

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/23/01084/FPA
FULL APPLICATION DESCRIPTION:	Change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including formation of new parking area to front, cycle parking, bin storage and associated alterations
NAME OF APPLICANT:	Mr Gary Swarbrick
ADDRESS:	37 Moor Crescent, Gilesgate Moor, Durham, DH1 1PB
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Elinor Woodruff Planning Officer 03000 261059 elinor.woodruff@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises a 4 bedroom, semi-detached, two-storey dwelling located within Moor Crescent, a residential estate situated to the north of Sunderland Road, Gilesgate Moor.
2. The property has a two-storey extension to the side, consisting of a garage to the ground floor and a bedroom to the first floor. The front lawn is enclosed with a low brick boundary wall with pillars and some vegetation.

The Proposal

3. The application seeks full planning permission for the change of use of the property from a dwellinghouse (Use Class C3) to a House in Multiple Occupancy (Use Class C4) including the conversion of the garage into a habitable room, provision for bin storage and a new parking area to the front. Planning permission is required for this change of use because an Article 4 Direction has withdrawn PD rights for such changes of use.
4. The application is reported to planning committee at the request of Councillors Eric & Lesley Mavin 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. No relevant planning history.

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 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.
10. 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.
11. 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.
12. 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.

13. 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.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

14. 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; design process and tools; determining a planning application; flood risk; healthy and safe communities; land stability; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; 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; Tree Preservation Orders and trees in conservation areas and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

The County Durham Plan

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

19. Policy 29 – Sustainable Design. Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards.
20. 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.

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

Neighbourhood Plan

21. The application site is not located within an area where there is a Neighbourhood Plan to which regards is to be had.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

22. Highway Authority – Raises no objection to the application as two off street spaces would be provided, which for a 5-bed property would be in accordance with DCC parking standards.
23. Belmont Parish Council – object to the application, raising concerns in regards to the over proliferation of HMOs within this location, insufficient parking available at the property and the impact on the highway and congested cul-de-sac. In addition, the impact the proposed HMO would have on residential amenity and the potential for increased waste generation. Furthermore, no justification of need has been provided by the application and arguably the application would exceed the 10% threshold within Policy 16 of the CDP.

INTERNAL CONSULTEE RESPONSES:

24. HMO Data Section - have confirmed that the percentage of properties within the 100m radius of and including the application site that are exempt from Council Tax is 2.3%.

There are four properties within 100m with unimplemented planning permission, which would increase the percentage to 6.8% if all were implemented, there is one additional application pending determination.

25. HMO Licensing - have confirmed that the property will need to be licensed following completion of the works due to the property forming a 5-bedroom, 2 storey house in multiple occupation.
26. Environment, Health and Consumer Protection (Nuisance Action Team) - raise no objection to the application subject to the inclusion of conditions relating to construction works.

PUBLIC RESPONSES:

27. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents.
28. Six letters of objection have been received from neighbouring properties. Reasons for objection are summarised as:
 - 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. Also raised as a concern is the presence of the number of HMOs within a small cluster within the cul-de-sac.
 - Impact upon parking and highway safety, specifically that the site would increase traffic and parking in an already congested cul-de-sac.
 - Impact upon existing residential amenity in that the proposal would adversely impact upon neighbouring properties from increased noise and disturbance. The area is predominantly for families and the number of HMOs is pushing private owners out and increasing costs.
 - Adverse impact from increased volume of waste/recycling and that the site does not include sufficient space to accommodate refuse storage requirements for 5 persons and as such would increase nuisance and vermin.

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>

APPLICANTS STATEMENT:

29. The application proposals relate to a change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including formation of new parking area to front, cycle parking, bin storage and associated alterations at 37 Moor Crescent, Gilesgate, Durham.
30. Durham University is a member of the Russell Group of leading research intensive universities and placed sixth in the UK in The Sunday Times Sunday Times Good University Guide 2023 with continued strong demand for places to study at the university. The adopted County Durham Plan recognises that Durham University is a

major asset to the city, shaping the built environment, contributing to the cultural and heritage offer, developing highly skilled individuals as well being a major employer and a purchaser of local goods and services.

