new HMOs shall provide adequate parking and access. In addition, Policy 21 of the CDP requires all new development to provide safe and adequate access. This displays broad accord with paragraph 110 of the NPPF which requires new development to provide safe and suitable access to the site.

84. 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.

85. Concerns have been raised regarding highway safety issues in that the property is located on a bend and insufficient parking would remain. It is also considered that parking issues already occur on the street and near misses have occurred. Objections have also been raised that no EV charging point has been provided.

86. The proposal has been assessed by highways officers and they raise no concern over road safety. The property has two designated off-street parking spaces and a

garage. The garage is to be utilised for cycle and bin storage however, the Council's Parking Standards do not include garages as in curtilage spaces and as such the loss of the garage would not amount to a conflict of policy. There are no parking standards for a 6-bed property within the Council's Parking Standards however, it is considered that the two off-street parking spaces for a 6-bed property would be acceptable and a highway refusal reason for lack of parking would be unable to be sustained in this instance.

87. The road outside the property is public highway and whilst concerns have been raised that inconsiderate parking is currently taking place, it is not considered that the change of use of this property would create any further significant issues in this respect. In addition, where vehicles presently obstruct the adopted footway, this cannot be afforded weight in the determination of this application and would be subject to separate legislative control via the Highways Act 1980.

88. Concern has been raised that an EV charging point is not being provided however this is only required for new residential developments and is therefore, not considered necessary in this instance.

89. Whilst the concerns highlighted above are noted, the development is nevertheless considered to provide safe access and adequate parking provision in accordance with the aims of Policies 16 and 21 of the CDP, Part 9 of the NPPF and policies T2 and T3 of the Durham City Neighbourhood Plan.

Other Issues

90. Concern was raised regarding the reason for the change of use in that it is being made to support the needs of the elderly resident who is in receipt of and requires long term residential care. The reason for the change of use of the property is not a material planning consideration.

91. 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. Property values are not a material planning consideration in the determination of this application and the issue of social cohesion has been discussed elsewhere in this report. Devaluation is also not a material planning consideration.

92. Concerns are raised regarding discrepancies within the information submitted in that the proposal states it is not within a residential area however it is. The agent did however confirm that his comment in this respect relates to the site not being within a residential area that is a primary access route, however the application has been assessed taking all relevant issues into account and this element has been discussed above.

93. It is understood from objections received that the developers had given assurances to people when buying properties that houses on the estate would not be used as HMOs. There is no restriction on the planning approval for the estate development which prevents the properties being used as HMOs. In addition, the Article 4 Direction has only been in place since 14 January 2022. Prior to this, no change of use would have been required to convert a property to a C4 use class and the Council had no control until the Article 4 Direction was implemented.

94. Concern has been raised regarding lack of consultation. Whilst concerns are noted, the Council published the application by means of a site notice and letters were sent to adjoining occupiers which exceeds the minimum statutory requirements as

contained in the Town and Country (Development Management Procedure) Order 2015.

Public Sector Equality Duty

95. 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.

96. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

97. The proposed change of use is considered acceptable in principle and would accord with the requirements of Policy 16 of the CDP. Specifically, it would not result in more than 10% of the properties within 100 metres of the site being Class N exempt from Council Tax as being wholly occupied by students.

98. In all other respects, the development could be accommodated without significant detrimental impact on the amenities of surrounding residents in accordance with the aims of policy 16 to provide sustainable, inclusive and mixed communities given there is no over proliferation of HMOs within the locality and the development would not have any unacceptable impact in terms of highway safety.

99. The development is therefore considered to accord with the requirements of Policies 16, 21, 29 and 31 of the CDP, Parts 2, 4, 8, 9, 12 and 15 of the NPPF as well as Policies S1, H3, D4, T1, T2 and T3 of the Durham City Neighbourhood Plan and is therefore, recommended for approval.

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 Policy 6, 16, 29 and 31 of the County Durham Plan and Parts 8, 9, 12 and 15 of the National Planning Policy Framework.