31. The Durham University Strategy 2017-2027 sets out clear goals to deliver world class research, education and a wider student experience and it is clear that the provision of a sufficient range and supply of high quality affordable and accessible residential accommodation options that meet the current and future aspirations of the student population will be key to supporting the wider student experience and the overarching strategic objectives of Durham University.
32. The County Durham Plan acknowledges that students make up a significant proportion of the term time population of the City contributing greatly to its culture, economy and vibrancy. However, it is also recognised that there can be adverse impacts on the amenities of residents in areas where student HMOs are dominant and Part 3 of Policy 16 of the adopted County Durham Plan sets out the adopted policy approach towards HMO related development to support the Council's objectives of maintaining and creating sustainable, inclusive and mixed communities in Durham City by balancing the contribution that such a development will make to meeting housing demand against the potential harm that might be caused to the character and amenity of the surrounding area.
33. Policy 16 confirms that proposals for new HMOs will not be supported where more than 10% of the total number of residential units within 100 metres of the application site are Class N exempt, which is the point where it is considered that there is an existing imbalance between HMOs occupied by students and homes occupied by other non student residents. Whilst we acknowledge the concerns raised by local residents in relation to the concentration of student properties within the local area, the current application proposals, in combination with approved schemes and applications under consideration in the area, will not lead to more than 10% of properties within a 100m radius being Class N exempt and, as such, would not conflict with Policy 16 of the adopted CDP.
34. The proposals relate to the provision of a small 5-bedroom HMO and it is not considered that the proposed use would generate levels of noise and disturbance and general activity that would unacceptably impact on neighbouring residents and it is noted that no objections have been received to the proposals from the Council's Nuisance Action Team. Furthermore, the property will be managed by a well-established student housing provider with a Student Management Plan in place with firm measures in place to address any issues that may arise.
35. The proposed HMO will also be served by sufficient levels of car parking and will not give rise to any unacceptable impacts on the local highway network, with no objections raised by the Council's Highways Department.
36. The current application would therefore fully accord with the requirements of Policy 16 of the adopted County Durham Plan delivering high quality student accommodation that meets the standards of the well-established Durham Student Accreditation Housing Scheme supporting the provision of a range of high-quality student accommodation options to support the identified growth of Durham University, which is a key objective of the adopted Development Plan.
37. The application proposals therefore represent an entirely acceptable form of development in this location that would fully accord within the adopted County Durham Plan.

PLANNING CONSIDERATIONS AND ASSESSMENT

38. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
39. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, the impact on the character of the area, impact on residential amenity, and impact on parking and highway safety.
40. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area which is the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP. Paragraph 11(d) of the NPPF is not engaged.

Principle of the Development

41. 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.
42. 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.
43. 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.
44. In addition, Policy 16 of the County Durham Plan (CDP) is also of relevance to this application which relates to student accommodation/HMOs. 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.

- 45. This is in line with paragraph 92 of the NPPF, which also seeks to achieve healthy, inclusive and safe places which promote social interaction and community cohesion and with paragraph 130 which seeks to ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and 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.
- 46. Objections received from local residents and Belmont Parish Council have raised concern with respect to the principle of the development in that given the properties in the area that have received permission to change their use to C4, there is a perception that the percentage of properties within the area which are exempt from Council Tax is already in excess of 10% and thereby the proposal would be contrary to Policy 16 and the aims of the Article 4 Direction, resulting in an over proliferation of HMOs in the area, creating an unbalance in the community. Objections received have also raised concerns about the need for this type of accommodation in the area and the demand is likely to fall given that the number of students is expected to reduce. 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 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.
- 47. 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 37 Moor Crescent, 2.3% of properties are class N exempt properties as defined by Council Tax records. There are however four unimplemented consents, which would take the percentage up to 6.9%, in addition to an application pending determination which if approved would take the percentage to 8%. As this concentration would be below the 10% threshold stated in the CDP, the proposal would comply with criteria 'a' and 'b' in this respect. In terms of criteria 'c' the application site is within a residential area but is not on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus. Therefore, 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.
- 48. 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.

49. 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, given the close proximity of several HMOs to each other within the area. 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.
52. 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.
53. In summary and whilst concerns are noted, the principle of the development could be supported subject to proper consideration of the impact of the proposal upon residential amenity and highway safety. 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.

Impact on Residential Amenity

54. Policy 31 (Amenity and Pollution) 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. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living conditions. In addition, criterion 'e' of Policy 29 (Sustainable Design) 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.
55. This is in line with paragraph 130 of the NPPF which advises that planning decisions should create places that have a high standard of amenity for existing and future users.
56. 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 east, with further residential properties to all sides. As already noted, the adjoining property also has an application pending consideration for a change of use to a small HMO.

57. Concerns have been raised by neighbouring residents and the Parish Council regarding the impacts on residential amenity including noise and disturbance and the tidiness of these types of properties. 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.
58. 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 uses 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.
59. 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.
60. The EHO notes that a bedroom will be on the ground floor which could lead to a greater impact for the individual residing in this bedroom, as well as the potential increase of noise at night time. Therefore, to mitigate this soundproofing is proposed the shared party wall. The EHO has agreed that this would be sufficient to mitigate concerns raised in regards to noise.
61. In addition, the EHO raises concerns regarding the impact on nearby residential properties during the construction phase. Therefore, to help mitigate against relevant impacts have suggested a Construction Management Plan should be submitted based on set criteria. 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 EHO is satisfied that the development is unlikely to cause a statutory nuisance and the stated mitigation is sufficient to ensure that there would not be any unacceptable impact upon residential amenity of nearby occupiers.
62. The property includes adequate external space to accommodate sufficient bin and cycle storage facilities as shown on the proposed site plan. 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. 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.
64. 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.
65. 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.
66. All of the bedrooms meet the minimum requirements of the NDSS being in excess of the required 7.5sq metres per room. 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 5 bedspace, 5 person dwellings. However, it does include standards in relation to 5b bedspace 6 person dwellings and it is noted that this requires an overall area of no less than 110sq 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 135sq metres of total internal floorspace.
67. The submitted plans do show an undersized room which is identified as a study. This would fall below the minimum space requirements as defined in the NDSS and as such would be unsuitable for habitation as a bedroom. Consequently, it is considered appropriate to include a planning condition which limits the number of occupants of the small HMO to a maximum of 5 to ensure appropriate amenity is provided for occupants in accordance with policy 29(e) of the CDP.
68. Therefore, based on the above the 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 Character and Appearance of the Area

69. The National Planning Policy Framework (NPPF) sets out the Government's commitment to good design. Paragraph 124 states that, good design is a key aspect of sustainable development, creates better places in which to live and work and helps makes development acceptable to communities.

70. Paragraph 126 goes on to highlight that developments should have clear design guides and codes to create distinctive, consistent and high-quality developments, but cautions that they should "allow a suitable degree of variety where this would be justified". In this instance development was subject to an approved design code agreed as part of the outline application.
71. Policy 29 (Sustainable Design) of the County Durham Plan 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.
72. Neighbouring residents have raised objections to the proposed development stating that HMOs 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 alterations are 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. 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 S215 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. 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.

Parking, Access and Highway Safety

77. 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.

Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

78. CDP Policy 21 is broadly in accordance with the above and relates to the delivery of sustainable transport and states that the transport implications of development must be addressed as part of any planning application and [in part] that all development should deliver sustainable transport by ensuring that any vehicular traffic generated by the development, following the implementation of sustainable transport measures, can be safely accommodated on the local strategic highway network.
79. Objections have been raised that the development does not provide sufficient in curtilage parking provision to serve the number of occupants proposed. Therefore, that this would create unsustainable additional pressure to existing on-street provision in a quiet area which is used by families, elderly residents and has already congested narrow roads.
80. The Highway Authority have been consulted on the application and do not consider that there would be any adverse impacts in terms of highway safety as a result of the proposals. The proposals are assessed against the requirements of the current DCC parking standards, which would require a 5 bed property to have two off street parking spaces. The applicant is proposing to provide two off street parking spaces by widening the existing dropped crossing and drive. As such, 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 in this area of the cul-de-sac and the presence of parked vehicles would narrow 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 other 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 Part 9 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 have already been pushed out of the area. House prices are not a material consideration, and the issue of social cohesion has been discussed elsewhere in the report.

Public Sector Equality Duty

84. 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.

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

CONCLUSION

86. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan in this case relates to the County Durham Plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (paragraph 11 c).
87. 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.
88. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the introduction of a 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, and 31 of the County Durham Plan and Parts 2, 4, 8, 9, 12 and 15 of the National Planning Policy Framework.

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(ies) 6, 16, 21, 29, and 31 of the County Durham Plan and Parts 2, 4, 8, 9, 12 and 15 of the NPPF.

3. The small HMO hereby approved shall not be occupied by a total of no more than 5 persons 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 31 of County Durham Plan.

4. 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.

5. 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.

6. The cycle and bin storage arrangement as proposed on proposed site plan 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.

7. Prior to the first occupation of the property for the purposes of C4 (Small HMO) the sound proofing detailed on Drawing No. 131503 entitled 'Proposed Floor Plans and Elevations' received 18th April 2023 shall be fully installed and thereafter retained at all times during which the property is in C4 use.

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

8. The small HMO hereby approved shall be managed in accordance with the Student Management Plan, submitted 18.04.2023.

Reason: In the interests of residential amenity in accordance with the aims of Policy 31 of County Durham Plan.

9. The car parking identified on Drawing Entitled 'Proposed Floor Plans and Elevations' No. 1315-03 shall be installed and available for use prior to the first occupation of the small HMO hereby approved. Thereafter the spaces will be retained for the parking of motor vehicles.

Reason: In the interests of highway safety in accordance with policy 21 of the CDP.

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. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

- Submitted application form, plans supporting documents.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance Notes.
- County Durham Plan 2020
- Statutory, internal and public consultation responses
- County Durham Parking and Accessibility Standards 2019
- Residential Amenity Standards SPD (2020)



Planning Services	37 Moor Crescent Gilesgate Moor Durham DH1 1PB	
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	Date	Scale NTS