3. Before any part of the development hereby approved is occupied, a scheme of sound proofing measures shall be submitted to, approved in writing by the local planning authority, implemented and shall be permanently retained thereafter.

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.

The aim of the insulation should be to ensure the requirements of BS 8233: 2014 in relation to sleeping areas are met within the rooms. An insulation scheme designed to the requirements of Document E of the Building Regulations should prove sufficient.

Reason: In the interest of residential amenity in accordance with Policies 29 and 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

4. The cycle and bin storage arrangement as proposed within the existing detached garage shall be made available prior to the use hereby approved being brought into use and shall remain available for as long as the property is in use as a small HMO.

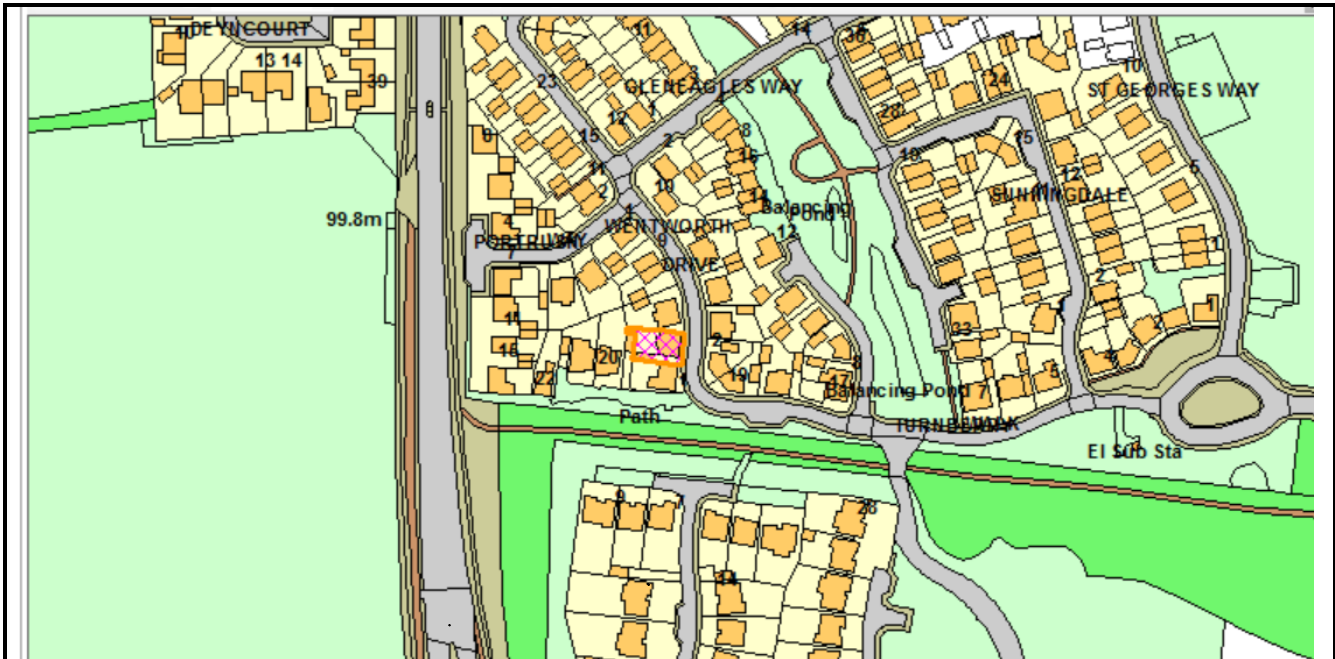
Reason: In the interests of visual amenity of the area and to encourage sustainable modes of transport in accordance with Policies 21, 29 and 31 of the County Durham Plan and Parts 9, 12 and 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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



<p>Planning Services</p>	<p>Change of use from dwelling (use class C3) to House in multiple occupation (HMO) (use class C4).</p> <p>Application Reference: DM/23/00456/FPA</p>	
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